

COUNTY SALES TAX AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends the provision regarding local option sales and use tax distribution.

Highlighted Provisions:

This bill:

- ▶ amends the distribution for certain local option sales taxes;
 - ▶ provides the State Tax Commission with direction on how to distribute the city and town portion of the sales and use tax within a county;
 - ▶ specifies the ways a county, city, or town may expend the sales and use tax revenue when a county selects the new option;
 - ▶ provides requirements for changing which distribution option the county applies if the county elects to change distribution options;
 - ▶ requires a city to comply with the moderate income housing plan requirements to receive a sales and use tax distribution;
 - ▶ eliminates the deadline for a county to impose the local option sales and use tax;
- and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



Utah Code Sections Affected:

AMENDS:

10-9a-408, as last amended by Laws of Utah 2022, Chapter 406

59-12-2220, as last amended by Laws of Utah 2022, Chapter 259

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

Section 1. Section **10-9a-408** is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection **10-9a-403**(2)(c).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection **10-9a-403**(2)(b)(iii).

(e) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or

(iii) a metro township with a population of 5,000 or more.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified municipality shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified municipality for implementation; and

(ii) an implementation plan.

(c) The moderate income housing report submitted in each calendar year after 2022 shall include:

- (i) the information required under Subsection (2)(b);
- (ii) a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous fiscal year to implement the moderate income housing strategies selected by the specified municipality for implementation;
- (iii) a description of each land use regulation or land use decision made by the specified municipality during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;
- (iv) a description of any barriers encountered by the specified municipality in the previous fiscal year in implementing the moderate income housing strategies;
- (v) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:
 - (A) issued a building permit to construct; or
 - (B) issued a business license to rent;
- (vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and
- (vii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(d) The moderate income housing report shall be in a form:

- (i) approved by the division; and
- (ii) made available by the division on or before July 1 of the year in which the report is required.

(3) Within 90 days after the day on which the division receives a specified municipality's moderate income housing report, the division shall:

- (a) post the report on the division's website;
- (b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified

municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) four or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies.

(5) (a) A specified municipality qualifies for priority consideration under this Subsection (5) if the specified municipality's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The following apply to a specified municipality described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the Transportation Commission may give priority consideration to transportation projects located within the boundaries of the specified municipality in accordance with Subsection 72-1-304(3)(c); and

(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration;

(iii) specify the fiscal year during which the specified municipality qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified municipality's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds under Subsection (7).

(7) (a) A specified municipality is ineligible for funds under this Subsection (7) if the specified municipality:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified municipality's moderate income housing report within 90 days after the day on which the division sent to the specified municipality a notice of noncompliance under Subsection (6).

(b) The following apply to a specified municipality described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5); and

(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;
(iii) specify the fiscal year during which the specified municipality is ineligible for funds; and

(iv) state the basis for the division's determination that the specified municipality is ineligible for funds.

(8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 2. Section 59-12-2220 is amended to read:

59-12-2220. County option sales and use tax to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, ~~[beginning on July 1, 2019,]~~ the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and
(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision as defined in Section 59-12-2219; or

(ii) a city or town within the boundary of the county is an eligible political subdivision as defined in Section 59-12-2219; or

(c) a county legislative body of a county not described in Subsection (1)(a) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county, if there is a public transit district within the boundary of the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

~~[(3) A county imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax for capital expenses and service delivery expenses of:]~~

~~[(a) a public transit district;]~~

~~[(b) an eligible political subdivision, as that term is defined in Section 59-12-2219; or]~~

~~[(c) another entity providing a service for public transit or a transit facility within the county as those terms are defined in Section 17B-2a-802.]~~

(3) (a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect the sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit district in the county.

(4) If a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as designated by the county, as follows:

(a) .2% sales and use tax revenue collected within the county to a public transit district described in Subsection (11); or

(b) (i) .10% to a public transit district as described in Subsection (11);

(ii) .05% to the cities and towns as provided in Subsection (8); and

(iii) .05% to the county legislative body.

(5) If a county legislative body imposes a sales and use tax as described in this section

and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as designated by the county as follows:

(a) .2% sales and use tax revenue collected within the county to a public transit district or other entity as described in Subsection (11); or

(b) (i) .10% to a public transit district or other entity as described in Subsection (11);

(ii) .05% to the cities and towns as provided in Subsection (8); and

(iii) .05% to the county legislative body.

(6) (a) If the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the county legislative body may request that the commission distribute:

(i) .2% sales and use tax revenue collected within the portion of the county that has a public transit service as described in Subsection (11); or

(ii) the sales and use tax revenue collected within the public transit district of the county as follows:

(A) .05% to a public transit provider as described in Subsection (11);

(B) .075% to the cities and towns as provided in Subsection (8); and

(C) .075% to the county legislative body.

(c) For a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district in the county, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is not annexed as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without public transit that is not described in Subsection (4), (5), or (6), that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

276 (a) .08% to the cities and towns as provided in Subsection (8); and

277 (b) .12% to the county legislative body;

278 (8) (a) Subject to Subsections (8)(b) and (c), the commission shall make the
279 distributions required by Subsections (4)(b)(ii), (5)(b)(ii), (6)(b)(ii)(B), (6)(c)(i), and (7)(a) as
280 follows:

281 (i) 50% of the total revenue collected under Subsections (4)(b)(ii), (5)(b)(ii),
282 (6)(b)(ii)(B), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4)
283 through (7) shall be distributed to the unincorporated areas, cities, and towns within those
284 counties on the basis of the percentage that the population of each unincorporated area, city, or
285 town bears to the total population of all of the counties that impose a tax under this section; and

286 (ii) 50% of the total revenue collected under Subsections (4)(b)(ii), (5)(b)(ii),
287 (6)(b)(ii)(B), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4)
288 through (7) shall be distributed to the unincorporated areas, cities, and towns within those
289 counties on the basis of the location of the transaction as determined under Sections [59-12-211](#)
290 through [59-12-215](#).

291 (b) (i) Population for purposes of this Subsection (8) shall be determined on the basis
292 of the most recent official census or census estimate of the United States Census Bureau.

293 (ii) If a needed population estimate is not available from the United States Census
294 Bureau, population figures shall be derived from an estimate from the Utah Population
295 Estimates Committee created by executive order of the governor.

296 (c) If the Housing and Community Development Division within the Department of
297 Workforce Services determines that a city is ineligible for funds under Subsection
298 [10-9a-408](#)(7), the commission shall distribute the distribution that city would have received
299 under Subsection (8)(a) to cities and towns to which Subsection [10-9a-408](#)(7) does not apply.

300 (9) If a public transit service is organized after the date a county legislative body first
301 imposes a tax under this section, a change in a distribution required by this section may not
302 take effect until the first distribution the commission makes under this section after a 90-day
303 period that begins on the date the commission receives written notice from the public transit
304 district that the public transit district has been organized.

305 (10) (a) Except as provided in Subsection (10)(b), a county, city, or town that received
306 distributions described in Subsections (4)(b)(ii), (4)(b)(iii), (5)(b)(ii), (5)(b)(iii), (6)(b)(ii)(B),

(6)(b)(ii)(C), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(b) A county of the first class receiving the county distribution described in Subsection (4)(b)(iii) may only use the distribution as provided in Subsection (10)(a), except that a county legislative body may use up to .02% of the .05% to provide services to individuals with a mental or behavioral health condition, including:

(i) evaluation and diversion from incarceration to mental and behavioral health treatment;

(ii) assistance in transitioning from incarceration, including housing stability; and

(iii) other related services.

(11) The following entities may expend revenue the commission distributes to that entity only for capital expenses and service delivery expenses:

(a) a public transit district;

(b) an eligible political subdivision, as that term is defined in Section 59-12-2219; or

(c) another entity providing a service for public transit or a transit facility within the county as those terms are defined in Section 17B-2a-802.

~~[(4)] (12) (a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.~~

(b) Notwithstanding Section 59-12-2208, if a county legislative body described in Subsection (4), (5), or (6) seeks to change the distribution of sales and use tax revenue as described in Subsection (4), (5), or (6), the county legislative body may change the allocation by adopting a resolution specifying the change in distribution.

~~[(5) (a) Notwithstanding any other provision in this section, if a county wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2023.]~~

~~[(b) The county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2023.]~~

~~[(c) Notwithstanding the deadline described in Subsection (5)(a), any sales and use tax imposed under this section on or before June 30, 2023, may remain in effect.]~~

~~[(6)] (13) (a) Revenue collected from a sales and use tax under this section may not be~~

338 used to supplant existing General Fund appropriations that a county has budgeted for
339 transportation or public transit as of the date the tax becomes effective for a county.
340 (b) The limitation under Subsection [~~(6)(a)~~] (13)(a) does not apply to a designated
341 transportation or public transit capital or reserve account a county may have established prior to
342 the date the tax becomes effective.