

Representative Brad R. Wilson proposes the following substitute bill:

MUNICIPAL ENTERPRISE FUND AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad R. Wilson

Senate Sponsor: _____

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:

10-5-107, as last amended by Laws of Utah 2010, Chapters 116 and 378



26 **10-6-106**, as last amended by Laws of Utah 2003, Chapter 292

27 **10-6-135**, as last amended by Laws of Utah 2010, Chapter 116

28 ENACTS:

29 **10-5-102.5**, Utah Code Annotated 1953

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

32 Section 1. Section **10-5-102.5** is enacted to read:

33 **10-5-102.5. Definitions.**

34 (1) "Enterprise fund" means a fund as defined by the Governmental Accounting
35 Standards Board that is used by a municipality to report an activity for which a fee is charged to
36 users for goods or services.

37 (2) "Utility" means a utility owned by a town, in whole or in part, that provides
38 electricity, gas, water, or sewer, or any combination of them.

39 Section 2. Section **10-5-107** is amended to read:

40 **10-5-107. Tentative budgets required for public inspection -- Contents --**

41 **Adoption of tentative budget.**

42 (1) (a) On or before the first regularly scheduled town council meeting of May, the
43 mayor shall:

44 (i) prepare for the ensuing year, on forms provided by the state auditor, a tentative
45 budget for each fund for which a budget is required;

46 (ii) make the tentative budget available for public inspection; and

47 (iii) submit the tentative budget to the town council.

48 (b) The tentative budget of each fund shall set forth in tabular form:

49 (i) actual revenues and expenditures in the last completed fiscal year;

50 (ii) estimated total revenues and expenditures for the current fiscal year; and

51 (iii) the mayor's estimates of revenues and expenditures for the budget year.

52 (2) (a) The mayor shall:

53 (i) estimate the amount of revenue available to serve the needs of each fund;

54 (ii) estimate the portion to be derived from all sources other than general property
55 taxes; and

56 (iii) estimate the portion that shall be derived from general property taxes.

57 (b) From the estimates required by Subsection (2)(a), the mayor shall compute and
58 disclose in the budget the lowest rate of property tax levy that will raise the required amount of
59 revenue, calculating the levy on the latest taxable value.

60 (3) A governing body may not spend money deposited in an enterprise fund for a good,
61 service, project, venture, or other purpose that is not directly related to the goods or services
62 provided by the enterprise for which the enterprise fund was created, unless the governing
63 body:

64 (a) transfers the money from the enterprise fund to another fund; and

65 (b) complies with the hearing and notice requirements of Subsections (6)(a), (b), and
66 (c).

67 (4) A town shall:

68 (a) pay for a utility service provided to the town at the same rate charged to a customer
69 of that utility; or

70 (b) determine the value of the utility service provided to the town and approve the
71 transfer equal to the amount of the valued utility service by following the notice and hearing
72 requirements described in Subsection (6).

73 ~~[(3)]~~ (5) (a) Before the public hearing required under Section 10-5-108, the town
74 council:

75 (i) shall review, consider, and tentatively adopt the tentative budget in any regular
76 meeting or special meeting called for that purpose; and

77 (ii) may amend or revise the tentative budget.

78 (b) At the meeting at which the town council adopts the tentative budget, the council
79 shall establish the time and place of the public hearing required under Section 10-5-108.

80 ~~[(4) (a) Except as provided in Subsection (4)(d), if]~~

81 (6) (a) If a town council includes in a tentative budget, or an amendment to a budget,
82 allocations or transfers from [a utility] an enterprise fund to another fund that are not
83 reasonable allocations of costs between the [utility] enterprise fund and the other fund, the
84 governing body shall:

85 (i) hold a public hearing;

86 (ii) prepare a written notice of the date, time, place, and purpose of the hearing as
87 described in Subsection ~~[(4)]~~ (6)(b); and

88 (iii) subject to Subsection ~~[(4)]~~ (6)(c), mail the notice to each [utility] enterprise fund
89 customer at least seven days before the day of the hearing.

90 (b) The purpose portion of the written notice shall identify:

91 (i) the [utility] enterprise fund from which money is being allocated or transferred;

92 (ii) the amount being allocated or transferred; and

93 (iii) the fund to which the money is being allocated or transferred.

94 (c) The town council:

95 (i) may print the written notice required under Subsection ~~[(4)]~~ (6)(a)(ii) on the [utility]
96 enterprise fund customer's bill; and

97 (ii) shall include the written notice required under Subsection ~~[(4)]~~ (6)(a)(ii) as separate
98 notification mailed or transmitted with the [utility] enterprise fund customer's bill.

99 ~~[(d) The notice and hearing requirements in this Subsection (4) are not required for an
100 allocation or a transfer included in an original budget or in a subsequent budget amendment
101 previously approved by the town council for the current fiscal year.]~~

102 Section 3. Section **10-6-106** is amended to read:

103 **10-6-106. Definitions.**

104 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

131 (11) "Enterprise fund" means a fund as defined by the Governmental Accounting
132 Standards Board that is used by a municipality to report an activity for which a fee is charged to
133 users for goods or services.

134 [~~(11)~~] (12) "Estimated revenue" means the amount of revenue estimated to be received
135 from all sources during the budget period in each fund for which a budget is being prepared.

136 [~~(12)~~] (13) "Financial officer" means the mayor in the council-mayor optional form of
137 government or the city official as authorized by Section 10-6-158.

138 [~~(13)~~] (14) "Fiscal period" means the annual or biennial period for accounting for fiscal
139 operations in each city.

140 [~~(14)~~] (15) "Fund" is as defined by generally accepted accounting principles as
141 reflected in the Uniform Accounting Manual for Utah Cities.

142 [~~(15)~~] (16) "Fund balance," "retained earnings," and "deficit" have the meanings
143 commonly accorded such terms under generally accepted accounting principles as reflected in
144 the Uniform Accounting Manual for Utah Cities.

145 [~~(16)~~] (17) "Governing body" means a city council, or city commission, as the case
146 may be, but the authority to make any appointment to any position created by this chapter is
147 vested in the mayor in the council-mayor optional form of government.

148 [~~(17)~~] (18) "Interfund loan" means a loan of cash from one fund to another, subject to
149 future repayment and does not constitute an expenditure or a use of retained earnings or fund

150 balance of the lending fund or revenue to the borrowing fund.

151 ~~[(18)]~~ (19) "Last completed fiscal period" means the fiscal period next preceding the
152 current period.

153 ~~[(19)]~~ (20) (a) "Public funds" means any money or payment collected or received by an
154 officer or employee of the city acting in an official capacity and includes money or payment to
155 the officer or employee for services or goods provided by the city, or the officer or employee
156 while acting within the scope of employment or duty. ~~[Public funds do]~~

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

160 ~~[(20)]~~ (21) "Special fund" means any fund other than the General Fund.

161 (22) "Utility" means a utility owned by a city, in whole or in part, that provides
162 electricity, gas, water, or sewer, or any combination of them.

163 ~~[(21)]~~ (23) "Warrant" means an order drawn upon the city treasurer, in the absence of
164 sufficient money in the city's depository, by an authorized officer of a city for the purpose of
165 paying a specified amount out of the city treasury to the person named or to the bearer as
166 money becomes available.

167 Section 4. Section **10-6-135** is amended to read:

168 **10-6-135. Operating and capital budgets.**

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

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

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

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

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

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

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

187 (i) transfers the money from the enterprise fund to another fund; and

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

190 (c) A municipality shall:

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

193 (ii) determine the value of the utility service provided to the municipality and approve
194 a transfer equal to the amount of the valued utility service by following the notice and hearing
195 requirements described in Subsection (3)(g).

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

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

200 (A) each enterprise fund; and

201 (B) other required special funds;

202 (ii) include with the tentative operating and capital budget described in Subsection

203 ~~(3)(b)~~(d)(i) specific work programs as submitted by each department head; and

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

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

208 ~~(d)~~ (f) (i) Subject to Subsection (3)~~(d)~~(f)(ii), the budget officer shall prepare all
209 estimates after review and consultation with each department head described in Subsection
210 ~~(3)(c)~~(e).

211 (ii) After complying with Subsection (3)~~(d)~~(f)(i), the budget officer may revise any

212 departmental estimate before it is filed with the governing body.

213 ~~[(e)(i) Except as provided in Subsection (3)(e)(iv), if]~~

214 (g)(i) If the governing body includes in a tentative budget or an amendment to a
215 budget allocations or transfers from ~~[a utility]~~ an enterprise fund to another fund that are not
216 reasonable allocations of costs between the ~~[utility]~~ enterprise fund and the other fund, the
217 governing body shall:

218 (A) hold a public hearing;

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

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

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

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

226 (B) the amount being transferred; and

227 (C) the fund to which the money is being transferred.

228 (iii) The governing body:

229 (A) may print the written notice required under Subsection (3)~~[(e)]~~(g)(i) on the ~~[utility]~~
230 enterprise fund customer's bill; and

231 (B) shall include the written notice required under Subsection (3)~~[(e)]~~(g)(i) as a
232 separate notification mailed or transmitted with the ~~[utility]~~ enterprise fund customer's bill.

233 ~~[(iv) The notice and hearing requirements in this Subsection (3)(e) are not required for
234 an allocation or a transfer included in an original budget or in a subsequent budget amendment
235 previously approved by the governing body for the current fiscal year.]~~

236 (4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and
237 considered by the governing body at any regular meeting or special meeting called for that
238 purpose.

239 (b) The governing body may make changes in the tentative budgets.

240 (5) Budgets for enterprise or other required special funds shall comply with the public
241 hearing requirements established in Sections [10-6-113](#) and [10-6-114](#).

242 (6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax

243 increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a
244 property tax increase is proposed, the governing body shall adopt an operating and capital
245 budget for each applicable fund for the ensuing fiscal period.

246 (b) A copy of the budget as finally adopted for each fund shall be:

247 (i) certified by the budget officer;

248 (ii) filed by the budget officer in the office of the city auditor or city recorder;

249 (iii) available to the public during regular business hours; and

250 (iv) filed with the state auditor within 30 days after the day on which the budget is

251 adopted.

252 (7) (a) Upon final adoption, the operating and capital budget is in effect for the budget
253 period, subject to later amendment.

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

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

260 (8) Expenditures from operating and capital budgets shall conform to the requirements
261 relating to budgets specified in Sections 10-6-121 through 10-6-126.