

LOCAL GOVERNMENT LICENSING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Marc K. Roberts

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 or a county 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 2016, Chapter 350

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

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

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
 31a 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" means the same as that term is defined in Section
 37 10-1-402.

38 (c) "Telecommunications tax or fee" means the same as that term is defined in Section
 39 10-1-402.

40 (2) Except as provided in Subsections (3) through (5) and (7)(a), and subject to
 41 Subsection (7)(b), the legislative body of a municipality may license for the purpose of
 42 regulation ~~[and revenue]~~ any business within the limits of the municipality ~~§~~ , ~~[and]~~ ~~←§~~ may
 42a regulate
 43 that business by ordinance ~~§~~ , **and may impose fees on businesses to recover the municipality's**
 43a **costs of regulation** ~~←§~~ .

44 (3) (a) The legislative body of a municipality may raise revenue by levying and
 45 collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales
 46 and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an
 47 energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal
 48 Energy Sales and Use Tax Act.

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

51 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
 52 1997, or a future franchise shall remain in full force and effect.

53 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
 54 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
 55 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

65 (II) [~~is~~] not superseded by a law imposing a substantially equivalent tax.

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

69 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a
70 municipality may raise revenue by levying and providing for the collection of a municipal
71 telecommunications license tax as provided in Part 4, Municipal Telecommunications License
72 Tax Act.

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

76 (5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by
77 levying and collecting a license fee or tax on:

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

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

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

81 (B) a public assembly or other related facility in an amount that is less than or equal to
82 \$5 per ticket purchased from the public assembly or other related facility; and

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

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

85 (II) a purchaser from a business for which the municipality provides an enhanced level
86 of municipal services.

87 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
88 levy or collect a license fee or tax on a public assembly or other related facility owned and
89 operated by another political subdivision other than a community reinvestment agency without

90 the written consent of the other political subdivision.

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

92 (i) "Municipal services" includes:

93 (A) public utilities; and

94 (B) services for:

95 (I) police;

96 (II) fire;

97 (III) storm water runoff;

98 (IV) traffic control;

99 (V) parking;

100 (VI) transportation;

101 (VII) beautification; or

102 (VIII) snow removal.

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

104 (A) that primarily provides off-street parking services for a public facility that is
105 wholly or partially funded by public money;

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

107 (C) that charges a fee for parking.

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

109 (A) is wholly or partially funded by public money;

110 (B) is operated by a business; and

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

112 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
113 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
114 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
115 under Subsection (5)(a)(i)(C)(I):

116 (A) the costs that constitute disproportionate costs; and

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

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

121 (d) (i) Before the legislative body of a municipality imposes a license fee on a
 122 purchaser from a business for which it provides an enhanced level of municipal services under
 123 Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance
 124 defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

125 (A) the level of municipal services that constitutes the basic level of municipal services
 126 in the municipality; and

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

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

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

133 (7) A municipality may not:

134 (a) require a license or permit for a business that is operated:

135 (i) only occasionally; and

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

137 (b) charge a license fee for a home based business, unless the combined offsite impact
 138 of the home based business and the primary residential use materially exceeds the offsite
 139 impact of the primary residential use alone.

140 [~~(7)~~] (8) The municipality shall transmit the information from each approved business
 141 license application to the county assessor within 60 days following the approval of the
 142 application.

143 [~~(8)~~] (9) If challenged in court, an ordinance enacted by a municipality before January
 144 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld
 145 unless the business license fee is found to impose an unreasonable burden on the fee payer.

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

147 **17-53-216. Business license fees and taxes -- Application information to be**
 148 **transmitted to the county assessor.**

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

150 ~~→~~ ~~(a)~~ ~~←~~ ~~§~~ "Business" means any enterprise carried on for the purpose of gain or economic
 151 profit, except that the acts of employees rendering services to employers are not included in

152 this definition.

153 ~~§~~ → [~~(b) "Business" does not include a nonprofit corporation as defined in Section~~

154 ~~16-6a-102.~~] ← ~~§~~

155 (2) [The] Except as provided in Section (4)(a), and subject to Subsection (4)(b), the
 156 legislative body of a county may by ordinance provide for the licensing of businesses within
 157 the unincorporated areas of the county for the purpose of regulation [and revenue] ~~§~~ → , and may
 157a impose fees on businesses to recover the county's costs of regulation ← ~~§~~ .

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

160 (4) A county may not:

161 (a) require a license or permit for a business that is operated:

162 (i) only occasionally; and

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

164 (b) charge a license fee for a home based business unless the combined offsite impact
 165 of the home based business and the primary residential use materially exceeds the offsite
 166 impact of the primary residential use alone.

167 [(4)] (5) The county business licensing agency shall transmit the information from each
 168 approved business license application to the county assessor within 60 days following the
 169 approval of the application.

170 [(5)] (6) This section may not be construed to enhance, diminish, or otherwise alter the
 171 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
 172 144.

Legislative Review Note
Office of Legislative Research and General Counsel