

1 **LOCAL GOVERNMENT LICENSING AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jacob L. Anderegg**

5 House Sponsor: Marc K. Roberts

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **10-1-203**, as last amended by Laws of Utah 2016, Chapter 350

24 **17-53-216**, as last amended by Laws of Utah 2008, Chapter 250

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) "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 (b) "Telecommunications provider" means the same as that term is defined in Section
35 [10-1-402](#).

36 (c) "Telecommunications tax or fee" means the same as that term is defined in Section
37 [10-1-402](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91 (i) "Municipal services" includes:

92 (A) public utilities; and

93 (B) services for:

94 (I) police;

95 (II) fire;

96 (III) storm water runoff;

97 (IV) traffic control;

98 (V) parking;

99 (VI) transportation;

100 (VII) beautification; or

101 (VIII) snow removal.

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

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

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

106 (C) that charges a fee for parking.

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

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

109 (B) is operated by a business; and

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

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

114 under Subsection (5)(a)(i)(C)(I):

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

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

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

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

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

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

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

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

132 (7) A municipality may not:

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

134 (i) only occasionally; and

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

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

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

142 ~~[(8)]~~ (9) If challenged in court, an ordinance enacted by a municipality before January
143 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld
144 unless the business license fee is found to impose an unreasonable burden on the fee payer.

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

146 **17-53-216. Business license fees and taxes -- Application information to be**
147 **transmitted to the county assessor.**

148 (1) ~~[For the purpose of this section, "business"]~~ As used in this section, "business"
149 means any enterprise carried on for the purpose of gain or economic profit, except that the acts
150 of employees rendering services to employers are not included in this definition.

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

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

157 (4) A county may not:

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

159 (i) only occasionally; and

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

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

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.

