

GOVERNMENT ENTERPRISE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to competitive activities provided by a county or city.

Highlighted Provisions:

This bill:

▸ requires a city or a county, before authorizing a competitive activity involving recreation or entertainment, to:

- conduct a market study;
- notify private entities that the competitive activity impacts; and
- present the results of the study at a public hearing; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-119, as last amended by Laws of Utah 2014, Chapter 189

17-50-107, as last amended by Laws of Utah 2013, Chapter 325



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

29 Section 1. Section **10-1-119** is amended to read:

30 **10-1-119. Competitive activities – Inventory – Prohibition.**

31 (1) As used in this section:

32 (a) "Applicable city" means:

33 (i) on and after July 1, 2009, a city of the first class; and

34 (ii) on and after July 1, 2010, a city of the first or second class.

35 (b) "Competitive activity" means an activity ~~[engaged in by]~~ that a city or an entity
36 created by the city ~~[by which the city or an entity created by the city provides]~~ undertakes to
37 provide a good or service that is substantially similar to a good or service that ~~[is provided by]~~
38 a person provides:

39 (i) who is not an entity of the federal government, state government, or a political
40 subdivision of the state; and

41 (ii) within the boundary of the county in which the city is located.

42 (c) (i) Subject to Subsection (1)(c)(ii), "entity ~~[created by]~~ the city creates" includes:

43 (A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
44 Cooperation Act, in which the city participates; and

45 (B) a special service district created under Title 17D, Chapter 1, Special Service
46 District Act.

47 (ii) "Entity ~~[created by]~~ the city creates" does not include a local district ~~[created by]~~
48 that a city creates under Title 17B, Limited Purpose Local Government Entities - Local
49 Districts.

50 (2) (a) The governing body of an applicable city shall create an inventory of activities
51 of the city or an entity ~~[created by]~~ the city creates to:

52 (i) classify whether an activity is a competitive activity; and

53 (ii) identify efforts that have been made to privatize aspects of the activity.

54 (b) An applicable city shall comply with this section by no later than:

55 (i) June 30, 2010, if the applicable city is a city of the first class; and

56 (ii) June 30, 2011, if the applicable city is a city of the second class.

57 (3) The governing body of an applicable city shall update the inventory created under
58 this section at least every two years.

59 (4) An applicable city shall:

60 (a) provide a copy of the inventory and an update to the inventory to the Free Market
61 Protection and Privatization Board created in Title 63I, Chapter 4a, Free Market Protection and
62 Privatization Board Act; and

63 (b) make the inventory available to the public through electronic means.

64 (5) Before the governing body of an applicable city authorizes a competitive activity
65 involving recreation or entertainment, the governing body shall:

66 (a) conduct a market impact study that evaluates:

67 (i) the extent to which the competitive activity will affect the local economy;
68 (ii) the effect that the competitive activity will have on the applicable city's budget and
69 tax rate; and

70 (iii) whether there are any private entities within the state that could provide the
71 competitive activity;

72 (b) (i) notify any private entities identified in the study described in Subsection (5)(a)
73 that the city is considering pursuing the competitive activity; and

74 (ii) allow a private entity an opportunity to respond to the city with the entity's
75 concerns;

76 (c) hold a public hearing in accordance with Subsection (5)(d) and present at the public
77 hearing:

78 (i) the results of the study described in Subsection (5)(a);
79 (ii) an explanation of why the city considers the city's pursuit of the competitive
80 activity to be necessary;

81 (iii) the effect that the competitive activity will have on the city's budget and tax rate;
82 and

83 (iv) a list of any private entities identified in Subsection (5)(a)(iii); and

84 (d) ensure that a public hearing described in Subsection (5)(c):

85 (i) is open to the public; and
86 (ii) is advertised at least two weeks before the day on which the public hearing is held:
87 (A) in a newspaper of general circulation within the applicable city; and
88 (B) on the Utah Public Notice Website created in Section [63F-1-701](#).

89 Section 2. Section **17-50-107** is amended to read:

90 **17-50-107. Competitive activities – Inventory – Prohibition.**

91 (1) As used in this section:

92 (a) "Applicable county" means:

93 (i) on and after July 1, 2009, a county of the first class; and

94 (ii) on and after July 1, 2010, a county of the first or second class.

95 (b) "Competitive activity" means an activity [~~engaged in by~~] that a county or an entity
96 created by the county [~~by which the county or an entity created by the county provides~~]
97 undertakes to provide a good or service that is substantially similar to a good or service that [~~is~~
98 ~~provided by~~] a person provides:99 (i) who is not an entity of the federal government, state government, or a political
100 subdivision of the state; and

101 (ii) within the boundary of the county.

102 (c) (i) Subject to Subsection (1)(c)(ii), "entity [~~created by~~] the county creates" includes:103 (A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
104 Cooperation Act, in which the county participates; and105 (B) a special service district created under Title 17D, Chapter 1, Special Service
106 District Act.107 (ii) "Entity [~~created by~~] the county creates" does not include a local district created by a
108 county under Title 17B, Limited Purpose Local Government Entities - Local Districts.109 (2) (a) The governing body of an applicable county shall create an inventory of
110 activities of the county or an entity [~~created by~~] the county creates to:

111 (i) classify whether an activity is a competitive activity; and

112 (ii) identify efforts that have been made to privatize aspects of the activity.

113 (b) An applicable county shall comply with this section by no later than:

114 (i) June 30, 2010, if the applicable county is a county of the first class; and

115 (ii) June 30, 2011, if the applicable county is a county of the second class.

116 (3) The governing body of an applicable county shall update the inventory created
117 under this section at least every two years.

118 (4) An applicable county shall:

119 (a) provide a copy of the inventory and an update to the inventory to the Free Market
120 Protection and Privatization Board created in Title 63I, Chapter 4a, Free Market Protection and

121 Privatization Board Act; and

122 (b) make the inventory available to the public through electronic means.

123 (5) Before the governing body of an applicable county authorizes a competitive activity

124 involving recreation or entertainment, the governing body shall:

125 (a) conduct a market impact study that evaluates:

126 (i) the extent to which the competitive activity will affect the local economy;

127 (ii) the effect that the competitive activity will have on the applicable county's budget

128 and tax rate; and

129 (iii) whether there are any private entities that could provide the competitive activity;

130 (b) (i) notify any private entities identified in the study described in Subsection (5)(a)

131 that the county is considering pursuing the competitive activity; and

132 (ii) allow a private entity an opportunity to respond to the county with the entity's

133 concerns;

134 (c) hold a public hearing in accordance with Subsection (5)(d) and present at the public

135 hearing:

136 (i) the results of the study described in Subsection (5)(a);

137 (ii) an explanation of why the county considers the county's pursuit of the competitive

138 activity to be necessary;

139 (iii) the effect that the competitive activity will have on the county's budget and tax

140 rate; and

141 (iv) an explanation for why a private entity cannot provide the competitive activity; and

142 (d) ensure that a public hearing described in Subsection (5)(c):

143 (i) is open to the public; and

144 (ii) is advertised at least two weeks before the day on which the public hearing is held:

145 (A) in a newspaper of general circulation within the applicable county; and

146 (B) on the Utah Public Notice Website created in Section [63F-1-701](#).