

DISPROPORTIONATE RENTAL FEE

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies a provision of the Utah Municipal Code relating to disproportionate rental fees imposed by municipalities.

Highlighted Provisions:

This bill:

▶ clarifies that a municipality that has not already imposed a disproportionate rental fee is authorized to impose the fee after meeting specified requirements and conditions;

▶ requires municipalities imposing a disproportionate rental fee for the first time to establish a good landlord program allowing the landlord to qualify for a reduction in the disproportionate rental fee if complying with certain requirements;

▶ removes the requirement to update the municipal services study every six years for municipalities with a good landlord program;

~~H→ [→ adds "enforcement of municipal ordinances" to the definition of municipal services;]~~ ←H

▶ clarifies and rewrites provisions that grandfather certain municipalities from certain requirements and restrictions;

▶ establishes a deadline for completing a municipal services study for certain municipalities;

▶ changes the term "governing body" to "legislative body" in certain provisions;

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- 28 ▶ provides definitions; and
- 29 ▶ makes technical changes.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **10-1-203**, as last amended by Laws of Utah 2008, Chapter 207



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

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

40 **10-1-203. License fees and taxes -- Disproportionate rental fee -- Application**
41 **information to be transmitted to the county assessor.**

42 (1) As used in this section:

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

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

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

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

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

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

58 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,

59 1997, or a future franchise shall remain in full force and effect.

60 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
61 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
62 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

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

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

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

83 (5) (a) (i) The [governing] legislative body of a municipality may by ordinance raise
84 revenue by levying and collecting a license fee or tax on:

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

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

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

88 (B) a public assembly or other related facility in an amount that is less than or equal to
89 \$5 per ticket purchased from the public assembly or other related facility; and

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

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

99 (b) As used in this Subsection (5):

100 (i) "Municipal services" [~~include~~] includes:

101 (A) public utilities; [~~or~~] and

102 (B) services for:

103 (I) police;

104 (II) fire;

105 (III) storm water runoff;

106 (IV) traffic control;

107 (V) parking;

108 (VI) transportation;

109 (VII) beautification; ~~H→ [f] or [f] ←H~~

110 (VIII) snow removal ~~H→ [f] . [f] [~~or~~~~

111 ~~— (IX) enforcement of municipal ordinances.] ←H~~

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

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

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

116 (C) that charges a fee for parking.

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

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

119 (B) is operated by a business; and

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

121 (c) (i) Before the [governing] legislative body of a municipality imposes a license fee
 122 ~~[or tax]~~ on a business that causes disproportionate costs of municipal services under Subsection
 123 (5)(a)(~~(iii)~~)(i)(C)(I), the [governing] legislative body of the municipality shall adopt an
 124 ordinance defining for purposes of the tax under Subsection (5)(a)(~~(iii)~~)(i)(C)(I) ~~[what~~
 125 ~~constitutes]~~:

126 (A) the costs that constitute disproportionate costs; and ~~[what]~~

127 (B) the amounts that are reasonably related to the costs of the municipal services
 128 provided by the municipality.

129 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
 130 the costs of the municipal services provided by the municipality.

131 (d) (i) Before the [governing] legislative body of a municipality imposes a license fee
 132 ~~[or tax]~~ on a business for which it provides an enhanced level of municipal services under
 133 Subsection (5)(a)(~~(iii)~~)(i)(C)(II), the [governing] legislative body of the municipality shall
 134 adopt an ordinance defining for purposes of the ~~[tax] fee~~ under Subsection (5)(a)(~~(iii)~~)(i)(C)(II):
 135 ~~[what]~~

136 (A) the level of municipal services that constitutes the basic level of municipal services
 137 in the municipality; and ~~[what]~~

138 (B) the amounts that are reasonably related to the costs of providing an enhanced level
 139 of municipal services in the municipality.

140 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to
 141 the costs of providing an enhanced level of the municipal services.

142 (e) (i) As used in this Subsection (5)(e):

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

146 (B) "Disproportionate rental fee reduction" means a reduction of a disproportionate
 147 rental fee as a condition of complying with the requirements of a good landlord program.

148 (C) "Good landlord program" means a program established by a municipality that
 149 provides a reduction in a disproportionate rental fee for a landlord who:

150 (I) completes a landlord training program approved by the municipality;

151 (II) implements measures to reduce crime in rental housing as specified in municipal

152 ordinances; and

153 (III) operates and manages rental housing in accordance with applicable municipal
154 ordinances.

155 ~~[(B)]~~ (D) "Municipal services study" means a study, or an updated study, conducted by
156 a municipality of the cost of all municipal services that the municipality provides to the
157 applicable rental housing.

158 ~~[(C)]~~ (E) "Rental housing cost" means the municipality's cost:

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

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

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

162 (ii) A municipality may impose and collect a disproportionate rental fee if:

163 (A) the municipality:

164 (I) adopts the ordinances required under Subsections (5)(c) and (d), as applicable;

165 (II) conducts a municipal services study;

166 (III) updates the municipal services study:

167 (Aa) before increasing the amount of the disproportionate rental fee; and

168 (Bb) before decreasing the amount of the disproportionate rental fee reduction; and

169 (IV) establishes a good landlord program; and

170 (B) the disproportionate rental fee does not exceed the rental housing cost, as
171 determined by the municipal services study.

172 ~~[(ii)]~~ (iii) (A) [Each] The requirement under Subsection (5)(e)(ii)(A)(IV) to establish a
173 good landlord program does not apply to a municipality that [levies] imposed and [collects]
174 collected a disproportionate rental fee [that exceeds \$17 per unit per year or that intends to
175 impose a disproportionate rental fee for the first time shall: (I) before] on January 1, [2007 and
176 except as provided in Subsection (5)(e)(iv), conduct a municipal services study; and (H)] 2009.

177 (B) A municipality claiming an exemption under Subsection (5)(e)(iii)(A) shall
178 conduct an updated municipal services study[: (Aa) every six years after the first municipal
179 services study, if the municipality has established a program that provides a reduction in the
180 disproportionate rental fee for a landlord that participates in a landlord training program; and
181 ~~(Bb)]~~ at least every four years [after the first municipal services study, for each other
182 municipality].

183 ~~[(B) Each]~~ (iv) The requirement under Subsection (5)(e)(ii)(A)(II) to conduct a
 184 municipal services study does not apply to a municipality that [levies]:

185 (A) imposed and [collects] collected a disproportionate rental fee [that is] on May 2,
 186 2005 of \$17 or less per unit per year [and that intends to]:

187 (B) does not increase the amount of its disproportionate rental fee [shall conduct a
 188 municipal services study before increasing]; and

189 (C) does not decrease the amount of its disproportionate rental fee reduction.

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

192 (v) The fee limitation under Subsection (5)(e)[(iii)(A)](ii)(B) does not apply to a
 193 municipality [whose] that:

194 (A) imposed and collected a disproportionate rental fee [is] on May 2, 2005 that was
 195 \$17 or less [and that] per unit per year;

196 (B) does not increase the amount of its disproportionate rental fee[-]; and

197 (C) does not decrease the amount of its disproportionate rental fee reduction.

198 ~~[(iv) The]~~ (vi) Until May 2, 2012, the requirement under Subsection
 199 (5)(e)(ii)(A)[(F)](II) to conduct a municipal services study before [January 1, 2007] imposing
 200 and collecting a disproportionate rental fee, does not apply to a municipality that [levies]:

201 (A) on May 2, 2005, imposed and [collects] collected a disproportionate rental fee that
 202 exceeds \$17 per unit per year [if the municipality]:

203 ~~[(A) has]~~ (B) had implemented, before January 1, 2005, a good landlord program [that
 204 provides a reduction in the disproportionate rental fee for each landlord that implements
 205 measures to reduce crime in the rental housing];

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

208 ~~[(C)]~~ (D) does not increase the amount of its disproportionate rental fee.

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

211 (7) The ~~[governing body]~~ municipality shall transmit the information from each
 212 approved business license application to the county assessor within 60 days following the
 213 approval of the application.

214 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
215 1994, imposing a business license fee [~~or tax~~] on rental dwellings under this section shall be
216 upheld unless the business license fee [~~or tax~~] is found to impose an unreasonable burden on
217 the fee [~~or tax~~] payer.

Legislative Review Note
as of 2-11-09 2:53 PM

Office of Legislative Research and General Counsel

H.B. 342 - Disproportionate Rental Fee Amendments

Fiscal Note

2009 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 likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
