

## HB0298S03 compared with HB0298S02

~~text~~ shows text that was in HB0298S02 but was deleted in HB0298S03.

Inserted text shows text that was not in HB0298S02 but was inserted into HB0298S03.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: ~~\_\_\_\_\_~~ Deidre M. Henderson

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#### LONG TITLE

##### General Description:

This bill addresses local government regulation of expressive activity.

##### Highlighted Provisions:

This bill:

- ▶ requires that a political subdivision ensure that any generally or individually applicable time, place, or manner restriction on expressive activity on public grounds complies with certain constitutional requirements;
- ▶ requires that, if a political subdivision imposes a generally applicable time, place, or manner restriction on expressive activity on public grounds, the political subdivision must impose the restriction by ordinance or adopt the restriction in accordance with a general ordinance;
- ▶ prevents a political subdivision from prohibiting political activities on public

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grounds; and

- ▶ exempts compliance with Title 20A, Election Code, and certain property that a political subdivision owns or leases.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

ENACTS:

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

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

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

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

**11-55-105**, Utah Code Annotated 1953

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

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

### **CHAPTER 55. EXPRESSIVE ACTIVITY REGULATION BY LOCAL GOVERNMENT ACT**

#### **11-55-101. Title.**

This chapter is known as the "Expressive Activity Regulation by Local Government Act."

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

#### **11-55-102. Definitions.**

As used in this chapter:

(1) "Expressive activity" means:

(a) peacefully assembling, protesting, or speaking;

(b) distributing literature;

(c) carrying a sign; or

(d) **signature gathering** circulating a petition.

(2) "Generally applicable time, place, and manner restriction" means a content-neutral

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ordinance, policy, practice, or other action that:

(a) by its clear language and intent, restricts or infringes on expressive activity;

(b) applies generally to any person; and

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

(3) (a) "Individually applicable time, place, and manner restriction" means a content-neutral policy, practice, or other action:

(i) that restricts or infringes on expressive activity; and

(ii) that a political subdivision applies:

(A) on a case-by-case basis;

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

(C) regarding a specifically identified place and time.

(b) "Individually applicable time, place, and manner restriction" includes a restriction placed on expressive activity as a condition to obtain a permit.

(4) (a) "Political subdivision" means a county, city, town, or metro township.

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

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

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

(ii) open to public access in whole or in part; and

(iii) used for public education or political subdivision activities.

(b) "Public building" does not mean a building owned or leased by a political subdivision or a subunit of a political subdivision:

(i) that is closed to public access;

~~{~~ (ii) ~~that is a closed forum;~~

~~}~~ ~~(iii)~~ (ii) where state or federal law restricts expressive activity; or

~~(iv)~~ (iii) when the building is used by a person, in whole or in part, for a private function.

(6) (a) "Public grounds" means the area outside a public building that is a ~~traditionally~~ ~~open~~ ~~traditional public~~ forum where members of the public may safely gather to engage in

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expressive activity.

(b) "Public grounds" includes sidewalks, streets, and parks.

(c) "Public grounds" does not include the interior of a public building.

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

### **11-55-103. Exceptions.**

This chapter does not apply to:

(1) a restriction on expressive activity on public grounds that a political subdivision imposes in order to comply with Title 20A, Election Code; or

(2) property that a political subdivision owns or leases:

(a) that is closed to public access;

~~(b) that is a closed forum;~~ or

~~(c) where state or federal law restricts expressive activity;~~ or

(3) a limited or nonpublic forum.

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

**11-55-104. Time, place, and manner restrictions -- Generally applicable restrictions by ordinance.**

(1) If a political subdivision imposes a generally applicable or individually applicable time, place, and manner restriction on expressive activity on public grounds, the political subdivision shall ensure that the restriction:

(a) is narrowly tailored to serve an important governmental interest, including public access to the public building, public safety, and protection of public property;

(b) is unrelated to the suppression of a particular message or the content of the expressive activity that the restriction addresses; and

(c) leaves open reasonable alternative means for the expressive activity.

(2) A political subdivision may not impose a generally applicable time, place, and manner restriction on expressive activity on public grounds unless the political subdivision:

(a) imposes the restriction by ordinance; or

(b) (i) ~~creates a general policy by~~ adopts an ordinance to guide the adoption, by policy or practice, of restrictions on expressive activity on public grounds; and

(ii) adopts, by policy or practice, the restriction in accordance with the provisions of an ordinance described in Subsection (2)(b)(i) and with the constitutional safeguards

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described in Subsection (1).

Section 5. Section **11-55-105** is enacted to read:

**11-55-105. Political activity outside a public building.**

(1) Except as provided in Section 11-55-103 and Subsection (2), a political subdivision may not prohibit a political activity, including signature gathering or petition circulation, on public grounds.

(2) A political subdivision may impose a time, place, and manner restriction on political activities outside a public building in accordance with Section 11-55-104.

Section 6. **Effective date.**

This bill takes effect on May 8, 2018.