

HB0113S01 compared with HB0113

~~text~~ shows text that was in HB0113 but was deleted in HB0113S01.

inserted text shows text that was not in HB0113 but was inserted into HB0113S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Rex P. Shipp proposes the following substitute bill:

RURAL COUNTY JAIL FACILITIES TAX

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: _____

LONG TITLE

General Description:

This bill establishes a local option sales and use tax for rural county jail facilities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows rural counties to impose a sales and use tax to fund the development of county jail facilities;
- ▶ requires a county to obtain approval from voters and the county legislative body before imposing a rural county jail facilities tax;
- ▶ addresses the administration, collection, and distribution of tax revenue; and
- ▶ requires the State Tax Commission to retain an administrative charge from collected tax revenue.

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Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

59-12-2401, Utah Code Annotated 1953

59-12-2402, Utah Code Annotated 1953

59-12-2403, Utah Code Annotated 1953

59-12-2404, Utah Code Annotated 1953

59-12-2405, Utah Code Annotated 1953

59-12-2406, Utah Code Annotated 1953

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

Section 1. Section **59-12-2401** is enacted to read:

Part 24. Funding for Rural County Jail Facilities

59-12-2401. Definitions.

As used in this part:

(1) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,

County Annexation.

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

(3) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(4) "Rural county jail facilities tax" means the tax described in Subsection

59-12-2402(1)(a).

Section 2. Section **59-12-2402** is enacted to read:

59-12-2402. Imposition of rural county jail facilities tax -- Rate -- Expenditure and distribution of tax revenue -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a rural county may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the county;

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and

(ii) to fund new or existing county jail facilities in that county.

(b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a rural county jail facilities tax on:

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

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

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

(d) A county legislative body that imposes a rural county jail facilities tax shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) Before imposing a rural county jail facilities tax, a county legislative body shall obtain approval to impose the tax from a majority of:

(a) the members of the county's legislative body; and

(b) the county's registered voters voting in an election held for that purpose in accordance with Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a rural county jail facilities tax may only be used to fund:

(a) the acquisition of land for a new county jail facility;~~f or~~

(b) the design, construction, remodeling, equipping, or furnishing of a new or existing county jail facility~~f, f~~; or

(c) debt service on bonds issued to finance costs under Subsection (3)(a) or (b).

(4) (a) Except as provided in Subsections (4)(b) and (6), all money collected from a rural county jail facilities tax shall be distributed quarterly by the county legislative body to county jail facilities.

(b) A county legislative body shall determine how money collected from a rural county jail facilities tax is allocated and distributed if:

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(i) more than one county jail facility is located within the county; or

(ii) the money is used to fund a new county jail facility in the county.

(5) (a) Except as provided in Subsection (5)(c), a rural county jail facilities tax shall be administered, collected, and enforced in accordance with:

(i) (A) Part 1, Tax Collection; or

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

(ii) Chapter 1, General Taxation Policies.

(b) ~~As~~ **The time period during which a** rural county jail facilities tax ~~shall be levied for a period of 10 years and may be reauthorized at the end of the 10-year period~~ **is levied under this section shall be established** by the county legislative body ~~as provided in~~ **and approved under** Subsection (2).

(c) A rural county jail facilities tax under this part is not subject to Subsections 59-12-205(2) through (5).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

Section 3. Section **59-12-2403** is enacted to read:

59-12-2403. Enactment, repeal, or change in the rate of a rural county jail facilities tax -- Annexation -- Notice.

(1) (a) Except as provided in Subsection (2), if a county enacts or repeals a rural county jail facilities tax or changes the rate of a rural county jail facilities tax, the enactment, repeal, or change shall take effect:

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

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (1)(b) from the county.

(b) The notice described in Subsection (1)(a)(ii) shall state:

(i) that the county will enact, repeal, or change the rate of a rural county jail facilities tax;

(ii) the statutory authority for the rural county jail facilities tax;

(iii) the effective date of the enactment, repeal, or change in the rate of the rural county jail facilities tax; and

(iv) if the county enacts or changes the rate of the rural county jail facilities tax, the rate

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of the rural county jail facilities tax.

(2) (a) If the billing period for a transaction begins before the effective date of the enactment of a rural county jail facilities tax or the increase in the rate of a rural county jail facilities tax, the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(b) If the billing period for a transaction begins before the effective date of the repeal of a rural county jail facilities tax or the decrease in the rate of a rural county jail facilities tax, the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(c) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (1)(a) shall take effect:

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

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (1)(a).

(3) (a) Except as provided in Subsection (4), if an annexation will result in the enactment, repeal, or change in the rate of a rural county jail facilities tax for an annexing area, the enactment, repeal, or change shall take effect:

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

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in the enactment, repeal, or change in the rate of a rural county jail facilities tax for the annexing area;

(ii) the statutory authority for the rural county jail facilities tax;

(iii) the effective date of the enactment, repeal, or change in the rate of the rural county jail facilities tax; and

(iv) if the annexation results in the enactment or change in the rate of a rural county jail facilities tax for the annexing area, the rate of the rural county jail facilities tax.

(4) (a) If the billing period for a transaction begins before the effective date of the

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enactment of a rural county jail facilities tax or the increase in the rate of a rural county jail facilities tax, the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(b) If the billing period for a transaction begins before the effective date of the repeal of a rural county jail facilities tax or the decrease in the rate of a rural county jail facilities tax, the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(c) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) shall take effect:

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

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsections (2)(c) and (4)(c), the commission may by rule define the term "catalogue sale."

Section 4. Section **59-12-2404** is enacted to read:

59-12-2404. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a rural county jail facilities tax if the seller's or certified service provider's failure to collect the rural county jail facilities tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Section 5. Section **59-12-2405** is enacted to read:

59-12-2405. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified

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service provider or model 2 seller is not liable for failing to collect a rural county jail facilities tax if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a rural county jail facilities tax is a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Section 6. Section **59-12-2406** is enacted to read:

59-12-2406. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a rural county jail facilities tax or an underpayment of the rural county jail facilities tax if:

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(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement;

or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a rural county jail facilities tax or an underpayment of the rural county jail facilities tax if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement;

and

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(B) with respect to a term that is in the library of definitions and that is listed as taxable or exempt, included in or excluded from "sales price," or included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement;

and

(B) with respect to a term that is in the library of definitions and that is listed as taxable or exempt, included in or excluded from "sales price," or included in or excluded from a definition.

Section 7. **Effective date.**

This bill takes effect on July 1, 2024.