

BUSINESS LICENSE FEES

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael G. Waddoups

House Sponsor: Gregory H. Hughes

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

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

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

10-1-203. License fees and taxes -- Disproportionate rental fee -- Application

information to be transmitted to the county assessor.

(1) For the purpose of this section:

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

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

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

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

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

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

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

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

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

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

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

Energy Sales and Use Tax is:

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

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

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

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

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

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

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

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

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

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

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

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

(i) "Municipal services" include:

(A) public utilities; or

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

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

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

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

(C) that charges a fee for parking.

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

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

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

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

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

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

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

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

(C) "Rental housing cost" means the municipality's cost:

(I) of providing municipal services to the rental housing;

(II) that is reasonably attributable to the rental housing; and

(III) that would not have occurred in the absence of the rental housing.

(ii) (A) Each municipality that levies and collects a disproportionate rental fee that exceeds \$17 per unit per year or that intends to impose a disproportionate rental fee for the first time shall:

(I) before January 1, 2007 and except as provided in Subsection (5)(e)(iv), conduct a municipal services study; and

(II) conduct an updated municipal services study every four years after the first municipal services study.

(B) Each municipality that levies and collects a disproportionate rental fee that is \$17 or less per unit per year and that intends to increase its disproportionate rental fee shall conduct a municipal services study before increasing its disproportionate rental fee.

(iii) (A) Beginning January 1, 2007, a disproportionate rental fee may not exceed the rental housing cost, as determined in a municipal services study.

(B) Subsection (5)(e)(iii)(A) does not apply to a municipality whose disproportionate rental fee is \$17 or less and that does not increase its disproportionate rental fee.

(iv) The requirement under Subsection (5)(e)(ii)(A)(I) to conduct a municipal services study before January 1, 2007, does not apply to a municipality that levies and collects a disproportionate rental fee that exceeds \$17 per unit per year if the municipality:

(A) has implemented, before January 1, 2005, a program that provides a reduction in the

disproportionate rental fee for each landlord that implements measures to reduce crime in the rental housing;

(B) does not decrease the amount of the disproportionate rental fee reduction provided in a program described in Subsection (5)(e)(iv)(A); and

(C) does not increase its disproportionate rental fee.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) The governing body shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

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