

**10-1-310 Existing energy franchise taxes or contractual franchise fees.**

- (1) Except as authorized in Subsection (2), Section 59-12-203, or Section 10-1-304, a municipality may not:
  - (a) impose on, charge, or collect a franchise tax or contractual a franchise fee from an energy supplier; or
  - (b) collect a franchise tax or contractual franchise fee pursuant to a franchise agreement in effect on July 1, 1997.
- (2) A municipality that collects a contractual franchise fee from an energy supplier pursuant to a franchise agreement in effect on July 1, 1997, may continue to collect that fee at the same rate for the remaining term of the franchise agreement, except the municipality shall provide a credit against the municipal energy sales and use tax in the amount of the contractual franchise fee paid by the energy supplier pursuant to Subsection 10-1-305(5).
- (3)
  - (a) Subject to the requirements of Subsection (3)(b), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:
    - (i) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; and
    - (ii) imposes the contractual franchise fee on or after the day on which Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act is:
      - (A) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-304 is reduced; and
      - (B) is not superseded by a law imposing a substantially equivalent tax.
  - (b) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(a) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.
- (4) This section may not affect the validity of any existing or future franchise agreement and any franchise agreement effective on July 1, 1997, shall remain in full force and effect, unless otherwise terminated or altered by agreement or applicable law.

Enacted by Chapter 280, 1996 General Session