

## HB0109S01 compared with HB0109

~~{deleted text}~~ shows text that was in HB0109 but was deleted in HB0109S01.

Inserted text shows text that was not in HB0109 but was inserted into HB0109S01.

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Representative Dixon M. Pitcher proposes the following substitute bill:

### **PUBLIC UTILITY REGULATORY RESTRICTED ACCOUNT**

#### **AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dixon M. Pitcher**

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

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#### **LONG TITLE**

##### **General Description:**

This bill creates a restricted account within the General Fund.

##### **Highlighted Provisions:**

This bill:

- ▶ creates a restricted account known as the Public Utility Regulatory Restricted Account in the Department of Commerce;
- ▶ provides that the Department of Commerce shall deposit special regulation fees into the Public Utility Regulatory Restricted Account;
- ▶ provides that funds in the Public Utility Regulatory Restricted Account may be used to fund ~~{certain entities within the Department of Commerce}~~ the Division of Public

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### Utilities, the Office of Consumer Services, and the Public Service Commission;

- ▶ designates ~~{funds in}~~appropriations from the Public Utility Regulatory Restricted Account as nonlapsing; and
- ▶ transfers public utility regulatory fees designated as nonlapsing into the Public Utility Regulatory Restricted Account.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides a special effective date.

### **Utah Code Sections Affected:**

AMENDS:

**54-5-1.5**, as last amended by Laws of Utah 2009, Chapter 183

**63J-1-602.3**, as last amended by Laws of Utah 2016, Chapters 52 and 271

### **Uncodified Material Affected:**

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section **54-5-1.5** is amended to read:

**54-5-1.5. Special regulation fee -- Supplemental Levy Committee -- Supplemental fee -- Fee for electrical cooperatives.**

(1) (a) A special fee to defray the cost of regulation is imposed upon all public utilities subject to the jurisdiction of the Public Service Commission.

(b) The special fee is in addition to any charge now assessed, levied, or required by law.

(2) (a) The executive director of the Department of Commerce shall determine the special fee for the Department of Commerce.

(b) The chair of the Public Service Commission shall determine the special fee for the Public Service Commission.

(c) The fee shall be assessed as a uniform percentage of the gross operating revenue for the preceding calendar year derived from each public utility's business and operations during that period within this state, excluding income derived from interstate business. Gross

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operating revenue shall not include income to a wholesale electric cooperative derived from the sale of power to a rural electric cooperative which resells that power within the state.

(3) (a) The executive director of the Department of Commerce shall notify each public utility subject to the provisions of this chapter of the amount of the fee.

(b) The fee is due and payable on or before July 1 of each year.

(4) (a) There is created a restricted account within the General Fund known as the Public Utility Regulatory Restricted Account.

(b) Notwithstanding Subsection 13-1-2(3)(c), the Department of Commerce shall deposit a fee assessed under this section into the Public Utility Regulatory Restricted Account.

(c) Within appropriations by the Legislature:

(i) the Department of Commerce may use the funds in the Public Utility Regulatory Restricted Account to administer:

(A) the Division of Public Utilities; and

(B) the Office of Consumer Services; and

(ii) the Public Service Commission may use the funds in the Public Utility Regulatory Restricted Account to administer the Public Service Commission.

~~[(4)]~~ (5) (a) ~~[It is the intent of the]~~ The Legislature intends that the public utilities provide all of the funds for the administration, support, and maintenance of:

(i) the Public Service Commission;

(ii) state agencies within the Department of Commerce involved in the regulation of public utilities; and

(iii) expenditures by the attorney general for utility regulation.

(b) Notwithstanding Subsection ~~[(4)]~~ (5)(a), the fee imposed by Subsection (1) shall not exceed the greater of:

(i) (A) for a public utility other than an electrical cooperative, .3% of the public utility's gross operating revenues for the preceding calendar year; or

(B) for an electrical cooperative, .15% of the electrical cooperative's gross operating revenues for the preceding calendar year; or

(ii) \$50.

~~[(5)]~~ (6) (a) There is created a Supplemental Levy Committee to levy additional assessments on public utilities when unanticipated costs of regulation occur in any fiscal year.

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(b) The Supplemental Levy Committee shall consist of:

(i) one member selected by the executive director of the Department of Commerce;

(ii) one member selected by the chairman of the Public Service Commission;

(iii) two members selected by the three public utilities that paid the largest percent of the current regulatory fee; and

(iv) one member selected by the four appointed members.

(c) (i) The members of the Supplemental Levy Committee shall be selected within 10 working days after the executive director of the Department of Commerce gives written notice to the Public Service Commission and the public utilities that a supplemental levy committee is needed.

(ii) If the members of the Supplemental Levy Committee have not been appointed within the time prescribed, the governor shall appoint the members of the Supplemental Levy Committee.

(d) (i) During any state fiscal year, the Supplemental Levy Committee, by a majority vote and subject to audit by the state auditor, may impose a supplemental fee on the regulated utilities for the purpose of defraying any increased cost of regulation.

(ii) The supplemental fee imposed upon the utilities shall equal a percentage of their gross operating revenue for the preceding calendar year.

(iii) The aggregate of all fees, including any supplemental fees assessed, shall not exceed .3% of the gross operating revenue of the utilities assessed for the preceding calendar year.

(iv) Payment of the supplemental fee is due within 30 days after receipt of the assessment.

(v) The utility may, within 10 days after receipt of assessment, request a hearing before the Public Service Commission if it questions the need for, or the reasonableness of, the supplemental fee.

(e) (i) Any supplemental fee collected to defray the cost of regulation shall be transferred to the state treasurer as a departmental collection according to the provisions of Section 63J-1-104.

(ii) Supplemental fees are excess collections, credited according to the procedures of Section 63J-1-104.

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(iii) Charges billed to the Department of Commerce by any other state department, institution, or agency for services rendered in connection with regulation of a utility shall be credited by the state treasurer from the special or supplemental fees collected to the appropriations account of the entity providing that service according to the procedures provided in Title 63J, Chapter 1, Budgetary Procedures Act.

~~[(6)]~~ (7) (a) For purposes of this section, "electrical cooperative" means:

- (i) a distribution electrical cooperative; or
- (ii) a wholesale electrical cooperative.

(b) Subject to Subsection ~~[(6)]~~ (7)(c), if the regulation of one or more electrical cooperatives causes unanticipated costs of regulation in a fiscal year, the commission may impose a supplemental fee on the one or more electrical cooperatives in this state responsible for the increased cost of regulation.

(c) The aggregate of all fees imposed under this section on an electrical cooperative in a calendar year shall not exceed the greater of:

- (i) .3% of the electrical cooperative's gross operating revenues for the preceding calendar year; or
- (ii) \$50.

Section 2. Section **63J-1-602.3** is amended to read:

### **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

- (1) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.
- (2) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.
- (3) Appropriations made to the Division of Emergency Management from the State Disaster Recovery Restricted Account, as provided in Section 53-2a-603.
- (4) Appropriations made to the Department of Public Safety from the Department of Public Safety Restricted Account, as provided in Section 53-3-106.
- (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section 53-3-905.
- (6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

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(7) Appropriations from the DNA Specimen Restricted Account created in Section 53-10-407.

(8) The Canine Body Armor Restricted Account created in Section 53-16-201.

(9) The School Readiness Restricted Account created in Section 53A-1b-104.

(10) Appropriations to the State Board of Education, as provided in Section 53A-17a-105.

(11) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(12) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(13) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(14) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

~~(15) Funds deposited into~~ Appropriations from the Public Utility Regulatory Restricted Account created in Section 54-5-1.5.

~~(15)]~~ (16) Certain surcharges on residential and business telephone numbers imposed by the Public Service Commission, as provided in Section 54-8b-10.

~~(16)]~~ (17) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

~~(17)]~~ (18) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

~~(18)]~~ (19) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

~~(19)]~~ (20) The Cigarette Tax Restricted Account created in Section 59-14-204.

### Section 3. **Legislative intent.**

The Legislature intends that:

(1) public utility regulatory fee balances designated as nonlapsing at the close of fiscal year ~~2016~~ 2017 for the Division of Public Utilities, the Office of Consumer Services, and the

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Public Service Commission be transferred to the newly created Public Utility Regulatory Restricted Account†; and

(2) the Division of Finance transfer any fees assessed under Section 54-5-1.5 that are recorded as revenue in fiscal year 2018 in the Commerce Service Fund to the newly created Public Utility Regulatory Restricted Account.

Section 4. **Effective date.**

This bill takes effect on July 1, 2017.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**†