

**MUNICIPAL ENTERPRISE FUND AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad R. Wilson**

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

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**LONG TITLE**

**General Description:**

This bill amends provisions related to a municipal enterprise fund.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits, with certain exceptions, a governing body from spending money deposited in an enterprise fund for a purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created;
- ▶ requires a municipality to pay for a utility service provided to the municipality at the same rate charged to a customer of that utility; and
- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-6-106**, as last amended by Laws of Utah 2003, Chapter 292

**10-6-135**, as last amended by Laws of Utah 2010, Chapter 116



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

29 Section 1. Section **10-6-106** is amended to read:

30 **10-6-106. Definitions.**

31 As used in this chapter:

32 (1) "Account group" is defined by generally accepted accounting principles as reflected  
33 in the Uniform Accounting Manual for Utah Cities.

34 (2) "Appropriation" means an allocation of money by the governing body for a specific  
35 purpose.

36 (3) (a) "Budget" means a plan of financial operations for a fiscal period which  
37 embodies estimates of proposed expenditures for given purposes and the proposed means of  
38 financing them.

39 (b) "Budget" may refer to the budget of a particular fund for which a budget is required  
40 by law or it may refer collectively to the budgets for all such funds.

41 (4) "Budgetary fund" means a fund for which a budget is required.

42 (5) "Budget officer" means the city auditor in a city of the first and second class, the  
43 mayor or some person appointed by the mayor with the approval of the city council in a city of  
44 the third, fourth, or fifth class, the mayor in the council-mayor optional form of government, or  
45 the person designated by the charter in a charter city.

46 (6) "Budget period" means the fiscal period for which a budget is prepared.

47 (7) "Check" means an order in a specific amount drawn upon a depository by an  
48 authorized officer of a city.

49 (8) "Current period" means the fiscal period in which a budget is prepared and adopted,  
50 i.e., the fiscal period next preceding the budget period.

51 (9) "Department" means any functional unit within a fund that carries on a specific  
52 activity, such as a fire or police department within a General Fund.

53 (10) "Encumbrance system" means a method of budgetary control in which part of an  
54 appropriation is reserved to cover a specific expenditure by charging obligations, such as  
55 purchase orders, contracts, or salary commitments to an appropriation account at their time of  
56 origin. Such obligations cease to be encumbrances when paid or when the actual liability is  
57 entered on the city's books of account.

58 (11) "Enterprise fund" means a fund as defined by the Governmental Accounting

59 Standards Board that is used by a municipality to report an activity for which a fee is charged to  
60 users for goods or services.

61 [(11)] (12) "Estimated revenue" means the amount of revenue estimated to be received  
62 from all sources during the budget period in each fund for which a budget is being prepared.

63 [(12)] (13) "Financial officer" means the mayor in the council-mayor optional form of  
64 government or the city official as authorized by Section 10-6-158.

65 [(13)] (14) "Fiscal period" means the annual or biennial period for accounting for fiscal  
66 operations in each city.

67 [(14)] (15) "Fund" is as defined by generally accepted accounting principles as  
68 reflected in the Uniform Accounting Manual for Utah Cities.

69 [(15)] (16) "Fund balance," "retained earnings," and "deficit" have the meanings  
70 commonly accorded such terms under generally accepted accounting principles as reflected in  
71 the Uniform Accounting Manual for Utah Cities.

72 [(16)] (17) "Governing body" means a city council, or city commission, as the case  
73 may be, but the authority to make any appointment to any position created by this chapter is  
74 vested in the mayor in the council-mayor optional form of government.

75 [(17)] (18) "Interfund loan" means a loan of cash from one fund to another, subject to  
76 future repayment and does not constitute an expenditure or a use of retained earnings or fund  
77 balance of the lending fund or revenue to the borrowing fund.

78 [(18)] (19) "Last completed fiscal period" means the fiscal period next preceding the  
79 current period.

80 [(19)] (20) (a) "Public funds" means any money or payment collected or received by an  
81 officer or employee of the city acting in an official capacity and includes money or payment to  
82 the officer or employee for services or goods provided by the city, or the officer or employee  
83 while acting within the scope of employment or duty. [~~Public funds do~~]

84 (b) "Public funds" does not include money or payments collected or received by an  
85 officer or employee of a city for charitable purposes if the mayor or city council has consented  
86 to the officer's or employee's participation in soliciting contributions for a charity.

87 [(20)] (21) "Special fund" means any fund other than the General Fund.

88 (22) "Utility" means a municipally-owned utility, in whole or in part, that provides  
89 electricity, gas, water, or sewer, or any combination of them.

90            [~~(21)~~] (23) "Warrant" means an order drawn upon the city treasurer, in the absence of  
91 sufficient money in the city's depository, by an authorized officer of a city for the purpose of  
92 paying a specified amount out of the city treasury to the person named or to the bearer as  
93 money becomes available.

94            Section 2. Section 10-6-135 is amended to read:

95            **10-6-135. Operating and capital budgets.**

96            (1) (a) As used in this section, "operating and capital budget" means a plan of financial  
97 operation for an enterprise fund or other required special fund that includes estimates of  
98 operating resources, expenses, and other outlays for a fiscal period.

99            (b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and  
100 the procedures and controls relating to them in other sections of this chapter do not apply or  
101 refer to the operating and capital budgets described in this section.

102            (2) At or before the time the governing body adopts budgets for the funds described in  
103 Section 10-6-109, the governing body shall adopt:

104            (a) an operating and capital budget for each enterprise fund for the ensuing fiscal  
105 period; and

106            (b) the type of budget for other special funds as required by the Uniform Accounting  
107 Manual for Utah Cities.

108            (3) (a) The governing body shall adopt and administer an operating and capital budget  
109 in accordance with this Subsection (3).

110            (b) A governing body may not spend money deposited in an enterprise fund for a good,  
111 service, project, venture, or other purpose that is not directly related to the goods or services  
112 provided by the enterprise for which the enterprise fund was created, unless the governing  
113 body:

114            (i) transfers the money from the enterprise fund to the general fund; and

115            (ii) complies with the hearing and notice requirements of Subsections (3)(g)(i), (ii), and  
116 (iii).

117            (c) A municipality shall:

118            (i) pay for a utility service provided to the municipality at the same rate charged to a  
119 customer of that utility; or

120            (ii) determine the value of the utility service provided to the municipality and approve

121 a transfer equal to the amount of the valued utility service by following the notice and hearing  
 122 requirements described in Subsection (3)(g).

123 ~~[(b)]~~ (d) At or before the first regularly scheduled meeting of the governing body in the  
 124 last May of the current fiscal period, the budget officer shall:

125 (i) prepare for the ensuing fiscal period and file with the governing body a tentative  
 126 operating and capital budget for:

127 (A) each enterprise fund; and

128 (B) other required special funds;

129 (ii) include with the tentative operating and capital budget described in Subsection  
 130 (3)~~[(b)]~~(d)(i) specific work programs as submitted by each department head; and

131 (iii) include any other supporting data required by the governing body.

132 ~~[(e)]~~ (e) Each city of the first or second class shall, and each city of the third, fourth, or  
 133 fifth class may, submit a supplementary estimate of all capital projects which a department  
 134 head believes should be undertaken within the three next succeeding fiscal periods.

135 ~~[(d)]~~ (f) (i) Subject to Subsection (3)~~[(d)]~~(f)(ii), the budget officer shall prepare all  
 136 estimates after review and consultation with each department head described in Subsection  
 137 (3)~~[(e)]~~(e).

138 (ii) After complying with Subsection (3)~~[(d)]~~(f)(i), the budget officer may revise any  
 139 departmental estimate before it is filed with the governing body.

140 ~~[(e)]~~ (g) (i) Except as provided in Subsection (3)~~[(e)]~~(g)(iv), if the governing body  
 141 includes in a tentative budget or an amendment to a budget allocations or transfers from [a  
 142 utility] an enterprise fund to another fund that are not reasonable allocations of costs between  
 143 the [utility] enterprise fund and the other fund, the governing body shall:

144 (A) hold a public hearing;

145 (B) prepare a written notice of the date, time, place, and purpose of the hearing, as  
 146 described in Subsection (3)~~[(e)]~~(g)(ii); and

147 (C) subject to Subsection (3)~~[(e)]~~(g)(iii), mail the written notice to each [utility]  
 148 enterprise fund customer at least seven days before the day of the hearing.

149 (ii) The purpose portion of the written notice required under Subsection  
 150 (3)~~[(e)]~~(g)(i)(B) shall identify:

151 (A) the [utility] enterprise fund from which money is being transferred;

- 152 (B) the amount being transferred; and
- 153 (C) the fund to which the money is being transferred.
- 154 (iii) The governing body:
- 155 (A) may print the written notice required under Subsection (3)~~(e)~~(g)(i) on the [utility]
- 156 enterprise fund customer's bill; and
- 157 (B) shall include the written notice required under Subsection (3)~~(e)~~(g)(i) as a
- 158 separate notification mailed or transmitted with the [utility] enterprise fund customer's bill.
- 159 ~~[(iv) The notice and hearing requirements in this Subsection (3)(e) are not required for~~
- 160 ~~an allocation or a transfer included in an original budget or in a subsequent budget amendment~~
- 161 ~~previously approved by the governing body for the current fiscal year.]~~
- 162 (iv) A governing body is not required to repeat the notice and hearing requirements in
- 163 this Subsection (3)(g) if the funds to be allocated or transferred for the current year were
- 164 previously approved by the governing body at a public hearing that complied with the notice
- 165 and hearing requirements of this Subsection (3)(g).
- 166 (4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and
- 167 considered by the governing body at any regular meeting or special meeting called for that
- 168 purpose.
- 169 (b) The governing body may make changes in the tentative budgets.
- 170 (5) Budgets for enterprise or other required special funds shall comply with the public
- 171 hearing requirements established in Sections 10-6-113 and 10-6-114.
- 172 (6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax
- 173 increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a
- 174 property tax increase is proposed, the governing body shall adopt an operating and capital
- 175 budget for each applicable fund for the ensuing fiscal period.
- 176 (b) A copy of the budget as finally adopted for each fund shall be:
- 177 (i) certified by the budget officer;
- 178 (ii) filed by the budget officer in the office of the city auditor or city recorder;
- 179 (iii) available to the public during regular business hours; and
- 180 (iv) filed with the state auditor within 30 days after the day on which the budget is
- 181 adopted.
- 182 (7) (a) Upon final adoption, the operating and capital budget is in effect for the budget

183 period, subject to later amendment.

184 (b) During the budget period the governing body may, in any regular meeting or special  
185 meeting called for that purpose, review any one or more of the operating and capital budgets  
186 for the purpose of determining if the total of any of them should be increased.

187 (c) If the governing body decides that the budget total of one or more of the funds  
188 should be increased under Subsection (7)(b), the governing body shall follow the procedures  
189 set forth in Section [10-6-136](#).

190 (8) Expenditures from operating and capital budgets shall conform to the requirements  
191 relating to budgets specified in Sections [10-6-121](#) through [10-6-126](#).

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**Legislative Review Note**  
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**Office of Legislative Research and General Counsel**