

**RETIREMENT AND INDEPENDENT ENTITIES**

**AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Walt Brooks

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**LONG TITLE**

**Committee Note:**

The Retirement and Independent Entities Interim Committee recommended this bill.

Legislative Vote: 10 voting for 0 voting against 5 absent

**General Description:**

This bill amends provisions related to the Independent Entities Code.

**Highlighted Provisions:**

This bill:

- ▶ clarifies which entities are considered independent entities for purposes of the Independent Entities Code;
- ▶ adds the Public Service Commission to the list of independent entities and authorizes the commission to participate in coverage under the Risk Management Fund;
- ▶ allows the Retirement and Independent Entities Committee to meet at certain times to review draft legislation that is in the committee's purview;
- ▶ requires the committee to review certain entities to determine whether an entity should be treated as an independent entity;
- ▶ amends the committee's duties concerning studying retirement issues;
- ▶ provides for the return of an independent entity's unspent appropriations to the state in certain circumstances;



- 28           ▶ repeals a provision exempting the Utah Housing Corporation from study by the
- 29 committee; and
- 30           ▶ makes technical and conforming changes.

31 **Money Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           None

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37           **54-1-1**, as last amended by Laws of Utah 1983, Chapter 246
- 38           **63E-1-102**, as last amended by Laws of Utah 2022, Chapters 44, 63
- 39           **63E-1-201**, as last amended by Laws of Utah 2014, Chapter 387
- 40           **63E-1-202**, as last amended by Laws of Utah 2002, Chapter 250
- 41           **63E-1-402**, as last amended by Laws of Utah 2002, Chapter 262

42 REPEALS:

- 43           **63E-1-203**, as last amended by Laws of Utah 2017, Chapter 363



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

46           Section 1. Section **54-1-1** is amended to read:

47           **54-1-1. Establishment of commission -- Functions -- Participation in Risk**

48 **Management Fund.**

49           (1) The Public Service Commission of Utah is established as an independent agency.

50           (2) The Public Service Commission is charged with discharging the duties and  
51 exercising the legislative, adjudicative, and rule-making powers committed to it by law and  
52 may sue and be sued in its own name.

53           (3) Subject to Subsection 63E-1-304(2), the Public Service Commission may  
54 participate in coverage under the Risk Management Fund created by Section 63A-4-201.

55           Section 2. Section **63E-1-102** is amended to read:

56           **63E-1-102. Definitions -- List of independent entities.**

57           As used in this title:

- 58           (1) "Authorizing statute" means the statute creating an entity as an independent entity.

59 (2) "Committee" means the Retirement and Independent Entities Committee created by  
60 Section 63E-1-201.

61 (3) "Independent corporation" means a corporation incorporated in accordance with  
62 Chapter 2, Independent Corporations Act.

63 (4) (a) "Independent entity" means an entity having a public purpose relating to the  
64 state or its citizens that is individually created by the state or is given by the state the right to  
65 exist and conduct its affairs as an:

66 (i) independent state agency; or

67 (ii) independent corporation.

68 (b) [~~"Independent entity" includes the~~] For purposes of this title, the independent  
69 entities are the:

70 (i) Utah Beef Council, created by Section 4-21-103;

71 (ii) Utah Dairy Commission created by Section 4-22-103;

72 (iii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

73 (iv) Utah Housing Corporation created by Section 63H-8-201;

74 (v) Utah State Fair Corporation created by Section 63H-6-103;

75 (vi) Utah State Retirement Office created by Section 49-11-201;

76 (vii) School and Institutional Trust Lands Administration created by Section  
77 53C-1-201;

78 (viii) School and Institutional Trust Fund Office created by Section 53D-1-201;

79 (ix) Utah Communications Authority created by Section 63H-7a-201;

80 (x) Utah Capital Investment Corporation created by Section 63N-6-301; [~~and~~]

81 (xi) Military Installation Development Authority created by Section 63H-1-201[:]; and

82 (xii) Public Service Commission of Utah created by Section 54-1-1.

83 (c) Notwithstanding this Subsection (4), "independent entity" does not include:

84 [~~(i) the Public Service Commission of Utah created by Section 54-1-1;~~]

85 [~~(ii)~~] (i) an institution within the state system of higher education;

86 [~~(iii)~~] (ii) a city, county, or town;

87 [~~(iv)~~] (iii) a local school district;

88 [~~(v)~~] (iv) a local district under Title 17B, Limited Purpose Local Government Entities -  
89 Local Districts; or

90 [~~(vi)~~] (v) a special service district under Title 17D, Chapter 1, Special Service District  
91 Act.

92 (5) "Independent state agency" means an entity that is created by the state, but is  
93 independent of the governor's direct supervisory control.

94 (6) "Money held in trust" means money maintained for the benefit of:

95 (a) one or more private individuals, including public employees;

96 (b) one or more public or private entities; or

97 (c) the owners of a quasi-public corporation.

98 (7) "Public corporation" means an artificial person, public in ownership, individually  
99 created by the state as a body politic and corporate for the administration of a public purpose  
100 relating to the state or its citizens.

101 (8) "Quasi-public corporation" means an artificial person, private in ownership,  
102 individually created as a corporation by the state, which has accepted from the state the grant of  
103 a franchise or contract involving the performance of a public purpose relating to the state or its  
104 citizens.

105 Section 3. Section **63E-1-201** is amended to read:

106 **63E-1-201. Retirement and Independent Entities Committee creation.**

107 (1) There is created the Retirement and Independent Entities Committee composed of  
108 15 legislators appointed as follows:

109 (a) six senators, appointed by the president of the Senate, with at least two senators  
110 from the minority party; and

111 (b) nine representatives, appointed by the speaker of the House of Representatives,  
112 with at least three representatives from the minority party.

113 (2) (a) The president of the Senate shall designate one of the Senate appointees as a  
114 cochair of the committee.

115 (b) The speaker of the House of Representatives shall designate one of the House of  
116 Representatives appointees as a cochair of the committee.

117 (3) Committee members serve for two years, but may be reappointed by the speaker or  
118 the president.

119 (4) (a) The committee shall meet at least twice each year, but may meet more  
120 frequently if the chairs determine that additional meetings are needed.

121 (b) At the committee chairs' discretion, the committee may meet during the period that  
122 begins on the first Thursday in December and ends on the day before the beginning of the  
123 annual general session to review pending or proposed legislation related to:

124 (i) an existing independent entity;

125 (ii) the creation of a new independent entity; or

126 (iii) Title 49, Utah State Retirement and Insurance Benefit Act.

127 (5) [~~In conducting all of its business~~] Except as provided in Subsection (4), the  
128 committee shall comply with the rules of legislative interim committees.

129 (6) The Office of Legislative Research and General Counsel shall provide staff services  
130 to the committee.

131 (7) Compensation and expenses of a member who is a legislator are governed by  
132 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

133 Section 4. Section **63E-1-202** is amended to read:

134 **63E-1-202. Duties of the committee.**

135 (1) The committee shall:

136 (a) study the scope of this title and determine what entities should be treated under this  
137 title as independent entities;

138 (b) review annually new entities created by the state and entities registered as  
139 independent entities pursuant to Section [67-1a-15](#) to determine if any entities should be added  
140 to the list of independent entities in Section [63E-1-102](#);

141 [~~(b)~~] (c) study the provisions of the Utah Code that govern each independent entity,  
142 including whether or not there should be consistency in these provisions;

143 [~~(c)~~] (d) study what provisions of the Utah Code, if any, from which each independent  
144 entity should be exempted;

145 [~~(d)~~] (e) study whether or not the state should receive services from or provide services  
146 to each independent entity;

147 [~~(e)~~] (f) request and hear reports from each independent entity;

148 [~~(f)~~] (g) review the annual audit of each independent entity that is performed in  
149 accordance with the statutes governing the independent entity;

150 [~~(g)~~] (h) comply with Part 3, Creation of Independent Entities, in reviewing a proposal  
151 to create a new independent entity;

152           ~~[(h)]~~ (i) if the committee recommends a change in the organizational status of an  
 153 independent entity as provided in Subsection (2) and subject to Part 4, Privatization of  
 154 Independent Entities, recommend the appropriate method of changing the organizational status  
 155 of the independent entity; and

156           (j) study pending and proposed legislation, funding, and other issues related to Title 49,  
 157 Utah State Retirement and Insurance Benefit Act.

158           ~~[(i) study the following concerning an entity created by local agreement under Title 11,~~  
 159 ~~Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the~~  
 160 ~~entity:]~~

161           ~~[(i) whether or not the entity should be subject to this chapter;]~~

162           ~~[(ii) whether or not the state should receive services from or provide services to the~~  
 163 ~~entity;]~~

164           ~~[(iii) reporting and audit requirements for the entity; and]~~

165           ~~[(iv) the need, if any, to modify statutes related to the entity;]~~

166           ~~[(j) make a recommendation on the organizational status of each independent entity~~  
 167 ~~prior to the 2002 General Session; and]~~

168           ~~[(k) report annually to the Legislative Management Committee by no later than the~~  
 169 ~~Legislative Management Committee's November meeting.]~~

170           (2) The committee may:

171           (a) establish a form for any report required under Subsection (1);

172           (b) make recommendations to the Legislature concerning the organizational status of  
 173 an independent entity; and

174           (c) advise the Legislature concerning issues involving independent entities~~;~~ and.

175           ~~[(d) study issues related to the implementation of Title 49, Utah State Retirement and~~  
 176 ~~Insurance Benefit Act.]~~

177           Section 5. Section **63E-1-402** is amended to read:

178           **63E-1-402. Benefits to interested parties of an independent entity -- Disposition of**  
 179 **unused appropriations.**

180           (1) If an independent entity is privatized, the following may not receive any benefit  
 181 prohibited under Subsection (2):

182           (a) an interested party of the independent entity;

- 183 (b) an entity in which an interested party holds a business interest;
- 184 (c) a lobbyist of the independent entity; or
- 185 (d) an entity in which a lobbyist of the independent entity holds a business interest.
- 186 (2) If an independent entity is privatized:
- 187 (a) a person described in Subsection (1)(a) or (b) may not receive:
- 188 (i) compensation from an independent entity that is conditioned in whole or in part on:
- 189 (A) the passage, defeat, or amendment of legislative action related to privatization; or
- 190 (B) the approval, modification, or denial of an executive action related to privatization;
- 191 or
- 192 (ii) any asset of the independent entity or its successor; and
- 193 (b) a person described in Subsection (1)(c) or (d) may not receive any:
- 194 (i) compensation that if received by the lobbyist would be in violation of Section
- 195 [36-11-301](#); or
- 196 (ii) asset of the independent entity or its successor.
- 197 (3) Subsection (2)(a)(ii) does not apply to funds in a loan program administered by an
- 198 independent entity if:
- 199 (a) the funds were provided by an entity other than the state or were derived from those
- 200 funds, including loan payments, interest, and other charges paid by borrowers;
- 201 (b) the person described in Subsection (1)(a) or (b) who receives the funds assumes all
- 202 duties and obligations of the independent entity:
- 203 (i) under the contract with the entity that provided the initial funding; and
- 204 (ii) relating to the loan program;
- 205 (c) separate records have been maintained regarding the use of the funds;
- 206 (d) the funds may only be used for purposes specified in an agreement with the entity
- 207 that provided the initial funding; and
- 208 (e) the funds may only be transferred to a person described in Subsection (1)(a) or (b) if
- 209 the transfer is approved by the entity that provided the initial funding.
- 210 (4) (a) If an action described in Subsection [63E-1-401](#)(5)(b)(i) or (ii) is taken under
- 211 circumstances in which the independent entity is no longer functioning, the independent entity
- 212 shall return to the Division of Finance any unused appropriations made to the independent
- 213 entity by the Legislature.

214            (b) The Division of Finance shall deposit funds received under Subsection (4)(a) into  
215 the General Fund.

216            Section 6. **Repealer.**

217            This bill repeals:

218            Section **63E-1-203**, **Exemptions from committee activities.**