

MUNICIPAL RENTAL FEES AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark W. Walker

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill modifies a provision relating to disproportionate rental fees imposed by municipalities.

Highlighted Provisions:

This bill:

- ▶ allows a municipality six years rather than four years to conduct an updated municipal services study if the municipality has established a program providing a reduction in the disproportionate rental fee to a landlord who participates in a training program; 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 Laws of Utah 2007, Chapter 276

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.

30 (1) As used in this section:

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

34 (b) "Telecommunications provider" is as defined in Section 10-1-402.

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

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

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

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

46 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
47 1997, or a future franchise shall remain in full force and effect.

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

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

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

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

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

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

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

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

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

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

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

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

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

76 (B) a public assembly or other related facility in an amount that is less than or equal to
77 \$5 per ticket purchased from the public assembly or other related facility; and

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

82 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
83 levy or collect a license fee or tax on a public assembly or other related facility owned and
84 operated by another political subdivision other than a community development and renewal
85 agency without the written consent of the other political subdivision.

86 (b) ~~[For purposes of]~~ As used in this Subsection (5):

87 (i) "Municipal services" include:

88 (A) public utilities; or

89 (B) services for:

90 (I) police;

91 (II) fire;

92 (III) storm water runoff;

93 (IV) traffic control;

94 (V) parking;

95 (VI) transportation;

96 (VII) beautification; or

97 (VIII) snow removal.

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

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

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

102 (C) that charges a fee for parking.

103 (iii) "Public assembly or other related facility" means an assembly facility that:

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

105 (B) is operated by a business; and

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

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

112 (d) Before the governing body of a municipality imposes a license fee or tax on a
113 business for which it provides an enhanced level of municipal services under Subsection

114 (5)(a)(iii), the governing body of the municipality shall adopt an ordinance defining for purposes
115 of the tax under Subsection (5)(a)(iii) what constitutes the basic level of municipal services in
116 the municipality and what amounts are reasonably related to the costs of providing an enhanced
117 level of municipal services in the municipality.

118 (e) (i) ~~[For purposes of]~~ As used in this Subsection (5)(e):

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

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

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

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

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

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

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

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

133 (II) conduct an updated municipal services study;

134 (Aa) every six years after the first municipal services study, if the municipality has
135 established a program that provides a reduction in the disproportionate rental fee for a landlord
136 that participates in a landlord training program; and

137 (Bb) every four years after the first municipal services study, for each other
138 municipality.

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