

1 **MUNICIPAL TELECOMMUNICATIONS**
2 **LICENSE TAX AMENDMENTS**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Municipal Telecommunications License Tax Act to address the
11 rate at which the tax is imposed or collected, to address notice requirements, and to
12 repeal obsolete language.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ beginning on July 1, 2007, reduces the municipal telecommunications license tax
- 16 rate from a maximum rate of 4% to a maximum rate of 3.5%;
- 17 ▶ exempts a municipality from providing notice to the State Tax Commission before
- 18 changing the rate of a municipal telecommunications license tax under certain
- 19 circumstances;
- 20 ▶ modifies notice requirements for a municipality to change the rate of a municipal
- 21 telecommunications license tax under certain circumstances;
- 22 ▶ addresses the rate at which the State Tax Commission shall collect a municipal
- 23 telecommunications license tax;
- 24 ▶ repeals obsolete language requiring a report on rate information; and
- 25 ▶ makes technical changes.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-1-403**, as last amended by Chapter 255, Laws of Utah 2004

33 **10-1-405**, as last amended by Chapter 253, Laws of Utah 2006

34 **59-1-403**, as last amended by Chapter 2, Laws of Utah 2006, Third Special Session

35 **62A-11-328**, as last amended by Chapter 55, Laws of Utah 2006

36 REPEALS:

37 **10-1-409**, as enacted by Chapter 253, Laws of Utah 2003



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

40 Section 1. Section **10-1-403** is amended to read:

41 **10-1-403. Municipality may levy municipal telecommunications license tax --**
42 **Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.**

43 (1) (a) Subject to the provisions of this section, beginning July 1, 2004, a municipality
44 may levy on and provide that there is collected from a telecommunications provider a
45 municipal telecommunications license tax on the telecommunications provider's gross receipts
46 from telecommunications service that are attributed to the municipality in accordance with
47 Section 10-1-407.

48 (b) To levy and provide for the collection of a municipal telecommunications license
49 tax under this part, the municipality shall adopt an ordinance that complies with the
50 requirements of Section 10-1-404.

51 (c) [~~A~~] Beginning on July 1, 2007, a municipal telecommunications license tax
52 imposed under this part shall be at a rate of up to [~~4%~~] 3.5% of the telecommunications
53 provider's gross receipts from telecommunications service that are attributed to the
54 municipality in accordance with Section 10-1-407.

55 (2) A telecommunications provider may recover the amounts paid in municipal
56 telecommunications license taxes from the customers of the telecommunications provider
57 within the municipality imposing the municipal telecommunications license tax through a
58 charge that is separately identified in the statement of the transaction with the customer as the

59 recovery of a tax.

60 (3) (a) For purposes of this Subsection (3):

61 (i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part
62 4, Annexation.

63 (ii) "Annexing area" means an area that is annexed into a municipality.

64 (b) (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the
65 rate of the tax under this part, the enactment, repeal, or change shall take effect:

66 (A) on the first day of a calendar quarter; and

67 (B) after a 90-day period beginning on the date the commission receives notice meeting
68 the requirements of Subsection (3)(b)(ii) from the municipality.

69 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

70 (A) that the municipality will enact or repeal a tax under this part or change the rate of
71 the tax;

72 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

73 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

74 (D) if the municipality enacts the municipal telecommunications license tax or changes
75 the rate of the tax, the new rate of the tax.

76 (c) (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will
77 result in a change in the rate of the tax under this part for an annexing area, the change shall
78 take effect:

79 (A) on the first day of a calendar quarter; and

80 (B) after a 90-day period beginning on the date the commission receives notice meeting
81 the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

82 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

83 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the
84 rate of a tax under this part for the annexing area;

85 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

86 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

87 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

88 (4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal
89 telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not

90 subject to the notice requirements of Subsection (3)(b) if:

91 (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal
92 telecommunications license tax at a rate that exceeds 3.5%; and

93 (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal
94 telecommunications license tax at a rate of 3.5%.

95 (5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal
96 telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period
97 described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:

98 (a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal
99 telecommunications license tax at a rate that exceeds 3.5%; and

100 (b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal
101 telecommunications license tax at a rate that is less than 3.5%.

102 Section 2. Section **10-1-405** is amended to read:

103 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
104 **Rulemaking authority -- Charge for services.**

105 (1) Subject to the other provisions of this section, the commission shall collect,
106 enforce, and administer any municipal telecommunications license tax imposed under this part
107 pursuant to:

108 (a) the same procedures used in the administration, collection, and enforcement of the
109 state sales and use tax under:

110 (i) Title 59, Chapter 1, General Taxation Policies; and

111 (ii) Title 59, Chapter 12, Part 1, Tax Collection:

112 (A) except for:

113 (I) Subsection 59-12-103(2)(e);

114 (II) Section 59-12-104;

115 (III) Section 59-12-104.1;

116 (IV) Section 59-12-104.2; and

117 (V) Section 59-12-107.1; and

118 (B) except that for purposes of Section 59-12-110, the term "taxpayer" may include a
119 customer from whom a municipal telecommunications license tax is recovered in accordance
120 with Subsection 10-1-403(2); and

- 121 (b) a uniform interlocal agreement:
- 122 (i) between:
- 123 (A) the municipality that imposes the municipal telecommunications license tax; and
- 124 (B) the commission;
- 125 (ii) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;
- 126 (iii) that complies with Subsection (2)(a); and
- 127 (iv) that is developed by rule in accordance with Subsection (2)(b).

128 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that
129 the commission shall:

- 130 (i) transmit monies collected under this part:
- 131 (A) monthly; and
- 132 (B) by electronic funds transfer by the commission to the municipality;
- 133 (ii) conduct audits of the municipal telecommunications license tax;
- 134 (iii) charge the municipality for the commission's services under this section in an

135 amount:

- 136 (A) sufficient to reimburse the commission for the cost to the commission in rendering
137 the services; and
- 138 (B) that may not exceed an amount equal to 1.5% of the municipal telecommunications
139 license tax imposed by the ordinance of the municipality; and
- 140 (iv) collect, enforce, and administer the municipal telecommunications license tax
141 authorized under this part pursuant to the same procedures used in the administration,
142 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

143 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
144 commission shall develop a uniform interlocal agreement that meets the requirements of this
145 section.

- 146 (3) The administrative fee charged under Subsection (2)(a) shall be:
- 147 (a) deposited in the Sales and Use Tax Administrative Fees Account; and
- 148 (b) used for administration of municipal telecommunications license taxes under this
149 part.

150 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal
151 telecommunications license tax under this part at a rate that exceeds 3.5%:

152 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission
153 shall collect the municipal telecommunications license tax:

154 (i) within the municipality;

155 (ii) at a rate of 3.5%; and

156 (iii) from a telecommunications provider required to pay the municipal
157 telecommunications license tax on or after July 1, 2007; and

158 (b) the commission shall collect a municipal telecommunications license tax within the
159 municipality at the rate imposed by the municipality if:

160 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
161 telecommunications license tax under this part at a rate of up to 3.5%;

162 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
163 the rate of the municipal telecommunications license tax; and

164 (iii) a telecommunications provider is required to pay the municipal
165 telecommunications license tax on or after the day on which the ordinance described in
166 Subsection (4)(b)(ii) takes effect.

167 Section 3. Section **59-1-403** is amended to read:

168 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

169 (1) (a) Any of the following may not divulge or make known in any manner any
170 information gained by that person from any return filed with the commission:

171 (i) a tax commissioner;

172 (ii) an agent, clerk, or other officer or employee of the commission; or

173 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
174 town.

175 (b) An official charged with the custody of a return filed with the commission is not
176 required to produce the return or evidence of anything contained in the return in any action or
177 proceeding in any court, except:

178 (i) in accordance with judicial order;

179 (ii) on behalf of the commission in any action or proceeding under:

180 (A) this title; or

181 (B) other law under which persons are required to file returns with the commission;

182 (iii) on behalf of the commission in any action or proceeding to which the commission

183 is a party; or

184 (iv) on behalf of any party to any action or proceeding under this title if the report or
185 facts shown by the return are directly involved in the action or proceeding.

186 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
187 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
188 pertinent to the action or proceeding.

189 (2) This section does not prohibit:

190 (a) a person or that person's duly authorized representative from receiving a copy of
191 any return or report filed in connection with that person's own tax;

192 (b) the publication of statistics as long as the statistics are classified to prevent the
193 identification of particular reports or returns; and

194 (c) the inspection by the attorney general or other legal representative of the state of the
195 report or return of any taxpayer:

196 (i) who brings action to set aside or review a tax based on the report or return;

197 (ii) against whom an action or proceeding is contemplated or has been instituted under
198 this title; or

199 (iii) against whom the state has an unsatisfied money judgment.

200 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
201 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative
202 Rulemaking Act, provide for a reciprocal exchange of information with:

203 (i) the United States Internal Revenue Service; or

204 (ii) the revenue service of any other state.

205 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
206 corporate franchise tax, the commission may by rule, made in accordance with Title 63,
207 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns
208 and other written statements with the federal government, any other state, any of the political
209 subdivisions of another state, or any political subdivision of this state, except as limited by
210 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
211 government grant substantially similar privileges to this state.

212 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
213 corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a,

214 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
215 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
216 due.

217 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
218 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
219 requested by the executive secretary, any records, returns, or other information filed with the
220 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
221 regarding the environmental assurance program participation fee.

222 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
223 provide that person sales and purchase volume data reported to the commission on a report,
224 return, or other information filed with the commission under:

225 (i) Chapter 13, Part 2, Motor Fuel; or

226 (ii) Chapter 13, Part 4, Aviation Fuel.

227 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
228 as defined in Section 59-22-202, the commission shall report to the manufacturer:

229 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
230 manufacturer and reported to the commission for the previous calendar year under Section
231 59-14-407; and

232 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
233 manufacturer for which a tax refund was granted during the previous calendar year under
234 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

235 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
236 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
237 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

238 (h) Notwithstanding Subsection (1), the commission may:

239 (i) provide to the Division of Consumer Protection within the Department of
240 Commerce and the attorney general data:

241 (A) reported to the commission under Section 59-14-212; or

242 (B) related to a violation under Section 59-14-211; and

243 (ii) upon request provide to any person data reported to the commission under
244 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

245 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
246 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
247 and Budget, provide to the committee or office the total amount of revenues collected by the
248 commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
249 specified by the committee or office.

250 (j) Notwithstanding Subsection (1), the commission shall at the request of the
251 Legislature provide to the Legislature the total amount of sales or uses exempt under
252 Subsection 59-12-104(46) reported to the commission in accordance with Section 59-12-105.

253 (k) Notwithstanding Subsection (1), the commission shall make the directory required
254 by Section 59-14-603 available for public inspection.

255 ~~[(l) Notwithstanding Subsection (1), the commission shall comply with the reporting~~
256 ~~requirements of Section 10-1-409.]~~

257 ~~[(m)]~~ (l) Notwithstanding Subsection (1), the commission may share information with
258 federal, state, or local agencies as provided in Subsection 59-14-606(3).

259 ~~[(n)]~~ (m) (i) Notwithstanding Subsection (1), the commission shall provide the Office
260 of Recovery Services within the Department of Human Services any relevant information
261 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
262 who has become obligated to the Office of Recovery Services.

263 (ii) The information described in Subsection (3)~~[(n)]~~(m)(i) may be provided by the
264 Office of Recovery Services to any other state's child support collection agency involved in
265 enforcing that support obligation.

266 ~~[(o)]~~ (n) (i) Notwithstanding Subsection (1), upon request from the state court
267 administrator, the commission shall provide to the state court administrator, the name, address,
268 telephone number, county of residence, and Social Security number on resident returns filed
269 under Chapter 10, Individual Income Tax Act.

270 (ii) The state court administrator may use the information described in Subsection
271 (3)~~[(o)]~~(n)(i) only as a source list for the master jury list described in Section 78-46-10.

272 ~~[(p)]~~ (o) Notwithstanding Subsection (1), the commission shall at the request of a
273 committee, commission, or task force of the Legislature provide to the committee, commission,
274 or task force of the Legislature any information relating to a tax imposed under Chapter 9,
275 Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

276 ~~(c)~~ (p) (i) As used in this Subsection (3)~~(c)~~(p), "office" means the:
277 (A) Office of the Legislative Fiscal Analyst; or
278 (B) Office of Legislative Research and General Counsel.
279 (ii) Notwithstanding Subsection (1) and except as provided in Subsection
280 (3)~~(c)~~(p)(iii), the commission shall at the request of an office provide to the office all
281 information:
282 (A) gained by the commission; and
283 (B) required to be attached to or included in returns filed with the commission.
284 (iii) (A) An office may not request and the commission may not provide to an office a
285 person's:
286 (I) address;
287 (II) name;
288 (III) Social Security number; or
289 (IV) taxpayer identification number.
290 (B) The commission shall in all instances protect the privacy of a person as required by
291 Subsection (3)~~(c)~~(p)(iii)(A).
292 (iv) An office may provide information received from the commission in accordance
293 with this Subsection (3)~~(c)~~(p) only:
294 (A) as:
295 (I) a fiscal estimate;
296 (II) fiscal note information; or
297 (III) statistical information; and
298 (B) if the information is classified to prevent the identification of a particular return.
299 (v) (A) A person may not request information from an office under Title 63, Chapter 2,
300 Government Records Access and Management Act, or this section, if that office received the
301 information from the commission in accordance with this Subsection (3)~~(c)~~(p).
302 (B) An office may not provide to a person that requests information in accordance with
303 Subsection (3)~~(c)~~(p)(v)(A) any information other than the information the office provides in
304 accordance with Subsection (3)~~(c)~~(p)(iv).
305 (4) (a) Reports and returns shall be preserved for at least three years.
306 (b) After the three-year period provided in Subsection (4)(a) the commission may

307 destroy a report or return.

308 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

309 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
310 the person shall be dismissed from office and be disqualified from holding public office in this
311 state for a period of five years thereafter.

312 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
313 accordance with Subsection (3)~~(p)~~(p)(iii) or a person that requests information in accordance
314 with Subsection (3)~~(p)~~(p)(v):

315 (i) is not guilty of a class A misdemeanor; and

316 (ii) is not subject to:

317 (A) dismissal from office in accordance with Subsection (5)(b); or

318 (B) disqualification from holding public office in accordance with Subsection (5)(b).

319 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.
320 Section 4. Section **62A-11-328** is amended to read:

321 **62A-11-328. Information received from State Tax Commission provided to other**
322 **states' child support collection agencies.**

323 The office shall, upon request, provide to any other state's child support collection
324 agency the information which it receives from the State Tax Commission under Subsection
325 59-1-403(3)~~(n)~~ (m), with regard to a support debt which that agency is involved in enforcing.

326 Section 5. **Repealer.**

327 This bill repeals:

328 Section **10-1-409, Report on rate information.**

Legislative Review Note
as of 1-8-07 9:10 AM

Office of Legislative Research and General Counsel

H.B. 238 - Municipal Telecommunications License Tax Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could decrease local revenues by \$5,500,000 annually.

1/16/2007, 8:30:34 AM, Lead Analyst: Wilko, A.

Office of the Legislative Fiscal Analyst