

**MUNICIPAL LICENSE FEE OR TAX ON  
PUBLIC ASSEMBLY FACILITIES**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brent H. Goodfellow**

House Sponsor: Ron Bigelow

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**LONG TITLE**

**General Description:**

This bill modifies a provision relating to a municipal license fee or tax on public assembly facilities.

**Highlighted Provisions:**

This bill:

- ▶ increases the maximum per ticket license fee or tax that a municipality may impose on a public assembly facility from \$1 to \$5;

- ▶ clarifies that a municipality may not impose a license fee or tax on a public assembly facility owned and operated by another political subdivision, other than a community development and renewal agency, without written consent; and

- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-1-203**, as last amended by Chapter 193, Laws of Utah 2005

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

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

30           **10-1-203. License fees and taxes -- Disproportionate rental fee -- Application**  
31 **information to be transmitted to the county assessor.**

32           (1) [~~For the purpose of~~] As used in this section:

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

36           (b) "Telecommunications provider" is as defined in Section 10-1-402[; ~~and~~].

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

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

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

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

48           (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,  
49 1997, or a future franchise shall remain in full force and effect.

50           (c) A municipality that collects a contractual franchise fee pursuant to a franchise  
51 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July  
52 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

58 (B) imposes the contractual franchise fee on or after the day on which Part 3,  
59 Municipal Energy Sales and Use Tax is:

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

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

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

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

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

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

75 [(+)] (A) a parking service business in an amount that is less than or equal to:

76 [~~(A)~~] (I) \$1 per vehicle that parks at the parking service business; or

77 [~~(B)~~] (II) 2% of the gross receipts of the parking service business;

78 [(+)] (B) a public assembly or other related facility in an amount that is less than or  
79 equal to [~~\$1~~] \$5 per ticket purchased from the public assembly or other related facility; and

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

84 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to  
85 levy or collect a license fee or tax on a public assembly or other related facility owned and

86 operated by another political subdivision other than a community development and renewal  
87 agency without the written consent of the other political subdivision.

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

89 (i) "Municipal services" include:

90 (A) public utilities; or

91 (B) services for:

92 (I) police;

93 (II) fire;

94 (III) storm water runoff;

95 (IV) traffic control;

96 (V) parking;

97 (VI) transportation;

98 (VII) beautification; or

99 (VIII) snow removal.

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

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

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

104 (C) that charges a fee for parking.

105 (iii) "Public assembly or other related facility" means [~~a business operating~~] an  
106 assembly facility that:

107 (A) is wholly or partially funded by public moneys; [~~and~~]

108 (B) is operated by a business; and

109 [~~(B)~~] (C) requires a person attending an event at the assembly facility to purchase a  
110 ticket.

111 (c) Before the governing body of a municipality imposes a license fee or tax on a  
112 business that causes disproportionate costs of municipal services under Subsection (5)(a)(iii),  
113 the governing body of the municipality shall adopt an ordinance defining for purposes of the

114 tax under Subsection (5)(a)(iii) what constitutes disproportionate costs and what amounts are  
115 reasonably related to the costs of the municipal services provided by the municipality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

149 (A) has implemented, before January 1, 2005, a program that provides a reduction in  
150 the disproportionate rental fee for each landlord that implements measures to reduce crime in  
151 the rental housing;

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

154 (C) does not increase its disproportionate rental fee.

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

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

160 (8) If challenged in court, an ordinance enacted by a municipality before January 1,  
161 1994, imposing a business license fee or tax on rental dwellings under this section shall be  
162 upheld unless the business license fee or tax is found to impose an unreasonable burden on the  
163 fee or tax payer.