

UTILITY FEE LIMITATIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends the general operating limitations on a municipality that provides a cable television service or a public telecommunications service.

Highlighted Provisions:

This bill:

► clarifies that any other means by which a municipality may not cross subsidize its cable television services or its public telecommunications services includes a fee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-18-303, as last amended by Laws of Utah 2009, Chapter 388

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

Section 1. Section **10-18-303** is amended to read:

10-18-303. General operating limitations.

A municipality that provides a cable television service or a public telecommunications service under this chapter is subject to the operating limitations of this section.



28 (1) A municipality that provides a cable television service shall comply with:
29 (a) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.; and
30 (b) the regulations issued by the Federal Communications Commission under the Cable
31 Communications Policy Act of 1984, 47 U.S.C. 521, et seq.

32 (2) A municipality that provides a public telecommunications service shall comply
33 with:

- 34 (a) the Telecommunications Act of 1996, Pub. L. 104-104;
- 35 (b) the regulations issued by the Federal Communications Commission under the
36 Telecommunications Act of 1996, Pub. L. 104-104;
- 37 (c) Section 54-8b-2.2 relating to:
 - 38 (i) the interconnection of essential facilities; and
 - 39 (ii) the purchase and sale of essential services; and
 - 40 (d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.

41 (3) (a) A municipality may not cross subsidize its cable television services or its public
42 telecommunications services with:

- 43 [~~(a)~~] (i) tax dollars;
- 44 [~~(b)~~] (ii) income from other municipal or utility services;
- 45 [~~(c)~~] (iii) below-market rate loans from the municipality; or
- 46 [~~(d)~~] (iv) except as provided in Subsection (3)(b), any other means[-], including a fee
47 collected by the municipality or a private provider on behalf of the municipality.

48 (b) Subsection (3)(a)(iv) does not apply to a fee collected to pay the debt service on
49 bonded indebtedness incurred before January 1, 2014.

50 (4) (a) A municipality may not make or grant any undue or unreasonable preference or
51 advantage to itself or to any private provider of:

- 52 (i) cable television services; or
- 53 (ii) public telecommunications services.

54 (b) A municipality shall apply without discrimination as to itself and to any private
55 provider the municipality's ordinances, rules, and policies, including those relating to:

- 56 (i) obligation to serve;
- 57 (ii) access to public rights of way;
- 58 (iii) permitting;

- 59 (iv) performance bonding;
- 60 (v) reporting; and
- 61 (vi) quality of service.

62 (c) Subsections (4)(a) and (b) do not supersede the exception for a rural telephone
63 company in Section 251 of the Telecommunications Act of 1996, Pub. L. 104-104.

64 (5) In calculating the rates charged by a municipality for a cable television service or a
65 public telecommunications service, the municipality:

66 (a) shall include within its rates an amount equal to all taxes, fees, and other
67 assessments that would be applicable to a similarly situated private provider of the same
68 services, including:

- 69 (i) federal, state, and local taxes;
- 70 (ii) franchise fees;
- 71 (iii) permit fees;
- 72 (iv) pole attachment fees; and
- 73 (v) fees similar to those described in Subsections (5)(a)(i) through (iv); and

74 (b) may not price any cable television service or public telecommunications service at a
75 level that is less than the sum of:

- 76 (i) the actual direct costs of providing the service;
- 77 (ii) the actual indirect costs of providing the service; and
- 78 (iii) the amount determined under Subsection (5)(a).

79 (6) (a) A municipality that provides cable television services or public
80 telecommunications services shall establish and maintain a comprehensive price list of all cable
81 television services or public telecommunications services offered by the municipality.

82 (b) The price list required by Subsection (6)(a) shall:

83 (i) include all terms and conditions relating to the municipality providing each cable
84 television service or public telecommunications service offered by the municipality;

85 (ii) (A) be published in a newspaper having general circulation in the municipality; and

86 (B) be published in accordance with Section 45-1-101; and

87 (iii) be available for inspection:

88 (A) at a designated office of the municipality; and

89 (B) during normal business hours.

90 (c) At least five days before the date a change to a municipality's price list becomes
91 effective, the municipality shall:

92 (i) notify the following of the change:

93 (A) all subscribers to the services for which the price list is being changed; and

94 (B) any other persons requesting notification of any changes to the municipality's price
95 list; and

96 (ii) (A) publish notice in a newspaper of general circulation in the municipality; and

97 (B) publish notice in accordance with Section [45-1-101](#).

98 (d) In accordance with Subsection (6)(c)(ii)(A), if there is no newspaper of general
99 circulation in the municipality, the municipality shall publish the notice required by this
100 Subsection (6) in a newspaper of general circulation that is nearest the municipality.

101 (e) A municipality may not offer a cable television service or a public
102 telecommunications service except in accordance with the prices, terms, and conditions set
103 forth in the municipality's price list.

104 (7) A municipality may not offer to provide or provide cable television services or
105 public telecommunications services to a subscriber that does not reside within the geographic
106 boundaries of the municipality.

107 (8) (a) A municipality shall keep accurate books and records of the municipality's:

108 (i) cable television services; and

109 (ii) public telecommunications services.

110 (b) The books and records required to be kept under Subsection (8)(a) are subject to
111 legislative audit to verify the municipality's compliance with the requirements of this chapter
112 including:

113 (i) pricing;

114 (ii) recordkeeping; and

115 (iii) antidiscrimination.

116 (9) A municipality may not receive distributions from the Universal Public
117 Telecommunications Service Support Fund established in Section [54-8b-15](#).

Legislative Review Note
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Office of Legislative Research and General Counsel