

**ACCOUNTING FOR COMPETITIVE
ACTIVITIES OF LOCAL ENTITIES**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: _____

LONG TITLE

Committee Note:

The Government Competition and Privatization Subcommittee recommended this bill.

General Description:

This bill modifies provisions of the Uniform Fiscal Procedures Acts applicable to specified local entities to address accounting for competitive activities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ requires a county, city, or local district to account for a competitive activity in a separate fund or in a program budget;
 - ▶ requires annual reviews to determine whether an activity is a competitive activity;
- and
- ▶ allows for the withholding of state funds for violations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2008 and applies to the first budget year that begins on or after July 1, 2008.

Utah Code Sections Affected:



28 ENACTS:

29 **10-6-108.5**, Utah Code Annotated 1953

30 **17-36-6.5**, Utah Code Annotated 1953

31 **17B-1-604.5**, Utah Code Annotated 1953



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

34 Section 1. Section **10-6-108.5** is enacted to read:

35 **10-6-108.5. Accounting for a competitive activity.**

36 (1) As used in this section:

37 (a) "Competitive activity" means an activity engaged in by a city or an entity created by
38 the city:

39 (i) that is not a core governmental activity; and

40 (ii) by which the city or an entity created by the city provides a good or service that is
41 substantially similar to a good or service that is provided by a person:

42 (A) who is not an entity of the federal government, state government, or a political
43 subdivision of the state; and

44 (B) within the boundary of the county in which the city is located.

45 (b) "Core governmental activity" means:

46 (i) a legislative activity of the legislative body of the city; or

47 (ii) a regulatory activity of the executive of a city.

48 (c) (i) Subject to Subsection (1)(c)(ii), "entity created by the city" includes:

49 (A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
50 Cooperation Act, in which the city participates; and

51 (B) a special service district created under Title 17A, Chapter 2, Part 13, Utah Special
52 Service District Act.

53 (ii) "Entity created by the city" does not include a local district created by a city under
54 Title 17B, Limited Purpose Local Government Entities - Local Districts.

55 (d) (i) "Separate fund" means an independent fiscal and accounting entity that is a
56 self-balancing set of accounts:

57 (A) recording:

58 (I) cash and other financial resources;

59 (II) related liabilities and residual equities;

60 (III) balances; and

61 (IV) changes in the set of accounts; and

62 (B) that is segregated from other funds.

63 (ii) "Separate fund" includes an enterprise fund.

64 (2) (a) A city shall account for a competitive activity of the city using a separate fund
65 beginning on the first day of the fiscal year immediately following the day on which the activity
66 becomes a competitive activity.

67 (b) A separate fund created in accordance with this section is a fund for which a budget
68 is required, but is exempt from Sections 10-6-116 and 10-6-117.

69 (3) The legislative body of a city shall annually review the one or more activities of the
70 city or of an entity created by the city to determine if an activity is a competitive activity
71 including determining if an activity is substantially similar to an activity described in
72 Subsection (1)(a)(ii).

73 (4) Notwithstanding the other provisions of this section, a city may account for a
74 competitive activity using a program budget, as described in the Uniform Accounting Manual
75 for Utah Cities created by the state auditor, if the legislative body of the city determines that the
76 program budget provides the same independent fiscal and accounting as would a separate fund.

77 (5) A city is subject to the withholding of state money in accordance with Section
78 10-6-104 if the city violates this section.

79 Section 2. Section **17-36-6.5** is enacted to read:

80 **17-36-6.5. Accounting for a competitive activity.**

81 (1) As used in this section:

82 (a) "Competitive activity" means an activity engaged in by a county or an entity created
83 by the county:

84 (i) that is not a core governmental activity; and

85 (ii) by which the county or an entity created by the county provides a good or service
86 that is substantially similar to a good or service that is provided by a person:

87 (A) who is not an entity of the federal government, state government, or a political
88 subdivision of the state; and

89 (B) within the boundary of the county.

90 (b) "Core governmental activity" means:
91 (i) a legislative activity of the legislative body of the county; or
92 (ii) a regulatory activity of the executive of a county.
93 (c) (i) Subject to Subsection (1)(c)(ii), "entity created by the county" includes:
94 (A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
95 Cooperation Act, in which the county participates; and
96 (B) a special service district created under Title 17A, Chapter 2, Part 13, Utah Special
97 Service District Act.
98 (ii) "Entity created by the county" does not include a local district created by a county
99 under Title 17B, Limited Purpose Local Government Entities - Local Districts.
100 (d) (i) "Separate fund" means an independent fiscal and accounting entity that is a
101 self-balancing set of accounts:
102 (A) recording:
103 (I) cash and other financial resources;
104 (II) related liabilities and residual equities;
105 (III) balances; and
106 (IV) changes in the set of accounts; and
107 (B) that is segregated from other funds.
108 (ii) "Separate fund" includes an enterprise fund.
109 (2) (a) A county shall account for a competitive activity of the county using a separate
110 fund beginning on the first day of the fiscal year immediately following the day on which the
111 activity becomes a competitive activity.
112 (b) A separate fund created in accordance with this section is a fund for which a budget
113 is required, except it is exempt from Sections 17-36-16 and 17-36-17.
114 (3) The legislative body of a county shall annually review the one or more activities of
115 the county or of an entity created by the county to determine if an activity is a competitive
116 activity including determining if an activity is substantially similar to an activity described in
117 Subsection (1)(a)(ii).
118 (4) Notwithstanding the other provisions of this section, a county may account for a
119 competitive activity using a program budget, as described in the Uniform Accounting Manual
120 for Utah Counties created by the state auditor, if the legislative body of the county determines

121 that the program budget provides the same independent fiscal and accounting as would a
122 separate fund.

123 (5) (a) The state auditor may withhold state money allocated to a county for its failure
124 to comply with this section.

125 (b) Within 30 days of the day on which a county complies with this section, the state
126 auditor shall distribute the money withheld under this Subsection (5) to the county.

127 Section 3. Section **17B-1-604.5** is enacted to read:

128 **17B-1-604.5. Accounting for a competitive activity.**

129 (1) As used in this section:

130 (a) "Competitive activity" means an activity engaged in by a local district or an entity
131 created by the local district:

132 (i) that is not a core governmental activity; and

133 (ii) by which the local district or an entity created by the local district provides a good
134 or service that is substantially similar to a good or service provided by a person:

135 (A) who is not an entity of the federal government, state government, or a political
136 subdivision of the state; and

137 (B) within the boundary of a county in which the local district is located.

138 (b) "Core governmental activity" means:

139 (i) a legislative activity of the legislative body of the local district; or

140 (ii) a regulatory activity of the executive of a local district.

141 (c) "Entity created by the local district" includes an entity created by an interlocal
142 agreement under Title 11, Chapter 13, Interlocal Cooperation Act, in which the local district
143 participates.

144 (d) (i) "Separate fund" means an independent fiscal and accounting entity that is a
145 self-balancing set of accounts:

146 (A) recording:

147 (I) cash and other financial resources;

148 (II) related liabilities and residual equities;

149 (III) balances; and

150 (IV) changes in the set of accounts; and

151 (B) that is segregated from other funds.

152 (ii) "Separate fund" includes an enterprise fund.
153 (2) (a) A local district shall account for a competitive activity of the local district using
154 a separate fund beginning on the first day of the fiscal year immediately following the day on
155 which the activity becomes a competitive activity.
156 (b) A separate fund created in accordance with this section is a fund for which a budget
157 is required, except it is exempt from Sections 17B-1-612 and 17B-1-613.
158 (3) The board of trustees of a local district shall annually review the one or more
159 activities of the local district or of an entity created by the local district to determine if an
160 activity is a competitive activity including determining if an activity is substantially similar to
161 an activity described in Subsection (1)(a)(ii).
162 (4) Notwithstanding the other provisions of this section, a local district may account
163 for a competitive activity using a program budget, as described in the Uniform Accounting
164 Manual for Utah Local Districts created by the state auditor, if the board of trustees of the local
165 district determines that the program budget provides the same independent fiscal and
166 accounting as would a separate fund.
167 (5) (a) The state auditor may withhold state money allocated to a local district for its
168 failure to comply with this section.
169 (b) Within 30 days of the day on which a local district complies with this section, the
170 state auditor shall distribute the money withheld under this Subsection (5) to the local district.
171 Section 4. **Effective date.**
172 This bill takes effect on July 1, 2008 and applies to the first budget year that begins on
173 or after July 1, 2008.

Legislative Review Note
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Office of Legislative Research and General Counsel