

GOVERNMENT ENTERPRISE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark A. Strong

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain cities and counties to establish an inventory to classify competitive activities; and
- ▶ requires certain cities and counties, before authorizing specified competitive activities, to:
 - conduct a market impact study; and
 - hold a public hearing.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

10-1-120, Utah Code Annotated 1953

17-50-109, Utah Code Annotated 1953



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

29 Section 1. Section **10-1-120** is enacted to read:

30 **10-1-120. Competitive activities -- Requirements.**

31 (1) As used in this section:

32 (a) "Applicable city" means a city of the first or second class.

33 (b) (i) "City entity" means:

34 (A) an entity created through an interlocal agreement under Title 11, Chapter 13,

35 Interlocal Cooperation Act, in which the city participates; or

36 (B) a special service district that the city establishes under Title 17D, Chapter 1,

37 Special Service District Act.

38 (ii) "City entity" does not include a local district established under Title 17B, Limited

39 Purpose Local Government Entities - Local Districts.

40 (c) (i) "Competitive activity" means a service that a city or city entity provides that is

41 substantially similar to a service that a private entity currently provides within the county in

42 which the city is located.

43 (ii) "Competitive activity" does not include the provision of:

44 (A) law enforcement services; or

45 (B) fire protection services.

46 (d) "Private entity" means an entity that is not an entity of the federal government, state

47 government, or a political subdivision of the state.

48 (e) "Specified competitive activity" means a competitive activity that a city:

49 (i) provides for recreational or entertainment purposes, including:

50 (A) a recreation center or facility; or

51 (B) a golf course; and

52 (ii) (A) funds in an amount that is 5% or more of the total revenue of the city general

53 fund in the preceding fiscal year; or

54 (B) makes a commitment to fund, over a period of more than one year, in an amount

55 that is 3% or more of the total revenue of the city general fund in the fiscal year preceding the

56 fiscal year in which the city makes the commitment.

57 (2) (a) The governing body of an applicable city shall establish an inventory of each

58 service that the city or a city entity provides to:

59 (i) classify whether the service is a competitive activity; and
 60 (ii) identify efforts that have been made to privatize aspects of the service.

61 (b) The governing body of an applicable city shall:

62 (i) update the inventory described in Subsection (2)(a) at least once in every two-year
 63 period; and

64 (ii) publish the inventory described in Subsection (2)(a) on the applicable city's
 65 website, if the applicable city has a website.

66 (3) (a) Before an applicable city authorizes a specified competitive activity on or after
 67 May 5, 2021, the governing body of the applicable city shall:

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

69 (A) the extent to which the specified competitive activity will impact the local
 70 economy;

71 (B) the impact that the specified competitive activity will have on the applicable city's
 72 budget and tax rate; and

73 (C) the feasibility of private entities located in the county in which the applicable city
 74 is located, or any county adjacent to the county in which the applicable city is located, to
 75 provide the specified competitive activity within the applicable city; and

76 (ii) hold a public hearing in accordance with Subsection (3)(b) to:

77 (A) present the results of the study described in Subsection (3)(a)(i); and

78 (B) explain why the applicable city seeks to provide the specified competitive activity.

79 (b) The governing body of an applicable city shall:

80 (i) ensure that the public hearing described in Subsection (3)(a)(ii) is open to the
 81 public; and

82 (ii) publish notice of the public hearing described in Subsection (3)(a)(ii) for at least
 83 two weeks before the day on which the public hearing is held on:

84 (A) the applicable city's website, if the applicable city has a website; and

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

86 Section 2. Section **17-50-109** is enacted to read:

87 **17-50-109. Competitive activities -- Requirements.**

88 (1) As used in this section:

89 (a) (i) "Competitive activity" means a service that a county or county entity provides

90 that is substantially similar to a service that a private entity currently provides within the
91 county.

92 (ii) "Competitive activity" does not include the provision of:

93 (A) law enforcement services; or

94 (B) fire protection services.

95 (b) (i) "County entity" means:

96 (A) an entity created through an interlocal agreement under Title 11, Chapter 13,

97 Interlocal Cooperation Act, in which the county participates; or

98 (B) a special service district that the county establishes under Title 17D, Chapter 1,

99 Special Service District Act.

100 (ii) "County entity" does not include a local district established under Title 17B,

101 Limited Purpose Local Government Entities - Local Districts.

102 (c) "Private entity" means an entity that is not an entity of the federal government, state
103 government, or a political subdivision of the state.

104 (d) "Specified competitive activity" means a competitive activity that a county:

105 (i) provides for recreational or entertainment purposes, including:

106 (A) a recreation center or facility; or

107 (B) a golf course; and

108 (ii) (A) funds in an amount that is 5% or more of the total revenue of the county
109 general fund for the preceding fiscal year; or

110 (B) makes a commitment to fund, over a period of more than one year, in an amount
111 that is 3% or more of the total revenue of the county general fund for the fiscal year preceding
112 the fiscal year in which the county makes the commitment.

113 (2) (a) This Subsection (2) applies to a county of the first or second class.

114 (b) The governing body of a county shall establish an inventory of each service that the
115 county or a county entity provides to:

116 (i) classify whether the service is a competitive activity; and

117 (ii) identify efforts that have been made to privatize aspects of the service.

118 (c) The governing body of a county shall:

119 (i) update the inventory described in Subsection (2)(b) at least once in every two-year
120 period; and

121 (ii) publish the inventory described in Subsection (2)(b) on the county's website, if the
122 county has a website.

123 (3) (a) This Subsection (3) applies to a county of the first, second, third, or fourth class.

124 (b) Before a county authorizes a specified competitive activity on or after May 5, 2021,
125 the governing body of the county shall:

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

127 (A) the extent to which the specified competitive activity will impact the local
128 economy;

129 (B) the impact of the specified competitive activity on the county's budget and tax rate;
130 and

131 (C) the feasibility of private entities located in the county, or any adjacent county, to
132 provide the specified competitive activity within the county; and

133 (ii) hold a public hearing in accordance with Subsection (3)(c) to:

134 (A) present the results of the study described in Subsection (3)(b)(i); and

135 (B) explain why the county seeks to provide the specified competitive activity.

136 (c) The governing body of a county shall:

137 (i) ensure that the public hearing described in Subsection (3)(b)(ii) is open to the
138 public; and

139 (ii) publish notice of the public hearing described in Subsection (3)(b)(ii) for at least
140 two weeks before the day on which the public hearing is held on:

141 (A) the county's website, if the county has a website; and

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