

LOCAL OPTION SALES TAX DISTRIBUTION

AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to county option funding for botanical, cultural, recreational, and zoological organizations or facilities.

Highlighted Provisions:

This bill:

- ▶ addresses the distribution of revenue generated by a county option sales tax for funding botanical, cultural, recreational, and zoological organizations or facilities by:
 - amending the eligibility requirements for certain botanical organizations and cultural organizations to receive revenue; and
 - enacting a requirement that the county legislative body ensure the revenue distribution ~~is~~ **to certain botanical organizations and cultural organizations** is reasonably consistent with the population distribution within the county; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



AMENDS:

59-12-702, as last amended by Laws of Utah 2017, Chapter 382

59-12-704, as last amended by Laws of Utah 2020, Chapter 419

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

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

59-12-702. Definitions.

As used in this part:

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

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

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

(2) "Aquarium" means a park or building where a collection of water animals and plants is kept for study, conservation, and public exhibition.

(3) "Aviary" means a park or building where a collection of birds is kept for study, conservation, and public exhibition.

(4) "Botanical organization" means:

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

(b) an administrative unit.

(5) "Cultural facility" means the same as that term is defined in Section **59-12-602**.

(6) (a) "Cultural organization":

(i) means:

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

(I) natural history;

(II) art;

(III) music;

59 (IV) theater;
60 (V) dance; or
61 (VI) cultural arts, including literature, a motion picture, or storytelling;
62 (B) an administrative unit; and
63 (ii) includes, for purposes of Subsections 59-12-704(1)(d) and ~~[(6)]~~ (7) only:
64 (A) a private nonprofit organization or institution having as its primary purpose the
65 advancement and preservation of history; or
66 (B) a municipal or county cultural council having as its primary purpose the
67 advancement and preservation of:
68 (I) history;
69 (II) natural history;
70 (III) art;
71 (IV) music;
72 (V) theater; or
73 (VI) dance.
74 (b) "Cultural organization" does not include:
75 (i) an agency of the state;
76 (ii) except as provided in Subsection (6)(a)(ii)(B), a political subdivision of the state;
77 (iii) an educational institution whose annual revenues are directly derived more than
78 50% from state funds; or
79 (iv) in a county of the first or second class, a radio or television broadcasting network
80 or station, cable communications system, newspaper, or magazine.
81 (7) "Institution" means an institution of higher education listed in Subsection
82 53B-1-102(1)(a).
83 (8) "Recreational facility" means a publicly owned or operated park, campground,
84 marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system,
85 or other facility used for recreational purposes.
86 (9) "Rural radio station" means a nonprofit radio station based in a county of the third,
87 fourth, fifth, or sixth class.
88 (10) In a county of the first class, "zoological facility" means a public, public-private
89 partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway,

roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, fish, or an amphibian.

(11) (a) (i) Except as provided in Subsection (11)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

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

(12) "Zoological park" means a park or garden where a collection of wild animals is kept for study, conservation, and public exhibition.

Section 2. Section **59-12-704** is amended to read:

59-12-704. Distribution of revenues -- Advisory board creation -- Determining operating expenses -- Administrative charge.

(1) Except as provided in Subsections ~~[(3)]~~ (4)(b) and ~~[(5)]~~ (6), and subject to the requirements of this section, any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body to support cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations within that first class county as follows:

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

(b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii), 16% of the revenue collected by the county under this section shall be distributed by the county legislative body to support no more than three zoological facilities and zoological organizations located within the county, having average annual operating expenses of \$1,500,000 or more as determined under Subsection ~~[(3)]~~ (4), with:

(A) 63.5% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of a zoological park, or a zoological facility that is part of or integrated with a zoological park;

(B) 28.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aquarium, or a zoological facility that is part of or integrated with an aquarium; and

(C) 8.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aviary, or a zoological facility that is part of or integrated with an aviary;

(ii) if more than one zoological organization or zoological facility qualifies to receive the money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which more than one zoological organization or zoological facility qualifies to whichever zoological organization or zoological facility the county legislative body determines is most appropriate, except that a zoological organization or zoological facility may not receive money under more than one subsection under Subsection (1)(b)(i); and

(iii) if no zoological organization or zoological facility qualifies to receive money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which no zoological organization or zoological facility qualifies among the zoological organizations or zoological facilities qualifying for and receiving money under the other subsections in proportion to the zoological organizations' or zoological facilities' average annual operating expenses as determined under Subsection ~~[(3)]~~ (4);

(c) (i) 45% of the revenue collected by the county under this section shall be distributed to no more than 22 botanical organizations and cultural organizations ~~[with]~~:

(A) each of which has average annual operating expenses of more than \$250,000 as determined under Subsection ~~[(3)]~~ (4); and

(B) whose activities impact all or a significant region of the county or state;

(ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the money described in Subsection (1)(c)(i) among the botanical organizations and cultural organizations in proportion to their average annual operating expenses as determined under

Subsection [(3)] (4); and

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

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

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

(2) In making the distributions described in Subsection (1) \$→ [(a), (c), or] ←\$ (d), the county

legislative body shall ensure that the distribution of revenue is reasonably consistent with the population distribution within the county.

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

(b) (i) The advisory board under Subsection [(2)] (3)(a) shall consist of seven members appointed by the county legislative body.

(ii) In a county of the first class, two of the seven members of the advisory board under Subsection [(2)] (3)(a) shall be appointed by the Division of Arts and Museums created in Section 9-6-201.

[(3)] (4) (a) Except as provided in Subsection [(3)] (4)(b), to be eligible to receive money collected by the county under this part, a botanical organization, cultural organization, zoological organization, and zoological facility located within a county of the first class shall, every year:

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

(ii) submit to the appropriate county legislative body:

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

(B) the average annual operating expenses as calculated under Subsection [(3)] (4)(a)(i).

(b) The county legislative body may waive the operating expenses reporting requirements under Subsection ~~[(3)]~~ (4)(a) for organizations described in Subsection (1)(d)(i).

~~[(4)]~~ (5) When calculating average annual operating expenses as described in Subsection ~~[(3)]~~ (4), each botanical organization, cultural organization, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.

~~[(5)]~~ (6) (a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(c) and (d).

(b) Any change under Subsection ~~[(5)]~~ (6)(a) shall be rounded off to the nearest \$100.

~~[(6)]~~ (7) (a) In a county except for a county of the first class, the county legislative body shall by ordinance provide for the distribution of the entire amount of the revenues generated by the tax imposed by this section:

(i) as provided in this Subsection ~~[(6)]~~ (7); and

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

(b) Pursuant to an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection ~~[(6)]~~ (7)(a) may distribute to a city, town, or political subdivision within the county revenues generated by a tax under this part.

(c) The revenues distributed under Subsection ~~[(6)]~~ (7)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the revenues are distributed:

(i) directly by the county described in Subsection ~~[(6)]~~ (7)(a) to be used for an organization or facility defined in Section 59-12-702; or

(ii) in accordance with an interlocal agreement described in Subsection ~~[(6)]~~ (7)(b).

~~[(7)]~~ (8) A county legislative body may retain up to 1.5% of the proceeds from a tax under this part for the cost of administering this part.

~~[(8)]~~ (9) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Section 3. **Effective date.**

This bill takes effect on January 1, 2022.