

Senator Derrin R. Owens proposes the following substitute bill:

ENERGY SECURITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions related to the regulation of energy.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a project entity to provide notice to the Legislative Management Committee

180 days prior to:

- the disposal or sale of any project entity asset; and
- the decommissioning of a coal-powered electrical generation facility;
- ▶ requires the Office of Energy Development to:
 - conduct a study of a project entity; and
 - report the results of the study to the Public Utilities, Energy, and Technology

Interim Committee;

- ▶ modifies the state energy policy to promote the state's energy independence by:
 - promoting the use of energy resources generated within the state; and
 - promoting the use of clean energy sources by considering the emissions of an

energy resource throughout the entire life cycle of the energy resource;

- ▶ provides legislative findings;



26 ▶ requires a qualified utility to inform the Office of the Attorney General when a
27 proposed federal regulation would result in the early retirement of an electrical
28 generation facility;

29 ▶ authorizes the Office of the Attorney General to take any action to defend the state's
30 interests with respect to electricity generation by a qualified utility facing a
31 proposed federal regulation that would result in the early retirement of an electrical
32 generation facility; and

33 ▶ makes technical changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides a special effective date.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **79-6-301**, as last amended by Laws of Utah 2021, Chapter 383 and renumbered and
41 amended by Laws of Utah 2021, Chapter 280

42 ENACTS:

43 **11-13-318**, Utah Code Annotated 1953

44 **11-13-319**, Utah Code Annotated 1953

45 **79-6-303**, Utah Code Annotated 1953



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

48 Section 1. Section **11-13-318** is enacted to read:

49 **11-13-318. Notice of decommissioning or disposal of project entity assets.**

50 (1) As used in this section,

51 (a) "Disposal" means the sale, transfer, or other disposition of a project entity's assets.

52 (b) (i) "Project entity asset" means a project entity's:

53 (A) land;

54 (B) buildings; or

55 (C) essential equipment, including turbines, generators, transformers, and transmission

56 lines.

57 (ii) "Project entity asset" does not include an asset that is not essential for the
 58 generation of electricity in the project entity's coal-powered electrical generation facility.

59 (2) ~~H~~→ ~~[Before July 1, 2025, a] A~~ ←~~H~~ project entity shall provide a notice of
 59a decommissioning or

60 disposal to the Legislative Management Committee at least 180 days before:

61 (a) the disposal of any project entity assets; or

62 (b) the decommissioning of the project entity's coal-powered electrical generation
 63 facility.

64 (3) The notice of decommissioning or disposal described in Subsection (2) shall
 65 include:

66 (a) the date of the intended decommissioning or disposal;

67 (b) a description of the project entity's coal-powered electrical generation facility
 68 intended for decommissioning or any project entity asset intended for disposal; and

69 (c) the reasons for the decommissioning or disposal.

70 (4) ~~H~~→ ~~[Before July 1, 2025, a] A~~ ←~~H~~ project entity may not intentionally prevent the
 70a functionality

71 of the project entity's existing coal-powered electrical generation facility.

72 (5) Notwithstanding the requirements in Subsections (2) through (4), a project entity
 73 may take any action necessary to transition to a new electrical generation facility powered by
 74 natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that
 75 has been approved by a permitting authority.

76 Section 2. Section **11-13-319** is enacted to read:

77 **11-13-319. Project entity continued operation study.**

78 (1) The Office of Energy Development shall conduct a study to:

79 (a) evaluate all environmental regulations and permits to be filed to continue operation
 80 of a project entity's existing coal-powered electrical generation facility;

81 (b) identify best available technology to implement additional environmental controls
 82 for continued operation of a project entity's existing coal-powered electrical generation facility;

83 (c) identify the transmission capacity of the project entity;

84 (d) coordinate with state and local economic development agencies to evaluate
 85 economic opportunities for continued use of a project entity's existing coal-powered electrical
 86 generation facility;

87 (e) analyze the financial assets and liabilities of a project entity;

88 (f) identify the best interests of the local economies, local tax base, and the state in
89 relation to a project entity;

90 (g) evaluate the viability of the continued operation of a project entity's existing
91 coal-powered electrical generation facility:

92 (i) under ownership of the state; or

93 (ii) in a public private partnership; and

94 (h) identify the steps necessary for the state to obtain first right of refusal for ownership
95 of a project ~~H~~→ **entity's** ←~~H~~ existing coal-powered electrical generation facility.

96 (2) A project entity shall cooperate and provide timely assistance and information to
97 the Office of Energy Development in the preparation of the study described in Subsection (1).

98 (3) The Office of Energy Development shall report to the Public Utilities, Energy and
99 Technology Interim Committee and the Legislative Management Committee on or before the
100 Public Utilities, Energy, and Technology Interim Committee's September 2023 interim
101 committee meeting.

102 (4) The report described in Subsection (3) shall include:

103 (a) the results of the study described in Subsection (1);

104 (b) recommendations for continued operation of a project entity's existing
105 coal-powered electrical generation facility;

106 (c) environmental controls that need to be implemented for the continued operation of
107 a project entity's existing coal-powered electrical generation facility;

108 (d) recommendations to increase local and state tax revenue through the continued
109 operation of a project entity's existing coal-powered electrical generation facility; and

110 (e) recommendations for legislation to be introduced in the 2024 General Session to
111 enable the continued operation of a project entity's existing coal-powered electrical generation
112 facility.

113 Section 3. Section **79-6-301** is amended to read:

114 **79-6-301. State energy policy.**

115 (1) It is the policy of the state that:

116 (a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy
117 resources;

118 (b) Utah [~~will~~] shall promote the development of:

- 119 (i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil
120 sands;
- 121 (ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel,
122 and hydroelectric;
- 123 (iii) nuclear power generation technologies certified for use by the United States
124 Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;
- 125 (iv) alternative transportation fuels and technologies;
- 126 (v) infrastructure to facilitate energy development, diversified modes of transportation,
127 greater access to domestic and international markets for Utah's resources, and advanced
128 transmission systems;
- 129 (vi) energy storage, pumped storage, and other advanced energy systems, including
130 hydrogen from all sources;
- 131 (vii) electricity systems that can be controlled at the request of grid operators to meet
132 system load demands, to ensure an adequate supply of dispatchable energy generation
133 resources; and
- 134 (viii) increased refinery capacity;
- 135 (c) Utah [~~will~~] shall promote the development of resources and infrastructure sufficient
136 to meet the state's growing demand, while contributing to the regional and national energy
137 supply, thus reducing dependence on international energy sources;
- 138 (d) Utah [~~will~~] shall promote the development of resources, tools, and infrastructure to
139 enhance the state's ability to:
- 140 (i) respond effectively to significant disruptions to the state's energy generation, energy
141 delivery systems, or fuel supplies; [~~and~~]
- 142 (ii) maintain adequate supply, including reserves of proven and cost-effective
143 dispatchable electricity reserves to meet grid demand; and
- 144 (iii) ensure the state's energy independence by promoting the use of energy resources
145 generated within the state;
- 146 (e) Utah [~~will~~] shall allow market forces to drive prudent use of energy resources,
147 although incentives and other methods may be used to ensure the state's optimal development
148 and use of energy resources in the short- and long-term;
- 149 (f) Utah [~~will~~] shall pursue energy conservation, energy efficiency, and environmental

150 quality;

151 (g) Utah shall promote the development of a secure supply chain from resource
152 extraction to energy production and consumption;

153 ~~[(g)]~~ (h) (i) state regulatory processes should be streamlined to balance economic costs
154 with the level of review necessary to ensure protection of the state's various interests; and

155 (ii) where federal action is required, Utah will encourage expedited federal action and
156 will collaborate with federal agencies to expedite review;

157 ~~[(h)]~~ (i) Utah ~~[will]~~ shall maintain an environment that provides for stable consumer
158 prices that are as low as possible while providing producers and suppliers a fair return on
159 investment, recognizing that:

160 (i) economic prosperity is linked to the availability, reliability, and affordability of
161 consumer energy supplies; and

162 (ii) investment will occur only when adequate financial returns can be realized; ~~[and]~~

163 ~~[(i)]~~ (j) Utah ~~[will]~~ shall promote training and education programs focused on
164 developing a comprehensive understanding of energy, including:

165 (i) programs addressing:

166 (A) energy conservation;

167 (B) energy efficiency;

168 (C) supply and demand; and

169 (D) energy related workforce development; and

170 (ii) energy education programs in grades ~~[K-12.]~~ kindergarten through grade 12; and

171 (k) Utah shall promote the use of clean energy sources by considering the emissions of
172 an energy resource throughout the entire life cycle of the energy resource.

173 (2) State agencies are encouraged to conduct agency activities consistent with
174 Subsection (1).

175 (3) A person may not file suit to challenge a state agency's action that is inconsistent
176 with Subsection (1).

177 Section 4. Section **79-6-303** is enacted to read:

178 **79-6-303. Legislative findings -- Forced retirement of electrical generation**
179 **facilities.**

180 (1) As used in this section:

181 (a) "Dispatchable" means available for use on demand and generally available to be
182 delivered at a time and quantity of the operator's choosing.

183 (b) "Electrical generation facility" means a facility that generates electricity for
184 provision to customers.

185 (c) "Forced retirement" means the closure of an electrical generation facility as a result
186 of a federal regulation that either directly mandates the closure of an electrical generation
187 facility or where the costs of compliance are so high as to effectively force the closure of an
188 electrical generation facility.

189 (d) "Qualified utility" means the same as that term is defined in Section [54-17-801](#).

190 (e) "Reliable" means supporting a system generally able to provide a continuous supply
191 of electricity at the proper voltage and frequency and the resiliency to withstand sudden or
192 unexpected disturbances.

193 (f) "Secure" means protected against disruption, tampering, and external interference.

194 (2) The Legislature finds that:

195 (a) affordable, reliable, dispatchable, and secure energy resources are important to the
196 health, safety, and welfare of the state's citizens;

197 (b) the state has invested substantial resources in the development of affordable,
198 reliable, dispatchable, and secure energy resources within the state;

199 (c) the early retirement of an electrical generation facility that provides affordable,
200 reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare of the
201 state's citizens;

202 (d) the state's police powers, reserved to the state by the United States Constitution,
203 provide the state with sovereign authority to make and enforce laws for the protection of the
204 health, safety, and welfare of the state's citizens;

205 (e) the state has a duty to defend the production and supply of affordable, reliable,
206 dispatchable, and secure energy from external regulatory interference; and

207 (f) the state's sovereign authority with respect to the retirement of an electrical
208 generation facility for the protection of the health, safety, and welfare of the state's citizens is
209 primary and takes precedence over any attempt from an external regulatory body to mandate,
210 restrict, or influence the early retirement of an electrical generation facility in the state.

211 (3) A qualified utility that receives notice of any federal regulation that may result in

212 the forced retirement of the qualified utility's electrical generation facility shall inform the
213 Office of the Attorney General of the regulation within 30 days after the receipt of notice.

214 (4) After being informed as described in Subsection (3), the Office of the Attorney
215 General may take any action necessary to defend the interest of the state with respect to
216 electricity generation by the qualified utility, including filing an action in court or participating
217 in administrative proceedings.

218 Section 5. **Effective date.**

219 If approved by two-thirds of all the members elected to each house, this bill takes effect
220 upon approval by the governor, or the day following the constitutional time limit of Utah
221 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
222 the date of veto override.