

Representative Kory M. Holdaway proposes the following substitute bill:

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

4 2009 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Kory M. Holdaway**

7 Senate Sponsor: Brent H. Goodfellow

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 relating to the imposition
13 of a city or town option sales and use tax to finance botanical, cultural, recreational, and
14 zoological organizations or facilities.

15 **Highlighted Provisions:**

16 This bill:

- 17 ▶ repeals language relating to a purpose statement;
- 18 ▶ repeals language limiting the tax to a city or town located within a county of the
19 second, third, fourth, fifth, or sixth class so that a city or town located within any
20 county may impose the tax;
- 21 ▶ provides that a city or town located within a county of the first class may impose the
22 tax regardless of whether the county in which the city or town is located imposes the
23 county option sales and use tax under Title 59, Chapter 12, Part 7, County Option
24 Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
25 Facilities;



- 26 ▶ addresses requirements for imposing the tax;
- 27 ▶ repeals obsolete language; and
- 28 ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **59-12-1401**, as last amended by Laws of Utah 2004, Chapter 317

36 **59-12-1402**, as last amended by Laws of Utah 2008, Chapters 382 and 384



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

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

40 **59-12-1401. Definitions.**

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

43 ~~[(2) The definitions of Section 59-12-702 are incorporated into this part.~~

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

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

47 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
48 **of tax monies -- Enactment or repeal of tax -- Effective date.**

49 (1) (a) (i) Subject to Subsection (6), ~~[beginning on January 1, 2003;]~~ a city or town
50 legislative body ~~[subject to this part]~~ may submit an opinion question to the residents of that
51 city or town, by majority vote of all members of the legislative body, so that each resident of
52 the city or town has an opportunity to express the resident's opinion on the imposition of a local
53 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
54 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
55 and zoological organizations in that city or town.

56 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not

57 impose a tax under this section:

58 (A) for a city or town located within a county of the second, third, fourth, fifth, or sixth
59 class, if the county in which the city or town is located imposes a tax under Part 7, County
60 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
61 Facilities;

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

64 (C) except as provided in Subsection (1)(c), on amounts paid or charged for food and
65 food ingredients.

66 (b) For purposes of this Subsection (1), the location of a transaction shall be
67 determined in accordance with Sections 59-12-211 through 59-12-215.

68 (c) A city or town legislative body imposing a tax under this section shall impose the
69 tax on amounts paid or charged for food and food ingredients if the food and food ingredients
70 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
71 personal property other than food and food ingredients.

72 (d) ~~[The]~~ Subject to Subsection (6), the election shall be held at a regular general
73 election or a municipal general election, as those terms are defined in Section 20A-1-102, and
74 shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act[-
75 ~~except as provided in Subsection (6)~~].

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

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

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

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

88 or zoological organizations.

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

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

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

93 (I) Part 1, Tax Collection; or

94 (II) Part 2, Local Sales and Use Tax Act; and

95 (B) Chapter 1, General Taxation Policies; and

96 (ii) (A) levied for a period of eight years; and

97 (B) may be reauthorized at the end of the eight-year period in accordance with this
98 section.

99 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
100 Subsections 59-12-205(2) through (6).

101 (5) (a) For purposes of this Subsection (5):

102 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
103 4, Annexation.

104 (ii) "Annexing area" means an area that is annexed into a city or town.

105 (b) (i) Except as provided in Subsection (5)(c) or (d), if ~~on or after July 1, 2004,~~ a
106 city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

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

108 (B) after a 90-day period beginning on the date the commission receives notice meeting
109 the requirements of Subsection (5)(b)(ii) from the city or town.

110 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

111 (A) that the city or town will enact or repeal a tax under this part;

112 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

113 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

114 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
115 the tax.

116 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

117 (A) that begins after the effective date of the enactment of the tax; and

118 (B) if the billing period for the transaction begins before the effective date of the

119 enactment of the tax under this section.

120 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

121 (A) that began before the effective date of the repeal of the tax; and

122 (B) if the billing period for the transaction begins before the effective date of the repeal

123 of the tax imposed under this section.

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

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

128 (B) beginning 60 days after the effective date of the enactment or repeal under

129 Subsection (5)(b)(i).

130 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
131 commission may by rule define the term "catalogue sale."

132 (e) (i) Except as provided in Subsection (5)(f) or (g), if [~~for an annexation that occurs~~
133 ~~on or after July 1, 2004, the~~] an annexation will result in the enactment or repeal of a tax under
134 this part for an annexing area, 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)(e)(ii) from the city or town that annexes the annexing area.

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

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

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

142 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

143 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

144 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

145 (A) that begins after the effective date of the enactment of the tax; and

146 (B) if the billing period for the transaction begins before the effective date of the

147 enactment of the tax under this section.

148 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

149 (A) that began before the effective date of the repeal of the tax; and

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

152 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
153 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
154 Subsection (5)(e)(i) takes effect:

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

156 (B) beginning 60 days after the effective date of the enactment or repeal under
157 Subsection (5)(e)(i).

158 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
159 commission may by rule define the term "catalogue sale."

160 (6) (a) This Subsection (6) applies to a city or town located within a county of the
161 second, third, fourth, fifth, or sixth class.

162 [~~(6)~~-(a)] (b) Before a city or town legislative body submits an opinion question to the
163 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

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

166 (ii) receive from the county legislative body:

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

170 (B) a written statement that in accordance with Subsection (6)[~~(b)~~](c) the results of a
171 county opinion question submitted to the residents of the county under Part 7, County Option
172 Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities,
173 permit the city or town legislative body to submit the opinion question to the residents of the
174 city or town in accordance with this part.

175 [~~(b)~~] (c) (i) Within 60 days after the day the county legislative body receives from a
176 city or town legislative body described in Subsection (6)[~~(a)~~](b) the notice of the intent to
177 submit an opinion question to the residents of the city or town, the county legislative body shall
178 provide the city or town legislative body:

179 (A) the written resolution described in Subsection (6)[~~(a)~~](b)(ii)(A); or

180 (B) written notice that the county legislative body will submit an opinion question to

181 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
182 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
183 that part.

184 (ii) If the county legislative body provides the city or town legislative body the written
185 notice that the county legislative body will submit an opinion question as provided in
186 Subsection (6)~~(b)~~(c)(i)(B), the county legislative body shall submit the opinion question by
187 no later than, from the date the county legislative body sends the written notice, the later of:

188 (A) a 12-month period;

189 (B) the next regular primary election; or

190 (C) the next regular general election.

191 (iii) Within 30 days of the date of the canvass of the election at which the opinion
192 question under Subsection (6)~~(b)~~(c)(ii) is voted on, the county legislative body shall provide
193 the city or town legislative body described in Subsection (6)~~(a)~~(b) written results of the
194 opinion question submitted by the county legislative body under Part 7, County Option
195 Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities,
196 indicating that:

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

200 (II) for at least 12 months from the date the written results are submitted to the city or
201 town legislative body, the city or town legislative body may not submit to the county legislative
202 body a written notice of the intent to submit an opinion question under this part because a
203 majority of the county's registered voters voted against the county imposing the tax and the
204 majority of the registered voters who are residents of the city or town described in Subsection
205 (6)~~(a)~~(b) voted against the imposition of the county tax; or

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

210 ~~(c)~~ (d) Notwithstanding Subsection (6)~~(b)~~(c), at any time a county legislative body
211 may provide a city or town legislative body described in Subsection (6)~~(a)~~(b) a written

212 resolution passed by the county legislative body stating that the county legislative body is not
213 seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural,
214 Recreational, and Zoological Organizations or Facilities, which permits the city or town
215 legislative body to submit under Subsection (1)(a)(i) an opinion question to the city's or town's
216 residents.

Fiscal Note

**H.B. 439 1st Sub. (Buff) - Amendments to City or Town Sales and Use Tax
for Botanical, Cultural, Recreational, and Zoological Organizations or
Facilities**

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could increase local revenues by up to \$10,400,000 annually. There will be a corresponding cost to individuals and businesses.