

Representative Adam Robertson proposes the following substitute bill:

GOVERNMENT ENTERPRISE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Adam Robertson

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a certain inventory to be made available on local government websites;
- ▶ requires a city or a county, before authorizing certain large impact competitive activities, to:
 - conduct a market study; and
 - present the results of the study at a public hearing;
- ▶ requires a city or county that authorizes certain large impact competitive activities to produce an annual taxpayer subsidy statement, including certain information involving recreation or entertainment; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides a coordination clause.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **10-1-119**, as last amended by Laws of Utah 2014, Chapter 189

30 **17-50-107**, as last amended by Laws of Utah 2013, Chapter 325

31 **Utah Code Sections Affected by Coordination Clause:**

32 **10-1-119**, as last amended by Laws of Utah 2014, Chapter 189

33 **17-50-107**, as last amended by Laws of Utah 2013, Chapter 325



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

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

37 **10-1-119. Competitive activities -- Inventory.**

38 (1) As used in this section:

39 (a) "Applicable city" means ~~[(i) on and after July 1, 2009, a city of the first class; and~~
40 ~~(ii) on and after July 1, 2010,]~~ a city of the first or second class.

41 (b) (i) "Competitive activity" means an activity ~~[engaged in by]~~ that a city or an entity
42 created by the city ~~[by which the city or an entity created by the city provides]~~ undertakes to
43 provide a good or service that is substantially similar to a good or service that ~~[is provided by]~~
44 a person provides:

45 ~~[(i)]~~ (A) who is not an entity of the federal government, state government, or a political
46 subdivision of the state; and

47 ~~[(ii)]~~ (B) within the boundary of the county in which the city is located.

48 (ii) "Competitive activity" does not mean the provision of police or fire service.

49 (c) (i) Subject to Subsection (1)(c)(ii), "entity created by the city" includes:

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

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

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

56 (2) ~~[(a)]~~ The governing body of an applicable city shall create an inventory of activities

57 of the city or an entity created by the city to:

58 ~~[(i)]~~ (a) classify whether an activity is a competitive activity; and

59 ~~[(ii)]~~ (b) identify efforts that have been made to privatize aspects of the activity.

60 ~~[(b) An applicable city shall comply with this section by no later than:]~~

61 ~~[(i) June 30, 2010, if the applicable city is a city of the first class; and]~~

62 ~~[(ii) June 30, 2011, if the applicable city is a city of the second class.]~~

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

65 (4) An applicable city shall~~[:]~~ make the inventory available to the public on the
66 applicable city's website.

67 ~~[(a) provide a copy of the inventory and an update to the inventory to the Free Market~~
68 ~~Protection and Privatization Board created in Title 63I, Chapter 4a, Free Market Protection and~~
69 ~~Privatization Board Act; and]~~

70 ~~[(b) make the inventory available to the public through electronic means.]~~

71 (5) (a) A governing body of an applicable city shall comply with this Subsection (5) if
72 the governing body authorizes a competitive activity:

73 (i) that requires a capital purchase or expenditure in the amount of 5% or more of the
74 applicable city's revenue in the prior fiscal year; or

75 (ii) for which the applicable city commits, for more than one future fiscal year, 3% or
76 more of the applicable city's revenue based on the fiscal year preceding the fiscal year in which
77 the applicable city makes the commitment.

78 (b) A governing body described in Subsection (5)(a) shall:

79 (i) conduct a market impact study that evaluates:

80 (A) the extent to which the competitive activity will affect the local economy;

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

83 (C) whether there are any private entities within the state that could provide the
84 competitive activity;

85 (ii) hold a public hearing in accordance with Subsection (5)(b)(iii) and present at the
86 public hearing:

87 (A) the results of the study described in Subsection (5)(b)(i);

88 (B) an explanation of why the city considers the city's pursuit of the competitive
89 activity to be necessary; and

90 (C) the effect that the competitive activity will have on the city's budget and tax rate;
91 and

92 (iii) ensure that the public hearing described in Subsection (5)(b)(ii) is open to the
93 public and advertised at least two weeks before the day on which the public hearing is held:

94 (A) on the city's website; and

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

96 (6) At least once per calendar year, a governing body described in Subsection (5)(a)
97 shall publish a taxpayer subsidy statement that identifies:

98 (a) each competitive activity described in Subsection (5) that the governing body has
99 authorized or continues to authorize and:

100 (i) the purpose of each activity;

101 (ii) the specific cost and funding source of each activity; and

102 (iii) the effect of each activity on the city's budget and tax rate; and

103 (b) each activity that the applicable city undertakes to provide recreation and
104 entertainment within the city, including the provision of a golf course or a recreation center or
105 facility, and:

106 (i) the information described in Subsection (6)(a)(i) through (iii); and

107 (ii) an accounting of the total expenses incurred and the total revenues received by the
108 recreation or entertainment activity.

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

110 **17-50-107. Competitive activities -- Inventory.**

111 (1) As used in this section:

112 (a) "Applicable county" means~~[- (i) on and after July 1, 2009, a county of the first~~
113 ~~class; and (ii) on and after July 1, 2010;]~~ a county of the first or second class.

114 (b) (i) "Competitive activity" means an activity ~~[engaged in by]~~ that a county or an
115 entity created by the county ~~[by which the county or an entity created by the county provides]~~
116 undertakes to provide a good or service that is substantially similar to a good or service that ~~[is~~
117 ~~provided by]~~ a person provides:

118 ~~[(+)]~~ (A) who is not an entity of the federal government, state government, or a political

119 subdivision of the state; and
120 ~~[(ii)]~~ (B) within the boundary of the county.
121 (ii) "Competitive activity" does not mean the provision of police or fire service.
122 (c) (i) Subject to Subsection (1)(c)(ii), "entity created by the county" includes:
123 (A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
124 Cooperation Act, in which the county participates; and
125 (B) a special service district created under Title 17D, Chapter 1, Special Service
126 District Act.
127 (ii) "Entity created by the county" does not include a local district created by a county
128 under Title 17B, Limited Purpose Local Government Entities - Local Districts.
129 (2) ~~[(a)]~~ The governing body of an applicable county shall create an inventory of
130 activities of the county or an entity ~~[created by]~~ the county creates to:
131 ~~[(i)]~~ (a) classify whether an activity is a competitive activity; and
132 ~~[(ii)]~~ (b) identify efforts that have been made to privatize aspects of the activity.
133 ~~[(b) An applicable county shall comply with this section by no later than:]~~
134 ~~[(i) June 30, 2010, if the applicable county is a county of the first class; and]~~
135 ~~[(ii) June 30, 2011, if the applicable county is a county of the second class.]~~
136 (3) The governing body of an applicable county shall update the inventory created
137 under this section at least every two years.
138 (4) An applicable county shall~~[:]~~ make the inventory available to the public on the
139 applicable county's website.
140 ~~[(a) provide a copy of the inventory and an update to the inventory to the Free Market~~
141 ~~Protection and Privatization Board created in Title 63I, Chapter 4a, Free Market Protection and~~
142 ~~Privatization Board Act; and]~~
143 ~~[(b) make the inventory available to the public through electronic means.]~~
144 (5) (a) A governing body of an applicable county shall comply with this Subsection (5)
145 if the governing body authorizes a competitive activity:
146 (i) that requires a capital purchase or expenditure in the amount of 5% or more of the
147 applicable county's revenue in the prior fiscal year; or
148 (ii) for which the applicable county commits, for more than one future fiscal year, 3%
149 or more of the applicable county's revenue based on the fiscal year preceding the fiscal year in

150 which the applicable county makes the commitment.

151 (b) A governing body described in Subsection (5)(a) shall:

152 (i) conduct a market impact study that evaluates:

153 (A) the extent to which the competitive activity will affect the local economy;

154 (B) the effect that the competitive activity will have on the applicable county's budget
155 and tax rate; and

156 (C) whether there are any private entities that could provide the competitive activity;

157 (ii) hold a public hearing in accordance with Subsection (5)(b)(iii) and present at the
158 public hearing:

159 (A) the results of the study described in Subsection (5)(b)(i);

160 (B) an explanation of why the county considers the county's pursuit of the competitive
161 activity to be necessary; and

162 (C) the effect that the competitive activity will have on the county's budget and tax
163 rate; and

164 (iii) ensure that the public hearing described in Subsection (5)(b)(ii) is open to the
165 public and advertised at least two weeks before the day on which the public hearing is held:

166 (A) on the county's website; and

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

168 (6) At least once per calendar year, a governing body described in Subsection (5)(a)
169 shall publish a taxpayer subsidy statement that identifies:

170 (a) each competitive activity described in Subsection (5) that the governing body has
171 authorized or continues to authorize and:

172 (i) the purpose of each activity;

173 (ii) the specific cost and funding source of each activity; and

174 (iii) the effect of each activity on the county's budget and tax rate; and

175 (b) each activity that the applicable county undertakes to provide recreation and
176 entertainment within the county, including the provision of a golf course or a recreation center
177 or facility, and:

178 (i) the information described in Subsection (6)(a)(i) through (iii); and

179 (ii) an accounting of the total expenses incurred and the total revenues received by the
180 recreation or entertainment activity.

181 Section 3. **Coordinating H.B. 59 with H.B. 387 -- Superseding and substantive**
182 **amendments.**

183 If this H.B. 59 and H.B. 387, Boards and Commissions Amendments, both pass and
184 become law, it is the intent of the Legislature that, when the Office of Legislative Research and
185 General Counsel prepares the Utah Code database for publication:

186 (1) (a) except as provided in Subsection (1)(b), the amendments to Section 10-1-119 in
187 this bill supersede the amendments to Section 10-1-119 in H.B. 387; and

188 (b) Subsection 10-1-119(4) is amended to read:

189 "(4) An applicable city shall[: (a) provide a copy of the inventory and an update to the
190 inventory to the Free Market Protection and Privatization Board created in Title 63I, Chapter
191 4a, Free Market Protection and Privatization Board Act; and (b)] make the inventory available
192 to the public [through electronic means] on the applicable city's website."; and

193 (2) (a) except as provided in Subsection (2)(b), the amendments to Section 17-50-107
194 in this bill supersede the amendments to Section 17-50-107 in H.B. 387; and

195 (b) Subsection 17-50-107(4) is amended to read:

196 "(4) An applicable county shall[: (a) provide a copy of the inventory and an update to
197 the inventory to the Free Market Protection and Privatization Board created in Title 63I,
198 Chapter 4a, Free Market Protection and Privatization Board Act; and (b)] make the inventory
199 available to the public [through electronic means] on the applicable county's website."