

Senator Michael G. Waddoups proposes the following substitute bill:

BUSINESS LICENSE FEES

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

LONG TITLE

General Description:

This bill modifies a provision of the Utah Municipal Code related to business license fees and taxes.

Highlighted Provisions:

This bill:

- ▶ requires municipalities imposing a disproportionate fee or tax on rental housing to conduct a study of municipal services provided to rental housing under certain circumstances; and

- ▶ prohibits, under certain circumstances, municipalities from levying and collecting a disproportionate fee or tax on rental housing that exceeds the cost of providing municipal services to the rental housing.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-203, as last amended by Chapter 253, Laws of Utah 2003



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

27 Section 1. Section **10-1-203** is amended to read:

28 **10-1-203. License fees and taxes -- Application information to be transmitted to**
29 **the county assessor.**

30 (1) For the purpose of this section:

31 (a) "business" means any enterprise carried on for the purpose of gain or economic
32 profit, except that the acts of employees rendering services to employers are not included in
33 this definition;

34 (b) "telecommunications provider" is as defined in Section 10-1-402; and

35 (c) "telecommunications tax or fee" is as defined in Section 10-1-402.

36 (2) Except as provided in Subsections (3) through (5), the governing body of a
37 municipality may license for the purpose of regulation and revenue any business within the
38 limits of the municipality and may regulate that business by ordinance.

39 (3) (a) The governing body of a municipality may raise revenue by levying and
40 collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales
41 and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an
42 energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal
43 Energy Sales and Use Tax Act.

44 (b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined
45 in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

46 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
47 1997, or a future franchise shall remain in full force and effect.

48 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
49 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
50 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

51 (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as
52 defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain
53 a provision that:

54 (A) requires the energy supplier by agreement to pay a contractual franchise fee that is
55 otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

56 (B) imposes the contractual franchise fee on or after the day on which Part 3,

57 Municipal Energy Sales and Use Tax is:

58 (I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305
59 is reduced; and

60 (II) is not superseded by a law imposing a substantially equivalent tax.

61 (ii) A municipality may not charge a contractual franchise fee under the provisions
62 permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise
63 fee or a tax on all energy suppliers.

64 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the governing body of a
65 municipality may raise revenue by levying and providing for the collection of a municipal
66 telecommunications license tax as provided in Part 4, Municipal Telecommunications License
67 Tax Act.

68 (b) A municipality may not levy or collect a telecommunications tax or fee on a
69 telecommunications provider except as provided in Part 4, Municipal Telecommunications
70 License Tax Act.

71 (5) (a) The governing body of a municipality may by ordinance raise revenue by
72 levying and collecting a license fee or tax on:

73 (i) a parking service business in an amount that is less than or equal to:

74 (A) \$1 per vehicle that parks at the parking service business; or

75 (B) 2% of the gross receipts of the parking service business;

76 (ii) a public assembly facility in an amount that is less than or equal to \$1 per ticket
77 purchased from the public assembly facility; and

78 (iii) subject to the limitations of Subsections (5)(c) [~~and~~], (d), and (e) a business that
79 causes disproportionate costs of municipal services or for which the municipality provides an
80 enhanced level of municipal services in an amount that is reasonably related to the costs of the
81 municipal services provided by the municipality.

82 (b) For purposes of this Subsection (5):

83 (i) "Municipal services" include:

84 (A) public utilities; or

85 (B) services for:

86 (I) police;

87 (II) fire;

- 88 (III) storm water runoff;
- 89 (IV) traffic control;
- 90 (V) parking;
- 91 (VI) transportation;
- 92 (VII) beautification; or
- 93 (VIII) snow removal.

94 (ii) "Parking service business" means a business:

95 (A) that primarily provides off-street parking services for a public facility that is
96 wholly or partially funded by public moneys;

97 (B) that provides parking for one or more vehicles; and

98 (C) that charges a fee for parking.

99 (iii) "Public assembly facility" means a business operating an assembly facility that:

100 (A) is wholly or partially funded by public moneys; and

101 (B) requires a person attending an event at the assembly facility to purchase a ticket.

102 (c) Before the governing body of a municipality imposes a license fee or tax on a
103 business that causes disproportionate costs of municipal services under Subsection (5)(a)(iii),
104 the governing body of the municipality shall adopt an ordinance defining for purposes of the
105 tax under Subsection (5)(a)(iii) what constitutes disproportionate costs and what amounts are
106 reasonably related to the costs of the municipal services provided by the municipality.

107 (d) Before the governing body of a municipality imposes a license fee or tax on a
108 business for which it provides an enhanced level of municipal services under Subsection
109 (5)(a)(iii), the governing body of the municipality shall adopt an ordinance defining for
110 purposes of the tax under Subsection (5)(a)(iii) what constitutes the basic level of municipal
111 services in the municipality and what amounts are reasonably related to the costs of providing
112 an enhanced level of municipal services in the municipality.

113 (e) (i) For purposes of this Subsection (5)(e):

114 (A) "Disproportionate rental fee" means a license fee or tax on rental housing based on
115 the disproportionate costs of municipal services caused by the rental housing or on an enhanced
116 level of municipal services provided to the rental housing.

117 (B) "Municipal services study" means a study conducted by a municipality of the cost
118 of all municipal services that the municipality provides to the applicable rental housing.

119 (C) "Rental housing cost" means the municipality's cost:
120 (I) of providing municipal services to the rental housing;
121 (II) that is reasonably attributable to the rental housing; and
122 (III) that would not have occurred in the absence of the rental housing.
123 (ii) (A) Each municipality that levies and collects a disproportionate rental fee that
124 exceeds \$17 per unit per year or that intends to impose a disproportionate rental fee for the first
125 time shall:
126 (I) before January 1, 2007 and except as provided in Subsection (5)(e)(iv), conduct a
127 municipal services study; and
128 (II) conduct an updated municipal services study every four years after the first
129 municipal services study.
130 (B) Each municipality that levies and collects a disproportionate rental fee that is \$17
131 or less per unit per year and that intends to increase its disproportionate rental fee shall conduct
132 a municipal services study before increasing its disproportionate rental fee.
133 (iii) (A) Beginning January 1, 2007, a disproportionate rental fee may not exceed the
134 rental housing cost, as determined in a municipal services study.
135 (B) Subsection (5)(e)(iii)(A) does not apply to a municipality whose disproportionate
136 rental fee is \$17 or less and that does not increase its disproportionate rental fee.
137 (iv) The requirement under Subsection (5)(e)(ii)(A)(I) to conduct a municipal services
138 study before January 1, 2007, does not apply to a municipality that levies and collects a
139 disproportionate rental fee that exceeds \$17 per unit per year if the municipality:
140 (A) has implemented, before January 1, 2005, a program that provides a reduction in
141 the disproportionate rental fee for each landlord that implements measures to reduce crime in
142 the rental housing;
143 (B) does not decrease the amount of the disproportionate rental fee reduction provided
144 in a program described in Subsection (5)(e)(iv)(A); and
145 (C) does not increase its disproportionate rental fee.
146 (6) All license fees and taxes shall be uniform in respect to the class upon which they
147 are imposed.
148 (7) The governing body shall transmit the information from each approved business
149 license application to the county assessor within 60 days following the approval of the

150 application.

151 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
152 1994, imposing a business license fee or tax on rental dwellings under this section shall be
153 upheld unless the business license fee or tax is found to impose an unreasonable burden on the
154 fee or tax payer.

Legislative Review Note

as of 2-9-05 3:06 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0152s01

Business License Fees

15-Feb-05

12:00 PM

State Impact

Any costs could be absorbed within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst