

**FREE EXPRESSION REGULATION BY LOCAL
GOVERNMENT**

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses local government regulation of free expression.

Highlighted Provisions:

This bill:

- ▶ requires that a political subdivision pass an ordinance to impose a generally applicable time, place, or manner restriction on free expression;
 - ▶ requires that a political subdivision ensure that a generally or individually applicable time, place, or manner restriction on free expression:
 - complies with certain constitutional requirements; and
 - includes a statement regarding the constitutional justification for the restriction;
- and
- ▶ prohibits a political subdivision from prohibiting political activities outside a public building.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



- 28 [11-55-101](#), Utah Code Annotated 1953
- 29 [11-55-102](#), Utah Code Annotated 1953
- 30 [11-55-103](#), Utah Code Annotated 1953
- 31 [11-55-104](#), Utah Code Annotated 1953



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

34 Section 1. Section **11-55-101** is enacted to read:

**CHAPTER 55. FREE EXPRESSION REGULATION
BY LOCAL GOVERNMENT ACT**

37 **11-55-101. Title.**

38 This chapter is known as the "Free Expression Regulation by Local Government Act."

39 Section 2. Section **11-55-102** is enacted to read:

40 **11-55-102. Definitions.**

41 As used in this chapter:

42 (1) "Generally applicable time, place, or manner restriction" means an ordinance,
43 policy, practice, or other action that:

- 44 (a) restricts or infringes on free expression;
- 45 (b) the political subdivision applies generally to any person; and
- 46 (c) is not an individually applicable time, place, or manner restriction.

47 (2) (a) "Individually applicable time, place, or manner restriction" means a policy,
48 practice, or other action that a political subdivision applies:

- 49 (i) on a case-by-case basis;
- 50 (ii) to a specifically identified person or group of persons; and
- 51 (iii) regarding a specifically identified place and time.

52 (b) "Individually applicable time, place, or manner restriction" includes a restriction
53 placed on free expression as a condition to obtain a permit.

54 (3) (a) "Political subdivision" means a county, city, town, or school district.

55 (b) "Political subdivision" does not mean a local district under Title 17B, Limited
56 Purpose Local Government Entities - Local Districts, or a special service district under Title
57 17D, Chapter 1, Special Service District Act.

58 (4) (a) "Public building" means a building or permanent structure that is:

59 (i) owned, leased, or occupied by a political subdivision or a subunit of a political
60 subdivision; and

61 (ii) used for public education or political subdivision activities.

62 (b) "Public building" does not mean a building owned or leased by a local government
63 entity when the building is used by a person, in whole or in part, for a private function.

64 Section 3. Section 11-55-103 is enacted to read:

65 **11-55-103. Time, place, and manner restrictions -- Generally applicable**
66 **restrictions by ordinance.**

67 (1) A political subdivision shall ensure that each generally applicable or individually
68 applicable time, place, or manner restriction on free expression:

69 (a) is narrowly tailored to serve an important governmental interest;

70 (b) is unrelated to the suppression of a particular message or the content of the
71 expression that the restriction addresses;

72 (c) leaves open ample alternative means for expression; and

73 (d) includes a statement explaining how the restriction meets the constitutional
74 requirements described in Subsections (1)(a) through (c).

75 (2) A political subdivision may not impose a generally applicable time, place, or
76 manner restriction on free expression unless the political subdivision imposes the restriction by
77 ordinance.

78 Section 4. Section 11-55-104 is enacted to read:

79 **11-55-104. Political activity outside a public building.**

80 (1) A political subdivision may not prohibit a political activity, including signature
81 gathering, outside a public building or on the grounds of a public building.

82 (2) A political subdivision may impose a time, place, or manner restriction on political
83 activities outside a public building in accordance with Section [11-55-103](#).