

# HB0059S01 compared with HB0059

~~{deleted text}~~ shows text that was in HB0059 but was deleted in HB0059S01.

Inserted text shows text that was not in HB0059 but was inserted into HB0059S01.

**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 Adam Robertson proposes the following substitute bill:

## GOVERNMENT ENTERPRISE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Adam Robertson**

Senate Sponsor: \_\_\_\_\_

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### 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 ~~{a}~~certain large impact competitive ~~{activity involving recreation or entertainment}~~activities, to:
  - conduct a market study;~~{~~
  - ~~notify private entities that the competitive activity impacts;}~~ and
  - present the results of the study at a public hearing;

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- ▶ 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:

~~{ None }~~ This bill provides a coordination clause.

### 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

### Utah Code Sections Affected by Coordination Clause:

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

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

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

**10-1-119. Competitive activities ~~{ }= Inventory~~{ }= Prohibition.**

(1) As used in this section:

(a) "Applicable city" means ~~{ }=~~{ }=

~~{ }=~~{ }= (i) on and after July 1, 2009, a city of the first class; and ~~{ }=~~{ }=

~~{ }=~~{ }= (ii) on and after July 1, 2010, ~~{ }=~~{ }= a city of the first or second class.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) ~~{ Before the }~~ (a) A governing body of an applicable city shall comply with this Subsection (5) if the governing body authorizes a competitive activity { involving recreation or entertainment, the governing body shall:

~~(a):~~

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

(ii) for which the applicable city commits, for more than one future fiscal year, 3% or

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more of the applicable city's revenue based on the fiscal year preceding the fiscal year in which the applicable city makes the commitment.

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

(i) conduct a market impact study that evaluates:

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

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

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

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

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

~~† (~~fe~~ii) hold a public hearing in accordance with Subsection (5)(~~fd~~b)(iii) and present at the public hearing:~~

~~(~~fi~~A) the results of the study described in Subsection (5)(~~fa~~b)(i);~~

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

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

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

~~— (~~d~~iii) ensure that ~~{a}~~the public hearing described in Subsection (5)(~~fe~~b)~~†~~;~~

~~— (~~fi~~ii)~~††~~ is open to the public~~††~~ and~~†~~~~

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

~~(A) ~~{in a newspaper of general circulation within}~~on the ~~{applicable city}~~city's website; and~~

~~(B) on the Utah Public Notice Website created in Section 63F-1-701.~~

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

(a) each competitive activity described in Subsection (5) that the governing body has

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authorized or continues to authorize and:

(i) the purpose of each activity;

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

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

(b) each activity that the applicable city undertakes to provide recreation and

entertainment within the city, including the provision of a golf course or a recreation center or facility, and:

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

(ii) an accounting of the total expenses incurred and the total revenues received by the

recreation or entertainment activity.

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

**17-50-107. Competitive activities ~~{}~~ = Inventory ~~{=Prohibition}~~.**

(1) As used in this section:

(a) "Applicable county" means ~~{}:~~

~~— } (i) on and after July 1, 2009, a county of the first class; and {~~

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

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

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

(ii)(B) within the boundary of the county.

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

(c) (i) Subject to Subsection (1)(c)(ii), "entity ~~{}~~ created by ~~{}~~ the county ~~{creates}~~" includes:

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

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

(ii) "Entity ~~{}~~ created by ~~{}~~ the county ~~{creates}~~" does not include a local district

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created by a county under Title 17B, Limited Purpose Local Government Entities - Local Districts.

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

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

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

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

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

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

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

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

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

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

(5) ~~{ Before the }~~ (a) A governing body of an applicable county shall comply with this Subsection (5) if the governing body authorizes a competitive activity ~~{ involving recreation or entertainment, the governing body shall:~~

~~(a):~~

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

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

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

(i) conduct a market impact study that evaluates:

(~~[(i)]~~ A) the extent to which the competitive activity will affect the local economy;

(~~[(ii)]~~ B) the effect that the competitive activity will have on the applicable county's budget and tax rate; and

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

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

~~— (ii) allow a private entity an opportunity to respond to the county with the entity's concerns;~~

~~† (fc)ii~~ hold a public hearing in accordance with Subsection (5)~~(fd)b(iii)~~ and present at the public hearing:

~~(fi)A~~ the results of the study described in Subsection (5)~~(fa)b(i)~~;

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

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

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

~~— (d) ensure that a} iii) ensure that the public hearing described in Subsection (5)(fc)b} f:~~

~~— } (fi)ii} } is open to the public } } and }~~

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

~~(A) {in a newspaper of general circulation within} on the {applicable county} county's website; and~~

~~(B) on the Utah Public Notice Website created in Section 63F-1-701.~~

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

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

~~(i) the purpose of each activity;~~

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

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

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

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or facility, and:

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

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

### Section 3. Coordinating H.B. 59 with H.B. 387 -- Superseding and substantive amendments.

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

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

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

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

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

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

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