

**POLITICAL SUBDIVISIONS - TRUTH IN
GOVERNMENT COMPETITION**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Ron Allen

LONG TITLE

General Description:

This bill enacts provisions relating to certain political subdivisions that propose to provide new services or new facilities.

Highlighted Provisions:

This bill:

▸ requires ~~§~~ **→ certain ←** ~~§~~ counties, municipalities, and special districts to advertise their intent to

provide a new service or new facility;

▸ requires ~~§~~ **→ those ←** ~~§~~ counties, municipalities, and special districts proposing to provide a new

service or new facility to hold a public hearing allowing the public to comment on whether the proposed new service or new facility would compete with existing local businesses; and

▸ provides definitions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

10-1-119, Utah Code Annotated 1953

17-15-28, Utah Code Annotated 1953



28 17A-1-104, Utah Code Annotated 1953

29

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

31 Section 1. Section **10-1-119** is enacted to read:

32 **10-1-119. Advertisement of proposed new service or new facility -- Hearing.**

33 (1) As used in this section:

34 (a) "New facility" means the construction, acquisition, lease, or operation of any
 35 building, structure, or other improvement on real property:

36 (i) (A) that the municipality has not constructed, acquired, leased, or operated before
 37 May 2, 2005; or

38 (B) for which the municipality has not expended monies before May 2, 2005, including
 39 monies for the planning of the facility; ~~§~~ [and] ~~←§~~

40 (ii) that is not directly related to a facility:

41 (A) that the municipality constructed, acquired, leased, or operated before May 2,
 42 2005; or

43 (B) for which the municipality has expended monies before May 2, 2005 ~~§~~ [;] ; and
 43a **(iii) that exceeds \$250,000 in value. ←§**

44 (b) "New service" means the provision of a service:

45 (i) (A) that the municipality has not provided before May 2, 2005; or

46 (B) for which the municipality has not expended monies before May 2, 2005, including
 47 monies for the planning of the service; and

48 (ii) that is not directly related to a service:

49 (A) that the municipality provided before May 2, 2005; or

50 (B) for which the municipality has expended monies before May 2, 2005.

51 (2) (a) The legislative body of a municipality ~~§~~ **that has been incorporated for at least**
 51a **three years ←§** shall meet the advertisement

52 requirements of Subsection (3) and the hearing requirements of Subsection (4) before the
 53 legislative body may approve the expenditure of monies for a new service or new facility.

54 (b) Notwithstanding Subsection (2)(a), the legislative body of a municipality is not
 55 required to meet the advertisement and hearing requirements of this section if the municipality
 56 collected less than \$15,000 in ad valorem tax revenues for the previous fiscal year.

57 (3) (a) The municipality shall advertise its intent to provide a new service or new
 58 facility in a newspaper or combination of newspapers of general circulation in the municipality.

59 (b) The meeting on the proposed new service or new facility may coincide with the
60 hearing on the proposed budget of the municipality.

61 (c) It is legislative intent that, whenever possible, the advertisement appear in a
62 newspaper that is published at least one day per week.

63 (d) It is further the intent of the Legislature that the newspaper or combination of
64 newspapers selected be of general interest and readership in the municipality, and not of
65 limited subject matter.

66 (e) The advertisement shall be run once each week for the two weeks preceding the
67 date of approval of the expenditure of monies.

68 (f) The advertisement may not be placed in that portion of the newspaper where legal
69 notices and classified advertisements appear.

70 (g) The advertisement shall state that the municipality will meet on a certain day, time,
71 and place fixed in the advertisement, which shall be not less than seven days after the day the
72 first advertisement is published, for the purpose of hearing comments regarding any proposed
73 new service or new facility and to explain the reasons for the proposed new service or new
74 facility.

75 (h) The advertisement shall be no less than 1/4 page in size and the type used shall be
76 no smaller than 18 point, and surrounded by a 1/4-inch border.

77 (i) The form and content of the advertisement shall be substantially as follows:

78 "NOTICE OF PROPOSED ('NEW SERVICE' or 'NEW FACILITY')

79 The (name of the municipality) is proposing to provide a ('new service' or 'new
80 facility').

81 The proposed ('new service' or 'new facility') would (describe the new service or new
82 facility).

83 The purpose of the ('new service' or 'new facility') is (state the reasons for the new
84 service or new facility).

85 The proposed ('new service' or 'new facility') is projected to cost (state the projected
86 cost of the new service or new facility).

87 All concerned citizens are invited to a public hearing on the proposed ('new service' or
88 'new facility') to be held on (date and time) at (meeting place)."

89 (4) (a) The legislative body of a municipality ~~§~~→ that has been incorporated for at least
89a three years and is ←~~§~~ proposing a new service or new facility

90 shall hold a public hearing to receive public comment on whether the proposed new service or
 91 new facility would compete with existing local business.

92 (b) A quorum of the legislative body of the municipality holding a public hearing shall
 93 be present throughout each hearing held by that municipal legislative body.

94 (c) All hearings shall be open to the public.

95 (d) Each hearing shall be held on a weekday evening other than a holiday beginning no
 96 earlier than 6 p.m.

97 (e) The legislative body of a municipality conducting a hearing shall permit all
 98 interested parties desiring to be heard an opportunity to present oral testimony within
 99 reasonable time limits.

100 (5) (a) The legislative body of a municipality, after meeting the advertisement
 101 requirements of Subsection (3) and holding a hearing as required in Subsection (4), may
 102 approve the expenditure of monies for the new service or new facility.

103 (b) (i) If the expenditure of monies for the new service or new facility is not approved
 104 on the day of the public hearing, the scheduled time and place for consideration and approval
 105 shall be announced at the public hearing.

106 (ii) If an approval is to be considered at a day and time that is more than two weeks
 107 after the public hearing under Subsection (4), the municipality shall advertise the date of the
 108 proposed approval in the same manner as provided under Subsection (3).

109 Section 2. Section **17-15-28** is enacted to read:

110 **17-15-28. Advertisement of proposed new service or new facility -- Hearing**

111 (1) As used in this section:

112 (a) "New facility" means the construction, acquisition, lease, or operation of any
 113 building, structure, or other improvement on real property:

114 (i) (A) that the county has not constructed, acquired, leased, or operated before May 2,
 115 2005; or

116 (B) for which the county has not expended monies before May 2, 2005, including
 117 monies for the planning of the facility; ~~§~~ → [and] ← ~~§~~

118 (ii) that is not directly related to a facility:

119 (A) that the county constructed, acquired, leased, or operated before May 2, 2005; or

120 (B) for which the county has expended monies before May 2, 2005 ~~§~~ → [;] ; and

120a (iii) that exceeds \$250,000 in value. ← ~~§~~

- 121 (b) "New service" means the provision of a service:
122 (i) (A) that the county has not provided before May 2, 2005; or
123 (B) for which the county has not expended monies before May 2, 2005, including
124 monies for the planning of the service; and
125 (ii) that is not directly related to a service:
126 (A) that the county provided before May 2, 2005; or
127 (B) for which the county has expended monies before May 2, 2005.
128 (2) (a) The legislative body of a county shall meet the advertisement requirements of
129 Subsection (3) and the hearing requirements of Subsection (4) before the legislative body may
130 approve the expenditure of monies for a new service or new facility.
131 (b) Notwithstanding Subsection (2)(a), the legislative body of a county is not required
132 to meet the advertisement and hearing requirements of this section if the county collected less
133 than \$15,000 in ad valorem tax revenues for the previous fiscal year.
134 (3) (a) The county shall advertise its intent to provide a new service or new facility in a
135 newspaper or combination of newspapers of general circulation in the county.
136 (b) The meeting on the proposed new service or new facility may coincide with the
137 hearing on the proposed budget of the county.
138 (c) It is legislative intent that, whenever possible, the advertisement appear in a
139 newspaper that is published at least one day per week.
140 (d) It is further the intent of the Legislature that the newspaper or combination of
141 newspapers selected be of general interest and readership in the county, and not of limited
142 subject matter.
143 (e) The advertisement shall be run once each week for the two weeks preceding the
144 date of approval of the expenditure of monies.
145 (f) The advertisement may not be placed in that portion of the newspaper where legal
146 notices and classified advertisements appear.
147 (g) The advertisement shall state that the county will meet on a certain day, time, and
148 place fixed in the advertisement, which shall be not less than seven days after the day the first
149 advertisement is published, for the purpose of hearing comments regarding any proposed new
150 service or new facility and to explain the reasons for the proposed new service or new facility.
151 (h) The advertisement shall be no less than 1/4 page in size and the type used shall be

152 no smaller than 18 point, and surrounded by a 1/4-inch border.

153 (i) The form and content of the advertisement shall be substantially as follows:

154 "NOTICE OF PROPOSED ('NEW SERVICE' or 'NEW FACILITY')

155 The (name of the county) is proposing to provide a ('new service' or 'new facility').

156 The proposed ('new service' or 'new facility') would (describe the new service or new
157 facility).

158 The purpose of the ('new service' or 'new facility') is (state the reasons for the new
159 service or new facility).

160 The proposed ('new service' or 'new facility') is projected to cost (state the projected
161 cost of the new service or new facility).

162 All concerned citizens are invited to a public hearing on the tax increase to be held on
163 (date and time) at (meeting place)."

164 (4) (a) The legislative body of a county proposing a new service or new facility shall
165 hold a public hearing to receive public comment on whether the proposed new service or new
166 facility would compete with existing local business.

167 (b) A quorum of the legislative body of the county holding a public hearing shall be
168 present throughout each hearing held by that ~~§~~→ [municipal] county ←~~§~~ legislative body.

169 (c) All hearings shall be open to the public.

170 (d) Each hearing shall be held on a weekday evening other than a holiday beginning no
171 earlier than 6 p.m.

172 (e) The legislative body of a county conducting a hearing shall permit all interested
173 parties desiring to be heard an opportunity to present oral testimony within reasonable time
174 limits.

175 (5) (a) The legislative body of a county, after meeting the advertisement requirements
176 of Subsection (3) and holding a hearing as required in Subsection (4), may approve the
177 expenditure of monies for the new service or new facility.

178 (b) (i) If the expenditure of monies for the new service or new facility is not approved
179 on the day of the public hearing, the scheduled time and place for consideration and approval
180 shall be announced at the public hearing.

181 (ii) If an approval is to be considered at a day and time that is more than two weeks
182 after the public hearing under Subsection (4), the county shall advertise the date of the

183 proposed approval in the same manner as provided under Subsection (3).

184 Section 3. Section **17A-1-104** is enacted to read:

185 **17A-1-104. Advertisement of proposed new service or new facility -- Hearing.**

186 (1) As used in this section:

187 (a) "New facility" means the construction, acquisition, lease, or operation of any
 188 building, structure, or other improvement on real property:

189 (i) (A) that the special district has not constructed, acquired, leased, or operated before
 190 May 2, 2005; or

191 (B) for which the special district has not expended monies before May 2, 2005,

192 including monies for the planning of the facility; ~~§~~ → [and] ← ~~§~~

193 (ii) that is not directly related to a facility:

194 (A) that the special district constructed, acquired, leased, or operated before May 2,
 195 2005; or

196 (B) for which the special district has expended monies before May 2, 2005 ~~§~~ → [:] ; and

196a (iii) that exceeds \$250,000 in value. ← ~~§~~

197 (b) "New service" means the provision of a service:

198 (i) (A) that the special district has not provided before May 2, 2005; or

199 (B) for which the special district has not expended monies before May 2, 2005,

200 including monies for the planning of the service; and

201 (ii) that is not directly related to a service:

202 (A) that the special district provided before May 2, 2005; or

203 (B) for which the special district has expended monies before May 2, 2005.

204 (2) (a) The ~~§~~ → [legislative body] board ← ~~§~~ of a special district ~~§~~ → that has been in
 204a existence for at least three years ← ~~§~~ shall meet the advertisement

205 requirements of Subsection (3) and the hearing requirements of Subsection (4) before the

206 ~~§~~ → [legislative body] board ← ~~§~~ may approve the expenditure of monies for a new service or new
 206a facility.

207 (b) Notwithstanding Subsection (2)(a), the ~~§~~ → [legislative body] board ← ~~§~~ of a special
 207a district is not

208 required to meet the advertisement and hearing requirements of this section if the special
 209 district collected less than \$15,000 in ad valorem tax revenues for the previous fiscal year.

210 (3) (a) The special district shall advertise its intent to provide a new service or new
 211 facility in a newspaper or combination of newspapers of general circulation in the special
 212 district.

213 (b) The meeting on the proposed new service or new facility may coincide with the

214 hearing on the proposed budget of the special district.

215 (c) It is legislative intent that, whenever possible, the advertisement appear in a
 216 newspaper that is published at least one day per week.

217 (d) It is further the intent of the Legislature that the newspaper or combination of
 218 newspapers selected be of general interest and readership in the special district, and not of
 219 limited subject matter.

220 (e) The advertisement shall be run once each week for the two weeks preceding the
 221 date of approval of the expenditure of monies.

222 (f) The advertisement may not be placed in that portion of the newspaper where legal
 223 notices and classified advertisements appear.

224 (g) The advertisement shall state that the special district will meet on a certain day,
 225 time, and place fixed in the advertisement, which shall be not less than seven days after the day
 226 the first advertisement is published, for the purpose of hearing comments regarding any
 227 proposed new service or new facility and to explain the reasons for the proposed new service or
 228 new facility.

229 (h) The advertisement shall be no less than 1/4 page in size and the type used shall be
 230 no smaller than 18 point, and surrounded by a 1/4-inch border.

231 (i) The form and content of the advertisement shall be substantially as follows:

232 "NOTICE OF PROPOSED ('NEW SERVICE' or 'NEW FACILITY')

233 The (name of the special district) is proposing to provide a ('new service' or 'new
 234 facility').

235 The proposed ('new service' or 'new facility') would (describe the new service or new
 236 facility).

237 The purpose of the ('new service' or 'new facility') is (state the reasons for the new
 238 service or new facility).

239 The proposed ('new service' or 'new facility') is projected to cost (state the projected
 240 cost of the new service or new facility).

241 All concerned citizens are invited to a public hearing on the tax increase to be held on
 242 (date and time) at (meeting place)."

243 (4) (a) The ~~Ŝ~~→ [legislative body] board ←~~Ŝ~~ of a special district ~~Ŝ~~→ **that has been in**
 243a **existence for at least three years and is** ←~~Ŝ~~ proposing a new service or new facility
 244 shall hold a public hearing to receive public comment on whether the proposed new service or

245 new facility would compete with existing local business.

246 (b) A quorum of the ~~Ŝ→ [legislative body] board ←Ŝ~~ of the special district holding a public
 246a hearing

247 shall be present throughout each hearing held by that ~~Ŝ→ [municipal legislative body] board ←Ŝ~~ .

248 (c) All hearings shall be open to the public.

249 (d) Each hearing shall be held on a weekday evening other than a holiday beginning no
 250 earlier than 6 p.m.

251 (e) The ~~Ŝ→ [legislative body] board ←Ŝ~~ of a special district conducting a hearing shall
 251a permit all

252 interested parties desiring to be heard an opportunity to present oral testimony within
 253 reasonable time limits.

254 (5) (a) The ~~Ŝ→ [legislative body] board ←Ŝ~~ of a special district, after meeting the
 254a advertisement

255 requirements of Subsection (3) and holding a hearing as required in Subsection (4), may
 256 approve the expenditure of monies for the new service or new facility.

257 (b) (i) If the expenditure of monies for the new service or new facility is not approved
 258 on the day of the public hearing, the scheduled time and place for consideration and approval
 259 shall be announced at the public hearing.

260 (ii) If an approval is to be considered at a day and time that is more than two weeks
 261 after the public hearing under Subsection (4), the special district shall advertise the date of the
 262 proposed approval in the same manner as provided under Subsection (3).

Legislative Review Note

as of 2-8-05 8:55 AM

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 SB0191

Political Subdivisions - Truth in Government Competition

10-Feb-05

1:43 PM

State Impact

Advertising costs could be absorbed within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst