

1 **AMENDMENTS TO LOCAL SALES AND USE TAXES FOR**
2 **BOTANICAL, CULTURAL, RECREATIONAL, AND**
3 **ZOOLOGICAL ORGANIZATIONS OR FACILITIES**

4 2011 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Lyle W. Hillyard**

7 House Sponsor: Wayne A. Harper

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Sales and Use Tax Act to address local sales and use taxes for
12 botanical, cultural, recreational, and zoological organizations or facilities.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ modifies definitions;
- 16 ▶ prescribes what an opinion question shall state for purposes of local sales and use
17 taxes for botanical, cultural, recreational, and zoological organizations or facilities;
- 18 ▶ addresses the purposes for which revenues collected from local sales and use taxes
19 for botanical, cultural, recreational, and zoological organizations or facilities may be
20 expended;
- 21 ▶ changes the reauthorization period for a city or town sales and use tax for botanical,
22 cultural, recreational, and zoological organizations or facilities from an eight-year
23 period to a ten-year period;
- 24 ▶ repeals obsolete language; and
- 25 ▶ makes technical and conforming changes.

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 This bill takes effect on July 1, 2011.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-12-702**, as last amended by Laws of Utah 2010, Chapter 211

33 **59-12-703**, as last amended by Laws of Utah 2008, Chapters 382 and 384

34 **59-12-704**, as last amended by Laws of Utah 2003, Chapter 296

35 **59-12-705**, as enacted by Laws of Utah 1996, Chapter 284

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

37 **59-12-1403**, as enacted by Laws of Utah 2001, Chapter 192



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

40 Section 1. Section **59-12-702** is amended to read:

41 **59-12-702. Definitions.**

42 As used in this part:

43 (1) "Administrative unit" means a division of a private nonprofit organization or
44 institution that:

45 (a) would, if it were a separate entity, be a botanical organization or cultural
46 organization; and

47 (b) consistently maintains books and records separate from those of its parent
48 organization.

49 (2) "Botanical organization" means:

50 (a) a private nonprofit organization or institution having as its primary purpose the
51 advancement and preservation of plant science through horticultural display, botanical
52 research, and community education; or

53 (b) an administrative unit.

54 (3) "Cultural facility" is as defined in Section 59-12-602.

55 (4) (a) "Cultural organization":

56 (i) means:

57 (A) a private nonprofit organization or institution having as its primary purpose the
58 advancement and preservation of:

- 59 (I) natural history;
- 60 (II) art;
- 61 (III) music;
- 62 (IV) theater; or
- 63 (V) dance; and
- 64 (B) an administrative unit; and
- 65 (ii) includes, for purposes of Subsections 59-12-704(1)(d) and (6) only:
- 66 (A) a private nonprofit organization or institution having as its primary purpose the
- 67 advancement and preservation of history; or
- 68 (B) a municipal or county cultural council having as its primary purpose the
- 69 advancement and preservation of:
- 70 (I) history;
- 71 (II) natural history;
- 72 (III) art;
- 73 (IV) music;
- 74 (V) theater; or
- 75 (VI) dance.
- 76 (b) "Cultural organization" does not include:
- 77 (i) ~~any~~ an agency of the state;
- 78 (ii) except as provided in Subsection (4)(a)(ii)(B), ~~any~~ a political subdivision of the
- 79 state;
- 80 (iii) ~~any~~ an educational institution whose annual revenues are directly derived more
- 81 than 50% from state funds; ~~or~~
- 82 (iv) in a county of the first or second class, ~~any~~ a radio or television broadcasting
- 83 network or station, cable communications system, newspaper, or magazine[-]; or
- 84 (v) an organization or institution having as its primary purpose the advancement and
- 85 preservation of literature, a motion picture, or storytelling.
- 86 (5) "Institution" means ~~any of the institutions~~ an institution listed in Subsections
- 87 53B-1-102(1)(b) through (k).
- 88 (6) "Recreational facility" means ~~any~~ a publicly owned or operated park,
- 89 campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming

90 pool, trail system, [~~cultural facility,~~] or other facility used for recreational purposes.

91 (7) "Rural radio station" means a nonprofit radio station based in a county of the third,
92 fourth, fifth, or sixth class.

93 (8) In a county of the first class, "zoological [~~facilities"~~] facility" means [~~any~~] a public,
94 public-private partnership, or private nonprofit [buildings, exhibits, utilities and infrastructure,
95 walkways, pathways, roadways, offices, administration facilities, public service facilities,
96 educational facilities, enclosures, public viewing areas, animal barriers, animal housing, animal
97 care facilities, and veterinary and hospital facilities related to the advancement, exhibition, or
98 preservation of mammals, birds, reptiles, or amphibians] building, exhibit, utility and
99 infrastructure, walkway, pathway, roadway, office, administration facility, public service
100 facility, educational facility, enclosure, public viewing area, animal barrier, animal housing,
101 animal care facility, and veterinary and hospital facility related to the advancement, exhibition,
102 or preservation of a mammal, bird, reptile, or an amphibian.

103 (9) (a) (i) Except as provided in Subsection (9)(a)(ii), "zoological organization" means
104 a public, public-private partnership, or private nonprofit organization having as its primary
105 purpose the advancement and preservation of zoology.

106 (ii) In a county of the first class, "zoological organization" means a nonprofit
107 organization having as its primary purpose the advancement and exhibition of [~~mammals,~~
108 ~~birds, reptiles, or amphibians]~~ a mammal, bird, reptile, or an amphibian to an audience of
109 75,000 or more persons annually.

110 (b) "Zoological organization" does not include [~~any~~] an agency of the state, educational
111 institution, radio or television broadcasting network or station, cable communications system,
112 newspaper, or magazine.

113 Section 2. Section **59-12-703** is amended to read:

114 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --**
115 **Expenditure of revenues -- Enactment or repeal of tax -- Effective date -- Notice**
116 **requirements.**

117 (1) (a) [~~(+)~~~~A~~] Subject to the other provisions of this section, a county legislative body
118 may submit an opinion question to the residents of that county, by majority vote of all members
119 of the legislative body, so that each resident of the county, except residents in municipalities
120 that have already imposed a sales and use tax under Part 14, City or Town Option Funding For

121 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an
122 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
123 .1% on the transactions described in Subsection 59-12-103(1) located within the county, to
124 fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations,
125 cultural organizations, and zoological organizations, and rural radio stations, in that county.

126 (b) The opinion question required by this section shall state:

127 "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and
128 use tax for (list the purposes for which the revenues collected from the sales and use tax shall
129 be expended)?"

130 ~~(ii)~~ (c) Notwithstanding Subsection (1)(a)~~(ii)~~, a county legislative body may not
131 impose a tax under this section on:

132 ~~(A)~~ (i) the sales and uses described in Section 59-12-104 to the extent the sales and
133 uses are exempt from taxation under Section 59-12-104;

134 ~~(B)~~ (ii) sales and uses within municipalities that have already imposed a sales and use
135 tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
136 Zoological Organizations or Facilities; and

137 ~~(C)~~ (iii) except as provided in Subsection (1)~~(c)~~(e), amounts paid or charged for
138 food and food ingredients.

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

141 ~~(c)~~ (e) A county legislative body imposing a tax under this section shall impose the
142 tax on amounts paid or charged for food and food ingredients if the food and food ingredients
143 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
144 personal property other than food and food ingredients.

145 ~~(d)~~ (f) The election shall follow the procedures outlined in Title 11, Chapter 14,
146 Local Government Bonding Act.

147 (2) (a) If the county legislative body determines that a majority of the county's
148 registered voters voting on the imposition of the tax have voted in favor of the imposition of
149 the tax as prescribed in Subsection (1)~~(a)~~, the county legislative body may impose the tax by a
150 majority vote of all members of the legislative body on the transactions:

151 (i) described in Subsection (1); and

152 (ii) within the county, including the cities and towns located in the county, except those
153 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
154 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
155 Facilities.

156 (b) A county legislative body may revise county ordinances to reflect statutory changes
157 to the distribution formula or eligible recipients of revenues generated from a tax imposed
158 under Subsection (2)(a):

159 (i) after the county legislative body submits an opinion question to residents of the
160 county in accordance with Subsection (1) giving them the opportunity to express their opinion
161 on the proposed revisions to county ordinances; and

162 (ii) if the county legislative body determines that a majority of those voting on the
163 opinion question have voted in favor of the revisions.

164 (3) ~~[The money generated from any]~~ Subject to Section 59-12-704, revenues collected
165 from a tax imposed under Subsection (2) shall be [used for funding] expended:

166 (a) to fund cultural facilities, recreational facilities, and zoological facilities located
167 within the county or a city or town located in the county, except a city or town that has already
168 imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical,
169 Cultural, Recreational, and Zoological Organizations or Facilities; [and]

170 (b) to fund ongoing operating expenses of:

171 (i) recreational facilities described in Subsection (3)(a);

172 (ii) botanical organizations, cultural organizations, and zoological organizations within
173 the county; and

174 (iii) rural radio stations within the county[:]; and

175 (c) as stated in the opinion question described in Subsection (1).

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

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

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

180 (I) Part 1, Tax Collection; or

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

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

183 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
184 period in accordance with this section.

185 (b) [~~Notwithstanding Subsection (4)(a)(i), a~~] A tax under this part is not subject to
186 Subsections 59-12-205(2) through (6).

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

188 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
189 [~~Annexation to County~~] Part 2, County Annexation.

190 (ii) "Annexing area" means an area that is annexed into a county.

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

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

194 (B) after a 90-day period beginning on the date the commission receives notice meeting
195 the requirements of Subsection (5)(b)(ii) from the county.

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

197 (A) that the county will enact or repeal a tax under this part;

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

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

200 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
201 tax.

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

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

204 (B) if the billing period for the transaction begins before the effective date of the
205 enactment of the tax under this section.

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

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

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

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

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

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

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

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

221 (A) on the first day of a calendar quarter; and
222 (B) after a 90-day period beginning on the date the commission receives notice meeting
223 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

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

225 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
226 repeal of a tax under this part for the annexing area;
227 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
228 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
229 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

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

231 (A) that begins after the effective date of the enactment of the tax; and
232 (B) if the billing period for the transaction begins before the effective date of the
233 enactment of the tax under this section.

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

235 (A) that began before the effective date of the repeal of the tax; and
236 (B) if the billing period for the transaction begins before the effective date of the repeal
237 of the tax imposed under this section.

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

241 (A) on the first day of a calendar quarter; and
242 (B) beginning 60 days after the effective date of the enactment or repeal under
243 Subsection (5)(e)(i).

244 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

245 commission may by rule define the term "catalogue sale."

246 Section 3. Section **59-12-704** is amended to read:

247 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**
248 **operating expenses.**

249 (1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of
250 this section, any revenues collected by a county of the first class under this part shall be
251 distributed annually by the county legislative body to support cultural facilities, recreational
252 facilities, and zoological facilities and botanical organizations, cultural organizations, and
253 zoological organizations within that first class county as follows:

254 (a) 30% of the revenue collected by the county under this section shall be distributed
255 by the county legislative body to support cultural facilities and recreational facilities located
256 within the county;

257 (b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii),
258 12-1/8% of the revenue collected by the county under this section shall be distributed by the
259 county legislative body to support no more than three zoological facilities and zoological
260 organizations located within the county, with 94.5% of that revenue being distributed to
261 zoological facilities and zoological organizations with average annual operating expenses of
262 \$2,000,000 or more and 5.5% of that revenue being distributed to zoological facilities and
263 zoological organizations with average annual operating expenses of less than \$2,000,000;

264 (ii) except as provided in Subsection (1)(b)(iii), the county legislative body shall
265 distribute the money described in Subsection (1)(b)(i) among the zoological facilities and
266 zoological organizations in proportion to their average annual operating expenses as
267 determined under Subsection (3); and

268 (iii) if a zoological facility or zoological organization is created or relocated within the
269 county after June 1, 2003, the county legislative body shall distribute the money described in
270 Subsection (1)(b)(i) as it determines appropriate;

271 (c) (i) 48-7/8% of the revenue collected by the county under this section shall be
272 distributed to no more than 23 botanical organizations and cultural organizations with average
273 annual operating expenses of more than \$250,000 as determined under Subsection (3);

274 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the
275 money described in Subsection (1)(c)(i) among the botanical organizations and cultural

276 organizations in proportion to their average annual operating expenses as determined under
277 Subsection (3); and

278 (iii) the amount distributed to any botanical organization or cultural organization
279 described in Subsection (1)(c)(i) may not exceed 35% of the botanical organization's or cultural
280 organization's operating budget; and

281 (d) (i) 9% of the revenue collected by the county under this section shall be distributed
282 to botanical organizations and cultural organizations that do not receive revenue under
283 Subsection (1)(c)(i); and

284 (ii) the county legislative body shall determine how the money shall be distributed
285 among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).

286 (2) (a) The county legislative body of each county shall create an advisory board to
287 advise the county legislative body on disbursement of funds to botanical organizations and
288 cultural organizations under Subsection (1)(c)(i).

289 (b) (i) The advisory board under Subsection (2)(a) shall consist of seven members
290 appointed by the county legislative body.

291 (ii) In a county of the first class, two of the seven members of the advisory board under
292 Subsection (2)(a) shall be appointed from the Utah Arts Council.

293 (3) (a) Except as provided in Subsection (3)(b), to be eligible to receive money
294 collected by the county under this part, a botanical organization, cultural organization, and
295 zoological organization located within a county of the first class shall, every three years:

296 (i) calculate their average annual operating expenses based upon audited operating
297 expenses for three preceding fiscal years; and

298 (ii) submit to the appropriate county legislative body:

299 (A) a verified audit of annual operating expenses for each of those three preceding
300 fiscal years; and

301 (B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

302 (b) [~~Notwithstanding Subsection (3)(a), the~~] The county legislative body may waive the
303 operating expenses reporting requirements under Subsection (3)(a) for organizations described
304 in Subsection (1)(d)(i).

305 (4) When calculating average annual operating expenses as described in Subsection
306 (3), each botanical organization, cultural organization, and zoological organization shall use the

307 same three-year fiscal period as determined by the county legislative body.

308 (5) (a) By July 1 of each year, the county legislative body of a first class county may
309 index the threshold amount in Subsections (1)(c) and (d).

310 (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

311 (6) (a) [~~Beginning on July 1, 2001, in~~] In a county except for a county of the first class,
312 the county legislative body shall by ordinance provide for the distribution of the entire amount
313 of the revenues generated by the tax imposed by this section:

314 (i) as provided in this Subsection (6)[-]; and

315 (ii) as stated in the opinion question described in Subsection 59-12-703(1).

316 (b) Pursuant to an interlocal agreement established in accordance with Title 11,
317 Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute
318 to a city, town, or political subdivision within the county revenues generated by a tax under this
319 part.

320 (c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or
321 more organizations or facilities defined in Section 59-12-702 regardless of whether the
322 revenues are distributed:

323 (i) directly by the county described in Subsection (6)(a) to be used for an organization
324 or facility defined in Section 59-12-702; or

325 (ii) in accordance with an interlocal agreement described in Subsection (6)(b).

326 (7) A county legislative body may retain up to 1.5% of the proceeds from a tax under
327 this part for the cost of administering [~~the provisions of~~] this part.

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

330 Section 4. Section **59-12-705** is amended to read:

331 **59-12-705. Free or reduced admission day available to all state residents.**

332 Each botanical organization, cultural organization, or zoological organization that
333 receives money from a tax imposed under [~~the authority of~~] this part and that periodically
334 offers a waived or discounted admission fee shall make [~~such~~] the waived or discounted
335 admission fee available to all residents of the state.

336 Section 5. Section **59-12-1402** is amended to read:

337 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax --**

338 **Expenditure of revenues -- Enactment or repeal of tax -- Effective date -- Notice**
339 **requirements.**

340 (1) (a) ~~[(†)]~~ Subject to ~~[Subsection (6), beginning on January 1, 2003,]~~ the other
341 provisions of this section, a city or town legislative body subject to this part may submit an
342 opinion question to the residents of that city or town, by majority vote of all members of the
343 legislative body, so that each resident of the city or town has an opportunity to express the
344 resident's opinion on the imposition of a local sales and use tax of .1% on the transactions
345 described in Subsection 59-12-103(1) located within the city or town, to fund cultural facilities,
346 recreational facilities, and zoological facilities and botanical organizations, cultural
347 organizations, and zoological organizations in that city or town.

348 (b) The opinion question required by this section shall state:

349 "Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales
350 and use tax for (list the purposes for which the revenues collected from the sales and use tax
351 shall be expended)?"

352 ~~[(†)]~~ (c) Notwithstanding Subsection (1)(a)~~[(†)]~~, a city or town legislative body may not
353 impose a tax under this section:

354 ~~[(A)]~~ (i) if the county in which the city or town is located imposes a tax under Part 7,
355 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
356 Facilities;

357 ~~[(B)]~~ (ii) on the sales and uses described in Section 59-12-104 to the extent the sales
358 and uses are exempt from taxation under Section 59-12-104; and

359 ~~[(C)]~~ (iii) except as provided in Subsection (1)~~[(c)]~~(e), on amounts paid or charged for
360 food and food ingredients.

361 ~~[(b)]~~ (d) For purposes of this Subsection (1), the location of a transaction shall be
362 determined in accordance with Sections 59-12-211 through 59-12-215.

363 ~~[(c)]~~ (e) A city or town legislative body imposing a tax under this section shall impose
364 the tax on amounts paid or charged for food and food ingredients if the food and food
365 ingredients are sold as part of a bundled transaction attributable to food and food ingredients
366 and tangible personal property other than food and food ingredients.

367 ~~[(d)]~~ (f) ~~[The]~~ Except as provided in Subsection (6), the election shall be held at a
368 regular general election or a municipal general election, as those terms are defined in Section

369 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local
370 Government Bonding Act~~[-except as provided in Subsection (6)].~~

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

375 (3) ~~[The money generated from any]~~ Subject to Section 59-12-1403, revenues collected
376 from a tax imposed under Subsection (2) shall be [used for financing] expended:

377 (a) to finance cultural facilities, recreational facilities, and zoological facilities within
378 the city or town or within the geographic area of entities that are parties to an interlocal
379 agreement, to which the city or town is a party, providing for cultural facilities, recreational
380 facilities, or zoological facilities; ~~and~~

381 (b) to finance ongoing operating expenses of:

382 (i) recreational facilities described in Subsection (3)(a) within the city or town or
383 within the geographic area of entities that are parties to an interlocal agreement, to which the
384 city or town is a party, providing for recreational facilities; or

385 (ii) botanical organizations, cultural organizations, and zoological organizations
386 within the city or town or within the geographic area of entities that are parties to an interlocal
387 agreement, to which the city or town is a party, providing for the support of botanical
388 organizations, cultural organizations, or zoological organizations[-]; and

389 (c) as stated in the opinion question described in Subsection (1).

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

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

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

394 (I) Part 1, Tax Collection; or

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

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

397 (ii) (A) levied for a period of ~~[eight]~~ 10 years; and

398 (B) may be reauthorized at the end of the ~~[eight-year]~~ ten-year period in accordance
399 with this section.

400 (b) ~~[Notwithstanding Subsection (4)(a)(i), a]~~ A tax under this section is not subject to
401 Subsections 59-12-205(2) through (6).

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

403 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
404 4, Annexation.

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

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

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

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

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

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

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

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

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

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

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

419 (B) if the billing period for the transaction begins before the effective date of the
420 enactment of the tax under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

447 (B) if the billing period for the transaction begins before the effective date of the
448 enactment of the tax under this section.

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

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

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

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

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

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

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

461 (6) (a) Before a city or town legislative body submits an opinion question to the

462 residents of the city or town under Subsection (1)[~~(a)(i)~~], the city or town legislative body shall:

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

465 (ii) receive from the county legislative body:

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

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

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

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

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

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

487 (A) a 12-month period;

488 (B) the next regular primary election; or

489 (C) the next regular general election.

490 (iii) Within 30 days of the date of the canvass of the election at which the opinion
491 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
492 city or town legislative body described in Subsection (6)(a) written results of the opinion

493 question submitted by the county legislative body under Part 7, County Option Funding for
 494 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

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

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

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

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

514 Section 6. Section **59-12-1403** is amended to read:

515 **59-12-1403. Distribution of revenues -- Administrative costs.**

516 (1) (a) The city or town legislative body shall by ordinance provide for the distribution
 517 of the entire amount of the revenues [~~generated by~~] collected from the tax imposed by this part:

518 (i) in accordance with this section[-]; and

519 (ii) as stated in the opinion question described in Subsection 59-12-1402(1).

520 (b) A city or town may participate in an interlocal agreement provided for under
 521 Section 59-12-704 and distribute the revenues [~~generated by~~] collected from the tax imposed
 522 by this part to participants in the interlocal agreement.

523 (c) [~~The~~] Subject to Subsection (1)(a), revenues [~~generated by~~] collected from the tax

524 shall be used for one or more organizations or facilities defined in Section 59-12-702.

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

527 Section 7. **Effective date.**

528 This bill takes effect on July 1, 2011.

Legislative Review Note

as of 1-27-11 9:41 AM

Office of Legislative Research and General Counsel