

Senator Karen Mayne proposes the following substitute bill:

METRO TOWNSHIP AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions relating to metro townships.

Highlighted Provisions:

This bill:

- ▶ allows a metro township to impose a municipal energy sales and use tax or a municipal telecommunication's license tax **→ after holding a public hearing ←** ;
- ▶ repeals provisions limiting the taxing authority of certain metro townships;
- ▶ requires the State Tax Commission to provide certain tax collection data to a metro township; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-303, as last amended by Laws of Utah 2010, Chapter 142

10-1-402, as last amended by Laws of Utah 2008, Chapter 384



26 **10-3c-204**, as enacted by Laws of Utah 2015, Chapter 352

27

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

29 Section 1. Section **10-1-303** is amended to read:

30 **10-1-303. Definitions.**

31 As used in this part:

32 (1) "Commission" means the State Tax Commission.

33 (2) "Contractual franchise fee" means:

34 (a) a fee:

35 (i) provided for in a franchise agreement; and

36 (ii) that is consideration for the franchise agreement; or

37 (b) (i) a fee similar to Subsection (2)(a); or

38 (ii) any combination of Subsections (2)(a) and (b).

39 (3) (a) "Delivered value" means the fair market value of the taxable energy delivered
40 for sale or use in the municipality and includes:

41 (i) the value of the energy itself; and

42 (ii) any transportation, freight, customer demand charges, services charges, or other
43 costs typically incurred in providing taxable energy in usable form to each class of customer in
44 the municipality.

45 (b) "Delivered value" does not include the amount of a tax paid under:

46 (i) Title 59, Chapter 12, Sales and Use Tax Act; or

47 (ii) this part.

48 (4) "De minimis amount" means an amount of taxable energy that does not exceed the
49 greater of:

50 (a) 5% of the energy supplier's estimated total Utah gross receipts from sales of
51 property or services; or

52 (b) \$10,000.

53 (5) "Energy supplier" means a person supplying taxable energy, except that the
54 commission may by rule exclude from this definition a person supplying a de minimis amount
55 of taxable energy.

56 (6) "Franchise agreement" means a franchise or an ordinance, contract, or agreement

granting a franchise.

(7) "Franchise tax" means:

(a) a franchise tax;

(b) a tax similar to a franchise tax; or

(c) any combination of Subsections (7)(a) and (b).

(8) "Municipality" means a city, town, or metro township.

~~[(8)]~~ (9) "Person" is as defined in Section ~~59-12-102~~.

~~[(9)]~~ (10) "Taxable energy" means gas and electricity.

Section 2. Section **10-1-402** is amended to read:

10-1-402. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(b) For purposes of this section and Section ~~10-1-407~~, "customer" means:

(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

(ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.

(c) "Customer" does not include a reseller:

(i) of telecommunications service; or

(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

(3) (a) "End user" means the person who uses a telecommunications service.

(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

(4) (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

- 88 (i) a tax, fee, or charge:
- 89 (A) imposed by a governmental entity;
- 90 (B) separately identified as a tax, fee, or charge in the transaction with the customer for
- 91 the telecommunications service; and
- 92 (C) imposed only on a telecommunications provider;
- 93 (ii) sales and use taxes collected by the telecommunications provider from a customer
- 94 under Title 59, Chapter 12, Sales and Use Tax Act; or
- 95 (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a
- 96 customer for failure to pay for telecommunications service when payment is due.
- 97 (b) "Gross receipts from telecommunications service" includes a charge necessary to
- 98 complete a sale of a telecommunications service.
- 99 (5) "Mobile telecommunications service" is as defined in the Mobile
- 100 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 101 (6) "Municipality" means a city [~~or town~~], town, or metro township.
- 102 (7) "Place of primary use":
- 103 (a) for telecommunications service other than mobile telecommunications service,
- 104 means the street address representative of where the customer's use of the telecommunications
- 105 service primarily occurs, which shall be:
- 106 (i) the residential street address of the customer; or
- 107 (ii) the primary business street address of the customer; or
- 108 (b) for mobile telecommunications service, is as defined in the Mobile
- 109 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 110 (8) Notwithstanding where a call is billed or paid, "service address" means:
- 111 (a) if the location described in this Subsection (8)(a) is known, the location of the
- 112 telecommunications equipment:
- 113 (i) to which a call is charged; and
- 114 (ii) from which the call originates or terminates;
- 115 (b) if the location described in Subsection (8)(a) is not known but the location
- 116 described in this Subsection (8)(b) is known, the location of the origination point of the signal
- 117 of the telecommunications service first identified by:
- 118 (i) the telecommunications system of the telecommunications provider; or

(ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

(c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.

(9) (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; or

(ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.

(10) "Telecommunications service" means:

(a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(b) mobile telecommunications service, as defined in Section 59-12-102:

(i) that originates and terminates within the boundaries of one state; and

(ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(c) an ancillary service as defined in Section 59-12-102.

(11) (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:

(i) a tax;

(ii) a license;

(iii) a fee;

(iv) a license fee;

- 150 (v) a license tax;
- 151 (vi) a franchise fee; or
- 152 (vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i)
- 153 through (vi).
- 154 (b) "Telecommunications tax or fee" does not include:
- 155 (i) the municipal [~~telecommunications~~] telecommunication's license tax authorized by
- 156 this part; or
- 157 (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and
- 158 Taxation, that is imposed:
- 159 (A) on telecommunications providers; and
- 160 (B) on persons who are not telecommunications providers.

161 Section 3. Section **10-3c-204** is amended to read:

162 **10-3c-204. Taxing authority limited.**

- 163 (1) A metro township may [~~not~~] impose:
- 164 (a) a municipal energy sales and use tax [~~as described~~] in accordance with Chapter 1,
- 165 Part 3, Municipal Energy Sales and Use Tax Act; or
- 166 (b) a municipal telecommunication's license tax [~~as described~~] in accordance with
- 167 Chapter 1, Part 4, Municipal Telecommunications License Tax Act.
- 168 [~~(2)(a) If the electors at an election under Section 10-2a-404 chose a metro township~~
- 169 ~~that is included in a municipal services district and has limited municipal powers, or a metro~~
- 170 ~~township subsequently joins a municipal services district, the metro township may not levy or~~
- 171 ~~impose a tax unless the Legislature expressly provides that the metro township may levy or~~
- 172 ~~impose the tax.]~~
- 173 [~~(b) Subsection (2)(a) does not apply if a municipal services district is dissolved.]~~
- 174 (2) (a) The State Tax Commission shall provide to each metro township the collection
- 175 data necessary to verify that revenues collected by the commission are distributed to each metro
- 176 township in accordance with:
- 177 (i) Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; and
- 178 (ii) Chapter 1, Part 4, Municipal Telecommunications License Tax Act.
- 179 (b) The data described in Subsection (2)(a) shall include the State Tax Commission's
- 180 reports of collections, distributions, and a breakdown of metro township revenues.
- 180a **§→ (3) (a) Before a metro township enacts a tax described in Subsection (1), the metro**
- 180b **township council shall hold a public hearing:**
- 180c **(i) on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.;** ☹

180d ☛ (ii) that is open to the public; and
 180e (iii) to allow an individual present to comment on the proposed tax:
 180f (A) within reasonable time limits; and
 180g (B) without unreasonable restriction on the number of individuals permitted to
 180h comment on the proposed tax.
 180i (b) (i) A metro township council shall publish notice of the public hearing described in
 180j Subsection (3)(a):
 180k (A) by mailing notice to each mailing address in the metro township at least 14 days
 180l before the day of the public hearing;
 180m (B) by posting notice on the Utah Public Notice Website created in Section 63F-1-701
 180n for each of the 14 days before the day of the public hearing; and
 180o (C) if the metro township has a website, by posting notice on the metro township's
 180p website for each of the 14 days before the day of the public hearing.
 180q (ii) The council of a metro township that is included in a municipal services district
 180r satisfies the requirement described in Subsection (3)(b)(i)(A) by mailing notice, at least 14 days
 180s before the day of the public hearing, to each mailing address in the metro township, using
 180t records or information available to the municipal services district in which the metro township
 180u is included.
 180v (c) The notice described in Subsection (3)(b) shall:
 180w (i) state "NOTICE OF PROPOSED TAX" at the top of the notice, in bold upper-case
 180x type no smaller than 18 point;
 180y (ii) indicate the date, time, and location of the public hearing described in Subsection
 180z (3)(a); and
 180aa (iii) indicate the proposed tax rate. ←Ŧ