

**Representative Jacob L. Anderegg** proposes the following substitute bill:

**LOCAL GOVERNMENT LICENSING AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jacob L. Anderegg**

Senate Sponsor: Alvin B. Jackson

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to a municipality's or a county's authority to license a business.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions authorizing a municipality or a county to license a business;
- ▶ prohibits a municipality from requiring a license or charging a fee for certain home based businesses; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-1-203**, as last amended by Laws of Utah 2014, Chapter 189

**17-53-216**, as last amended by Laws of Utah 2008, Chapter 250

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

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

28 **10-1-203. License fees and taxes -- Application information to be transmitted to**  
 29 **the county assessor.**

30 (1) As used in this section:

31 (a) (i) "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  
 33 this definition.

34 (ii) "Business" does not include a nonprofit corporation as defined in Section  
 35 [16-6a-102](#).

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

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

38 (2) Except as provided in Subsections (3) through (5) ~~and (7)~~ ~~and~~ ~~(b)~~ ~~and~~  
 38a **subject to Subsection (7)(a)**, ~~and~~ the legislative 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 legislative 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 Act 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 legislative 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 legislative 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 (I) \$1 per vehicle that parks at the parking service business; or

77 (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 equal to

79 \$5 per ticket purchased from the public assembly or other related facility; and

80 (C) subject to the limitations of Subsections (5)(c) and (d):

81 (I) a business that causes disproportionate costs of municipal services; or

82 (II) a purchaser from a business for which the municipality provides an enhanced level

83 of municipal services.

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) As used in this Subsection (5):
- 89 (i) "Municipal services" includes:
- 90 (A) public utilities; and
- 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 money;
- 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 an assembly facility that:
- 106 (A) is wholly or partially funded by public money;
- 107 (B) is operated by a business; and
- 108 (C) requires a person attending an event at the assembly facility to purchase a ticket.
- 109 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
- 110 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
- 111 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
- 112 under Subsection (5)(a)(i)(C)(I):
- 113 (A) the costs that constitute disproportionate costs; and
- 114 (B) the amounts that are reasonably related to the costs of the municipal services
- 115 provided by the municipality.
- 116 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
- 117 the costs of the municipal services provided by the municipality.
- 118 (d) (i) Before the legislative body of a municipality imposes a license fee on a

119 purchaser from a business for which it provides an enhanced level of municipal services under  
 120 Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance  
 121 defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

122 (A) the level of municipal services that constitutes the basic level of municipal services  
 123 in the municipality; and

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

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

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

130 (7) ~~Ĥ→ [(a)] ←Ĥ~~ A municipality may ~~Ĥ→ [require a license or] not:~~

130a (a) ~~←Ĥ~~ charge a ~~Ĥ→ license ←Ĥ~~ fee for a home based business

131 ~~Ĥ→ [only if] unless ←Ĥ~~ the combined offsite impact of the home based business and the primary  
 131a residential use

132 materially exceeds the offsite impact of the primary residential use alone ~~Ĥ→ [;] ; or ←Ĥ~~

133 (b) ~~Ĥ→ [Notwithstanding Subsection (7)(a), a municipality may not] ←Ĥ~~ require a license  
 133a for a

134 home based business that is operated:

135 (i) occasionally; and

136 (ii) by an individual who is under 18 years of age.

137 ~~[(7)] (8)~~ The municipality shall transmit the information from each approved business  
 138 license application to the county assessor within 60 days following the approval of the  
 139 application.

140 ~~[(8)] (9)~~ If challenged in court, an ordinance enacted by a municipality before January  
 141 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld  
 142 unless the business license fee is found to impose an unreasonable burden on the fee payer.

143 Section 2. Section **17-53-216** is amended to read:

144 **17-53-216. Business license fees and taxes -- Application information to be**  
 145 **transmitted to the county assessor.**

146 (1) ~~[For the purpose of]~~ As used in this section~~[, "business"]~~:

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

150 (b) "Business" does not include a nonprofit corporation as defined in Section  
151 [16-6a-102](#).

152 (2) [~~The~~] Except as provided in Subsection (4)  ~~(b) ,~~ and subject to

152a Subsection (4)(a),  ~~the~~ legislative body of a county may by

153 ordinance provide for the licensing of businesses within the unincorporated areas of the county  
154 for the purpose of regulation [~~and revenue~~].

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

157 (4)  ~~(a)~~ A county may  ~~[require a license or]~~ not:

157a  ~~(a)~~ charge a  ~~license~~ fee for a home based business  ~~[only if] unless~~

158 the combined offsite impact of the home based business and the primary residential use

159 materially exceeds the offsite impact of the primary residential use alone  ~~[;] ; or~~

160  ~~(b)~~ [Notwithstanding Subsection (4)(a), a county may not]  ~~require a license for a~~

160a home

161 based business that is operated:

162 (i) occasionally; and

163 (ii) by an individual who is under 18 years of age.

164 [~~4~~] (5) The county business licensing agency shall transmit the information from each

165 approved business license application to the county assessor within 60 days following the

166 approval of the application.

167 [~~5~~] (6) This section may not be construed to enhance, diminish, or otherwise alter the

168 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter

169 144.