

Should Idaho expand local option taxing beyond resort cities?

TWIN FALLS — If paying an extra penny on every dollar you spend shopping would help your city get a bus system or a convention center, would you vote yes or no?

It might mean an extra dollar on your \$100 grocery bill. Or an extra \$200 on that \$20,000 truck you were eyeing. Is it worth it?

For years, some politicians and business leaders from cities like Boise and Twin Falls have hoped lawmakers would give them the same power to levy a local option sales tax, should voters approve it, that resort communities have now. Resort towns use the money to support their police and fire departments, for example, fix their roads or fund public transportation.

Most states give municipalities some power to levy sales taxes locally, although the laws vary widely. Montana, which doesn't have a statewide sales tax, lets resort communities tax some sales. In Utah, sales taxes are a primary source of local government revenue.

What should Idaho's future look like? Advocates for expanding local option sales tax authority in Idaho argue that cities like Twin Falls incur expenses due to the many nonresidents who come in every day.

"We know a lot of goods and services are procured within our city's borders," Twin Falls City Manager Travis Rothweiler said.

But there's no talk of a bill being introduced in the 2017 legislative session, and many of the lawmakers on the committee that would have to approve such a change are opposed. Much of this year's talk in Boise is expected to be about potentially cutting taxes — not raising them — so there's little reason to think Idaho's local option sales tax law will change anytime soon.

"There have been no mumblings of local option," said Zachary Hauge, vice president of the Idaho Association of Commerce and Industry, which has opposed local option legislation in the past.

Hauge said his group isn't opposed to the concept, but any legislation would have to be limited to get IACI's support.

"Local option with certain sideboards and done right is something we would consider," he said.

Rothweiler, who supports letting cities like Twin Falls levy a local option sales tax if voters approve it, also told the Times-News in November he isn't aware of anyone who plans to bring it up during the legislative session. When some Twin Falls-area lawmakers came to a City Council meeting in December, Rothweiler made a

pitch for the idea of a local option sales tax, acknowledging that he doesn't expect anything in 2017 but expressing hope they would work with him on the idea in future years.

Rothweiler favors a version of local option sales tax similar to what Sen. Chuck Winder, R-Boise, proposed in 2014: Municipalities could, if voters approve the tax, use the money to pay for specific projects. Winder's proposal was modeled on the approach used in Oklahoma City, where the money has been used for numerous infrastructure projects.

"I haven't heard that anybody is planning to introduce a bill on that," said Rep. Stephen Hartgen, R-Twin Falls, who is leery of the idea of expanding local taxation powers. "I can't speak for people, but I'm on the (House Revenue and Taxation) Committee, and I haven't heard that's something that's going to come forward."

If a bill does come forward, Hartgen doubts it would make it through the committee. "I would guess no more than a third of them, maybe less, would vote for (it)."

"I'd say it has zero chance of passing," agreed Sen. Jim Patrick, R-Twin Falls, whose district covers Jerome County and some rural parts of Twin Falls County.

Patrick's constituents are mostly people who, if Twin Falls were to levy an additional sales tax, would pay it when they shop but wouldn't be able to vote on it. He opposes extending local option taxing authority unless the money were to be shared regionally and not all kept by the city levying it.

"I see the desire and there's always a need for money," he said, "... (but) I just don't think that's the best way."

The pros and cons

The major arguments for and against extending local option sales tax authority hinge on fairness. For supporters, it's fairness to communities like Twin Falls, which provide services to the many people who come into town to work and shop.

"We function a lot like a resort community does," Twin Falls Mayor Shawn Barigar said. Like a resort city, Twin Falls as a regional hub has a lot of expenses related to the people who come into town every day.

Barigar supports giving cities more local taxing authority both in his capacity as mayor and as head of the Twin Falls Area Chamber of Commerce.

"The chamber has, for a long time, been advocates of allowing local option sales tax authority to be able to go ask the voters," Barigar said.

He said he wasn't sure if he would support passing such a tax were Twin Falls to have the authority, but he thinks cities should be able to ask their voters. He compared it to the situation with schools: The number of school districts collecting supplemental property tax levies shot up after the state cut education funding during the recession and has yet to go down.

Republican lawmakers in particular sometimes point to districts' ability to ask their voters for more money as a positive example of local control.

"They often tout the great option that local citizens have to tax themselves additionally to fund schools," Barigar said. "And for me, it's no different for a city or county to be able to ask the same question."

Rothweiler frequently points to the fact that just under half of the people who show up in Twin Falls police reports aren't city residents as evidence that nonresidents are straining the city's property taxpayers. Talking to lawmakers in December, he noted that the city's population swells every day as people come in to work, shop, go to school or get medical treatment.

"We need to build police forces to support a community of 75,000 people, and the transportation system to support that as well," he said.

How much money the tax could bring in is hard to know. Idaho tracks sales tax collections by the county the business is based in, so companies whose headquarters are in a different state or who have locations in multiple counties — and this category includes many of the biggest retailers in Twin Falls — don't show up in the county data.

One estimate, Barigar said, is that a 1 percent additional sales tax in Twin Falls County could bring in \$7 million a year. That estimate takes the state's numbers for the county and increases them about 20 percent, which, he said, is the increase over the state's Kootenai County sales numbers that Kootenai County saw when it levied a local option tax to pay for a jail. (Current law does allow a county to levy a local option sales tax to expand a jail.)

For opponents of letting more cities charge a local option tax, though, it's often a matter of fairness to the shoppers who don't live in the community and thus wouldn't be able to vote on the tax.

"Just to tax somebody because they came to town, I don't think is fair," Patrick said. "There's a lot of demand for it — I know people in town say it'll lower the property tax — but that's not really what it's designed for in the cities that have it."

Debating fairness

Lawmakers who support giving localities more taxing authority are generally either Democrats or Republicans who represent the handful of cities, like Boise and Twin Falls, that would likely benefit.

"I hope at some point we readdress it and make it happen, but I haven't seen the political will so far," said Sen. Michelle Stennett, D-Ketchum.

But even lawmakers from cities that would like to be able to levy a local option tax aren't unanimous on the idea. In Twin Falls, for example, Rep. Lance Clow has been generally supportive of extending local option taxing authority, both as a legislator now and previously as mayor of Twin Falls, while Hartgen has been opposed.

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by Nathan Brown

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Clow said in December he still supports the concept but knows lawmakers who represent areas other than the regional hub cities are reluctant to vote for it.

“I like the idea ... but I understand why it’s been a heavy lift,” he said.

One idea that he said could get more traction, and that he worked on when he was on the Association of Idaho Cities board, would be to allow a local option tax but with some revenue sharing with the county or the immediately surrounding area.

“That might have more play than just saying all the monies collected in the city stay in the city,” Clow said.

“I understand the city manager’s point about having enough revenue to support the services that the out-of-town people bring with them, particularly in the area of infrastructure and law enforcement and fire prevention and so forth,” Hartgen said. “But this idea has been floated a number of times over the years, and the arguments for it have not been persuasive. And ... I don’t think there’s anything really new in the equation.”

Hartgen said building more dependence on sales tax into a city’s budgets could be dangerous, because sales tax revenue drops when the economy is bad. Also, he said, Twin Falls already benefits financially from having so many people shop here and paying the existing sales tax rate.

State sales tax revenue is shared with cities now according to a formula based on population and property values.

Raising taxes, Hartgen said, could drive shoppers elsewhere.

“If I were in Jerome, I would love to see Twin Falls enact a local option tax, because that would drive traffic to South Lincoln,” he said. “Jerome County would benefit from that, and so might other counties up and down the interstate.”

Sen. Kelly Anthon, R-Rupert, said he can understand why cities that get crowds of nonresidents coming in every day would be interested in levying a local option tax.

“There’s just a part of me that says local control, giving a community the right to do that, is not a bad thing,” he said.

Anthon, who is also Rupert’s city administrator, said he would be inclined to vote for a state law allowing cities to levy a local option tax, though he doubts he would support passing one in his own city. If anything, he said, it would help Rupert if a neighboring community were to charge an extra tax Rupert didn’t.

Rep. Maxine Bell, R-Jerome, believes allowing more local option taxes would be unfair to her constituents.

“I know what Twin Falls feels, that they feel it’s fair, that they’re kind of a destination for all the communities around and we’re kind of wearing out their infrastructure, and I understand what they’re saying, but I come from one of the other communities too,” she said.

Her seatmate, Rep. Clark Kauffman, R-Filer, who is on House Revenue and Taxation, said he is torn on the issue and can see both sides. He said the discussion intrigues him.

“I think the more points of view we get on that, the better decision we can make,” he said.

Rep. Steve Miller, R-Fairfield, represents both resort cities in Blaine County that already levy a local option tax and small communities whose residents would likely pay a little more to shop in Twin Falls were the taxing authority to be extended. He also has mixed feelings. He isn’t a fan of property tax in general because he doesn’t view it as an equitable way to fund government.

“A local option would be a possibility in a community, particularly in a destination community where people ... come and buy whatever it is they’re buying,” he said. “But that doesn’t work for little communities like Fairfield or Richfield, all those places ... where people go to Twin Falls.”

Miller said he is open to the idea, but it would depend on the specifics. He said any new tax should be something paid by most people in the community, not targeted toward particular sales or groups of people, and he would want to see a supermajority requirement to pass one.

Miller’s seatmate, Rep. Sally Toone, D-Gooding, said she is open to changing the law, viewing it as a local control issue similar to the desire state lawmakers often express to have greater autonomy from the federal government. She said having a local option sales tax has been helpful for the resort cities in her district.

“I’m relatively open to changing it,” she said. “If you look at my district, Ketchum already has a local option tax. And so, you know, every community should somewhat have that local control.”

Cities where option tax started use it for buses, cops, other needs

HAILEY — Hailey may be a resort city, but it was one of the latecomers to charging a local option sales tax.

The city’s voters first passed one in 2006. Currently, Hailey taxes lodging and car rentals at 3 percent, alcohol-by-the-drink sales at 2 percent and restaurant food sales at 1 percent.

“It’s limited to the type of (purchases) that would largely be paid by tourists,” City Administrator Heather Dawson said.

The city of Ketchum is part of the reason Idaho even has a local option sales tax. Ketchum’s and Sun Valley’s mayors pushed the Legislature in the late 1970s, to help pay for a bus system that would serve primarily the area’s tourists.

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In 1984, Ketchum's and Sun Valley's mayors returned to the Legislature to lobby for the ability to tax all sales — the original law allowed for a local option tax on just hotel beds and booze, and “Ketchum did not have enough hotels and motels to raise sufficient funds from the ‘bed’ tax,” former state Rep. Wendy Jaquet wrote in an article summarizing the tax's history. Currently, Ketchum taxes room stays and liquor by the drink at 3 percent and all other sales, except groceries and motor vehicles, at 2 percent.

Thirteen resort cities in Idaho — legally defined as cities with fewer than 10,000 people where a major portion of economic activity is generated by tourism and recreation — levy local option sales taxes, including Sun Valley, Hailey and Ketchum.

In Hailey, the tax brings in an average of \$360,000 a year, and it has been increasing, Dawson said.

“Ours has very steadily kept at about 10 percent of our general budget,” she said.

The money can be spent on transportation, economic development and public safety services such as the police and fire departments. Much of it, Dawson said, goes toward street maintenance. Some of it is used to pay the city's contracts with Mountain Rides Transportation Authority and the Hailey Chamber of Commerce. Some, she said, has been used for police and fire vehicles and to help hire police staff.

Ketchum puts the money it collects into a designated fund and this year has budgeted \$440,000 for the Sun Valley Marketing Alliance and \$590,000 for Mountain Rides, Assistant City Administrator Lisa Enourato said. The city is also putting some of the money toward Wagon Days and for emergency services.

Has the local option tax affected people's shopping habits?

“Like many cities, Ketchum strongly promotes buying locally,” Enourato said. “It's fairly obvious that buying locally supports our local businesses, which are vital to the sustainability of our town. What is sometimes forgotten is that without the LOT, Ketchum may not have bus service or its excellent emergency services.”

Dawson said there was some concern, when Hailey first adopted the tax, that it would affect how people spend their money; that's why the city put a four-year sunset on it the first time. She said the feedback at the time of the second vote was that the tax was not driving down sales.

“Taxing the tourist element doesn't seem to have as big an impact on the taxpayer locally,” she said.

Dawson said revenue fell during the recession, but even then it still covered about 10 percent of Hailey's budget. She said both the relatively stable share of overall revenue and the lack of economy impact may be because Hailey's tax is only on a few largely tourism-related items.

“Areas that tax retail sales more see a bigger fluctuation in their tax,” she said.

Local sales tax a mainstay in Utah

SALT LAKE CITY — Most states allow some sort of local sales taxing option, but Utah has a more extensive system than many.

The rules vary widely.

In some states, it's fairly limited like it is in Idaho, where local sales taxation power is mostly limited to resort cities. Even Montana, which doesn't have a statewide general sales tax, still levies a 4 percent "bed tax" on hotel and campground stays and lets certain resort communities collect a tax of up to 3 percent on lodging, restaurant and drink sales, recreation facilities and luxury goods.

In Utah, every city and the unincorporated portion of every county levies a 1 percent local option sales tax; resort communities can levy an additional 1 percent. And in 2015, state lawmakers approved letting counties that choose to levy a tax of an additional one-quarter of 1 percent to fund transportation. Attempts to pass additional transportation taxes in 2015 and 2016 had mixed results, with some counties' voters passing them and others rejecting them.

Utah's municipalities can use the money for anything they want.

In the Salt Lake City area, much goes to public transportation — 71 percent of the Utah Transit Authority's funding comes from local option sales tax. That 1 percent sales tax is the primary general fund revenue source for most cities in Utah, said Roger Tew, senior policy analyst with the Utah League of Cities and Towns.

In Idaho, that primary revenue source is the property tax, while in Utah property taxes are generally lower because cities get more of their money from sales tax. The owner of a \$150,000 home, for example, would on average pay \$1,032 a year in Utah property taxes, compared with \$1,157 in Idaho, according to data compiled by the website SmartAsset.

Tew used to be a Utah State Tax Commissioner and was the lawyer for the commission before that, and he is well versed in the history of the state's tax system. The League's website jokes he "has been a player in the Utah tax arena for so many years that realistically some taxes could be named in his honor."

Utah's local option sales tax started in 1959 as a half-cent tax collected and kept by the municipality where the retailer was located, Tew said.

This, he said, led to controversy as smaller communities with fewer retailers clamored for a bigger cut, and in the early 1980s the Legislature changed the law to raise the tax but also put the extra money into a pool shared statewide among all municipalities on a population-based formula.

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Tew said there has been talk at times of making various changes to the formula since then, but it's a heavy lift.

"Politically, it's almost impossible to unless (you) put new money on the table, because any distribution change means you're picking winners and losers," he said.

One issue, he said, has been that competition for sales tax revenue encourages cities to chase retail, including poaching businesses from each other. There have been a few cases, he said, where a city tries to entice a business to move across the street so it can get the sales tax money.

"There has been improper or inappropriate competition to chase sales tax dollars because of that," Tew said.

One change that expanded local taxing authority in Utah was in 2015, when lawmakers voted to let counties ask their voters to impose an additional .25 percent sales tax for transportation funding, as well as raising the gas tax and making some changes to it to increase the amount going to local governments for transportation funding. Tew said transportation funding had been a topic of debate for more than a decade, and this came after big lobbying efforts by cities, counties, business groups and the Utah Transit Authority.

Money raised from the additional tax is divided between municipalities, counties and, in areas that have them, local transportation authorities, and goes toward both roads and public transit. Eighty-six cities passed resolutions encouraging their counties to pass the new tax, according to the Deseret News, and 17 of Utah's 29 counties put the question on the ballot in November 2015. The tax passed in about half of the counties that proposed it. The UTA plans to expand its bus and rail service in those counties.

"The surprise was it didn't pass in Salt Lake, which was the primary place that was pushing it," Tew said.

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