

1 **AMENDMENTS TO CITY OR TOWN SALES AND USE**
2 **TAX TO FUND BOTANICAL, CULTURAL, RECREATIONAL,**
3 **AND ZOOLOGICAL ORGANIZATIONS OR FACILITIES**

4 2008 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Stephen E. Sandstrom**

7 Senate Sponsor: _____

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the City or Town Option Funding for Botanical, Cultural,
12 Recreational, and Zoological Organizations or Facilities part.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines "cultural organization";
- 16 ▶ extends the time period for imposing or reauthorizing a city or town option tax for
17 botanical, cultural, recreational, and zoological organizations or facilities from eight
18 years to ten years;
- 19 ▶ allows a city or town to retain up to 1.5% of the city or town option tax for
20 botanical, cultural, recreational, and zoological organizations or facilities to
21 administer the tax; and
- 22 ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides an effective date.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **59-12-1401**, as last amended by Laws of Utah 2004, Chapter 317

30 **59-12-1402**, as last amended by Laws of Utah 2007, Chapter 288

31 **59-12-1403**, as enacted by Laws of Utah 2001, Chapter 192



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **59-12-1401** is amended to read:

35 **59-12-1401. Purpose statement -- Definitions -- Scope of part.**

36 (1) The purpose of the tax imposed by this part is the same for cities and towns as is
37 stated in Section 59-12-701 for counties.

38 (2) (a) [The] Except as provided in Subsection (2)(b), the definitions of Section
39 59-12-702 are incorporated into this part.

40 (b) As used in this part, "cultural organization" means:

41 (i) a private nonprofit organization or institution as defined in Section 59-12-702
42 having as its primary purpose the advancement and preservation of:

43 (A) natural history;

44 (B) art;

45 (C) music;

46 (D) theater; or

47 (E) dance;

48 (ii) an administrative unit as defined in Section 59-12-702;

49 (iii) a private nonprofit organization or institution as defined in Section 59-12-702
50 having as its primary purpose the advancement and preservation of history;

51 (iv) a municipal cultural council having as its primary purpose the advancement and
52 preservation of:

53 (A) history;

54 (B) natural history;

55 (C) art;

56 (D) music;

57 (E) theater; or

58 (F) dance; or

59 (v) a department or other division of a city or town if the department or other division
60 has as its primary purpose the advancement and preservation of:

61 (A) history;

62 (B) natural history;

63 (C) art;

64 (D) music;

65 (E) theater; or

66 (F) dance.

67 (3) This part applies only to a city or town that is located within a county of the second,
68 third, fourth, fifth, or sixth class as designated in Section 17-50-501.

69 Section 2. Section **59-12-1402** is amended to read:

70 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
71 **of tax monies -- Enactment or repeal of tax -- Reauthorization of tax -- Effective date --**
72 **Notice requirements.**

73 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
74 legislative body subject to this part may submit an opinion question to the residents of that city
75 or town, by majority vote of all members of the legislative body, so that each resident of the
76 city or town has an opportunity to express the resident's opinion on the imposition of a local
77 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
78 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
79 and zoological organizations in that city or town.

80 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
81 impose a tax under this section:

82 (A) if the county in which the city or town is located imposes a tax under Part 7,
83 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
84 Facilities;

85 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
86 uses are exempt from taxation under Section 59-12-104;

87 (C) on amounts paid or charged by a seller that collects a tax under Subsection
88 59-12-107(1)(b); and

89 (D) except as provided in Subsection (1)(c), on amounts paid or charged for food and

90 food ingredients.

91 (b) For purposes of this Subsection (1), the location of a transaction shall be
92 determined in accordance with Section 59-12-207.

93 (c) A city or town legislative body imposing a tax under this section shall impose the
94 tax on amounts paid or charged for food and food ingredients if:

95 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
96 food and food ingredients and tangible personal property other than food and food ingredients;
97 and

98 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
99 accordance with Subsection 59-12-107(1)(b).

100 (d) The election shall be held at a regular general election or a municipal general
101 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
102 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
103 Subsection (6).

104 (2) If the city or town legislative body determines that a majority of the city's or town's
105 registered voters voting on the imposition of the tax have voted in favor of the imposition of
106 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
107 by a majority vote of all members of the legislative body.

108 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
109 financing:

110 (a) recreational and zoological facilities within the city or town or within the
111 geographic area of entities that are parties to an interlocal agreement, to which the city or town
112 is a party, providing for recreational or zoological facilities; and

113 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
114 within the city or town or within the geographic area of entities that are parties to an interlocal
115 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
116 or zoological organizations.

117 (4) (a) A tax authorized under this part shall be:

118 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
119 accordance with:

120 (A) the same procedures used to administer, collect, and enforce the tax under:

- 121 (I) Part 1, Tax Collection; or
- 122 (II) Part 2, Local Sales and Use Tax Act; and
- 123 (B) Chapter 1, General Taxation Policies; and
- 124 (ii) (A) levied for a period of [~~eight~~] ten years; and
- 125 (B) may be reauthorized at the end of the [~~eight-year~~] ten-year period in accordance
- 126 with this section.
- 127 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
- 128 Subsections 59-12-205(2) through (7).
- 129 (5) (a) For purposes of this Subsection (5):
- 130 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
- 131 4, Annexation.
- 132 (ii) "Annexing area" means an area that is annexed into a city or town.
- 133 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
- 134 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
- 135 (A) on the first day of a calendar quarter; and
- 136 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 137 the requirements of Subsection (5)(b)(ii) from the city or town.
- 138 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 139 (A) that the city or town will enact or repeal a tax under this part;
- 140 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 141 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 142 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
- 143 the tax.
- 144 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 145 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 146 (A) that begins after the effective date of the enactment of the tax; and
- 147 (B) if the billing period for the transaction begins before the effective date of the
- 148 enactment of the tax under this section.
- 149 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 150 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 151 (A) that began before the effective date of the repeal of the tax; and

152 (B) if the billing period for the transaction begins before the effective date of the repeal
153 of the tax imposed under this section.

154 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

155 (A) Subsection 59-12-103(1)(b);

156 (B) Subsection 59-12-103(1)(c);

157 (C) Subsection 59-12-103(1)(d);

158 (D) Subsection 59-12-103(1)(e);

159 (E) Subsection 59-12-103(1)(f);

160 (F) Subsection 59-12-103(1)(g);

161 (G) Subsection 59-12-103(1)(h);

162 (H) Subsection 59-12-103(1)(i);

163 (I) Subsection 59-12-103(1)(j); or

164 (J) Subsection 59-12-103(1)(k).

165 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
166 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
167 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

168 (A) on the first day of a calendar quarter; and

169 (B) beginning 60 days after the effective date of the enactment or repeal under
170 Subsection (5)(b)(i).

171 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
172 the commission may by rule define the term "catalogue sale."

173 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
174 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
175 part for an annexing area, the enactment or repeal shall take effect:

176 (A) on the first day of a calendar quarter; and

177 (B) after a 90-day period beginning on the date the commission receives notice meeting
178 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

179 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

180 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
181 repeal a tax under this part for the annexing area;

182 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

- 183 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
184 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- 185 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
186 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
187 (A) that begins after the effective date of the enactment of the tax; and
188 (B) if the billing period for the transaction begins before the effective date of the
189 enactment of the tax under this section.
- 190 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
191 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
192 (A) that began before the effective date of the repeal of the tax; and
193 (B) if the billing period for the transaction begins before the effective date of the repeal
194 of the tax imposed under this section.
- 195 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
196 (A) Subsection 59-12-103(1)(b);
197 (B) Subsection 59-12-103(1)(c);
198 (C) Subsection 59-12-103(1)(d);
199 (D) Subsection 59-12-103(1)(e);
200 (E) Subsection 59-12-103(1)(f);
201 (F) Subsection 59-12-103(1)(g);
202 (G) Subsection 59-12-103(1)(h);
203 (H) Subsection 59-12-103(1)(i);
204 (I) Subsection 59-12-103(1)(j); or
205 (J) Subsection 59-12-103(1)(k).
- 206 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
207 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
208 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
209 (A) on the first day of a calendar quarter; and
210 (B) beginning 60 days after the effective date of the enactment or repeal under
211 Subsection (5)(e)(i).
- 212 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
213 the commission may by rule define the term "catalogue sale."

214 (6) (a) Before a city or town legislative body submits an opinion question to the
215 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

216 (i) submit to the county legislative body in which the city or town is located a written
217 notice of the intent to submit the opinion question to the residents of the city or town; and

218 (ii) receive from the county legislative body:

219 (A) a written resolution passed by the county legislative body stating that the county
220 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
221 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

222 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
223 opinion question submitted to the residents of the county under Part 7, County Option Funding
224 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
225 or town legislative body to submit the opinion question to the residents of the city or town in
226 accordance with this part.

227 (b) (i) Within 60 days after the day the county legislative body receives from a city or
228 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
229 opinion question to the residents of the city or town, the county legislative body shall provide
230 the city or town legislative body:

231 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

232 (B) written notice that the county legislative body will submit an opinion question to
233 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
234 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
235 that part.

236 (ii) If the county legislative body provides the city or town legislative body the written
237 notice that the county legislative body will submit an opinion question as provided in
238 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
239 later than, from the date the county legislative body sends the written notice, the later of:

240 (A) a 12-month period;

241 (B) the next regular primary election; or

242 (C) the next regular general election.

243 (iii) Within 30 days of the date of the canvass of the election at which the opinion
244 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the

245 city or town legislative body described in Subsection (6)(a) written results of the opinion
246 question submitted by the county legislative body under Part 7, County Option Funding for
247 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

248 (A) (I) the city or town legislative body may not impose a tax under this part because a
249 majority of the county's registered voters voted in favor of the county imposing the tax and the
250 county legislative body by a majority vote approved the imposition of the tax; or

251 (II) for at least 12 months from the date the written results are submitted to the city or
252 town legislative body, the city or town legislative body may not submit to the county legislative
253 body a written notice of the intent to submit an opinion question under this part because a
254 majority of the county's registered voters voted against the county imposing the tax and the
255 majority of the registered voters who are residents of the city or town described in Subsection
256 (6)(a) voted against the imposition of the county tax; or

257 (B) the city or town legislative body may submit the opinion question to the residents
258 of the city or town in accordance with this part because although a majority of the county's
259 registered voters voted against the county imposing the tax, the majority of the registered voters
260 who are residents of the city or town voted for the imposition of the county tax.

261 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
262 provide a city or town legislative body described in Subsection (6)(a) a written resolution
263 passed by the county legislative body stating that the county legislative body is not seeking to
264 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
265 Zoological Organizations or Facilities, which permits the city or town legislative body to
266 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

267 Section 3. Section **59-12-1403** is amended to read:

268 **59-12-1403. Distribution of revenues -- Administrative costs.**

269 (1) (a) [~~The~~] Subject to Subsections (2) and (3), a city or town legislative body shall by
270 ordinance provide for the distribution of the entire amount of the revenues generated by the tax
271 imposed by this part in accordance with this section.

272 (b) A city or town may participate in an interlocal agreement provided for under
273 Section 59-12-704 and distribute the revenues generated by the tax imposed by this part to
274 participants in the interlocal agreement.

275 (c) The revenues generated by the tax shall be used for one or more organizations or

276 facilities defined in Section 59-12-702.

277 (2) The commission may retain an amount not to exceed [~~1-1/2%~~] 1.5% of the tax
278 collected under this part for the cost of administering this part.

279 (3) A city legislative body or town legislative body may retain up to 1.5% of the
280 revenues collected from a tax under this part for the cost of administering this part.

281 Section 4. **Effective date.**

282 (1) Except as provided in Subsection (2), this bill takes effect on May 5, 2008.

283 (2) The amendments to Section 59-12-1403 take effect on July 1, 2008.

Legislative Review Note
as of 2-8-08 9:19 AM

Office of Legislative Research and General Counsel