

Representative Norman K Thurston proposes the following substitute bill:

**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 and include a statement regarding the constitutional justification for the restriction;
- ▶ 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
- ▶ prohibits a political subdivision from prohibiting political activities outside a public building.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



26 ENACTS:

27 **11-55-101**, Utah Code Annotated 1953

28 **11-55-102**, Utah Code Annotated 1953

29 **11-55-103**, Utah Code Annotated 1953

30 **11-55-104**, Utah Code Annotated 1953



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

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

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

36 **11-55-101. Title.**

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

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

39 **11-55-102. Definitions.**

40 As used in this chapter:

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

43 (a) by its clear language and intent, restricts or infringes on free expression;

44 (b) applies generally to any person; and

45 (c) is not an individually applicable time, place, or manner restriction.

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

48 (i) on a case-by-case basis;

49 (ii) to a specifically identified person or group of persons; and

50 (iii) regarding a specifically identified place and time.

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

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

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

- 57 (4) (a) "Public building" means a building or permanent structure that is:
- 58 (i) owned, leased, or occupied by a political subdivision or a subunit of a political
- 59 subdivision; and
- 60 (ii) used for public education or political subdivision activities.
- 61 (b) "Public building" does not mean a building owned or leased by a local government
- 62 entity when the building is used by a person, in whole or in part, for a private function.

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

64 **11-55-103. Time, place, and manner restrictions -- Generally applicable**
65 **restrictions by ordinance.**

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

- 68 (a) is narrowly tailored to serve an important governmental interest;
- 69 (b) is unrelated to the suppression of a particular message or the content of the
- 70 expression that the restriction addresses; and
- 71 (c) leaves open ample alternative means for expression.

72 (2) A political subdivision may not impose a generally applicable time, place, or
73 manner restriction on free expression unless the political subdivision:

- 74 (a) imposes the restriction by ordinance; and
- 75 (b) makes a finding explaining how the restriction meets the constitutional
- 76 requirements described in Subsection (1).

77 (3) Before imposing an individually applicable time, place, or manner restriction, a
78 political subdivision shall determine whether the restriction meets the constitutional
79 requirements described in Subsection (1).

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

81 **11-55-104. Political activity outside a public building.**

82 (1) Except as provided in Title 20A, Election Code, a political subdivision may not
83 prohibit a political activity, including signature gathering, outside a public building or on the
84 grounds of a public building.

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

87 Section 5. **Effective date.**

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This bill takes effect on May 8, 2018.