

HB0070S01 compared with HB0070S02

- 20 ▶ requires the council to select facility operators through a competitive process;
- 21 ▶ establishes minimum qualifications and criteria for facility operators;
- 22 ▶ repeals provisions related to the Decommissioned Asset Disposition Authority; and
- 16 ▶ makes technical changes.

Money Appropriated in this Bill:

25 None

Other Special Clauses:

27 This bill provides a special effective date.

AMENDS:

30 **11-13-318** (Effective upon governor's approval), as last amended by Laws of Utah 2024, Third
Special Session, Chapter 4 (Effective upon governor's approval), as last amended by Laws of
Utah 2024, Third Special Session, Chapter 4

32 **11-13-320** [~~(Effective 06/21/24)~~] (Effective upon governor's approval), as last amended
by Laws of Utah 2024, Third Special Session, Chapter 4 [~~(Effective 06/21/24)~~] (Effective
upon governor's approval), as last amended by Laws of Utah 2024, Third Special Session,
Chapter 4

34 **19-2-109.4** [~~(Effective 06/21/24)~~] (Effective upon governor's approval), as last amended
by Laws of Utah 2024, Third Special Session, Chapter 4 [~~(Effective 06/21/24)~~] (Effective
upon governor's approval), as last amended by Laws of Utah 2024, Third Special Session,
Chapter 4

ENACTS:

37 **79-6-1101** (Effective upon governor's approval), Utah Code Annotated 1953 (Effective
upon governor's approval), Utah Code Annotated 1953

38 **79-6-1102** (Effective upon governor's approval), Utah Code Annotated 1953 (Effective
upon governor's approval), Utah Code Annotated 1953

39 **79-6-1103** (Effective upon governor's approval), Utah Code Annotated 1953 (Effective
upon governor's approval), Utah Code Annotated 1953

40 **79-6-1104** (Effective upon governor's approval), Utah Code Annotated 1953 (Effective
upon governor's approval), Utah Code Annotated 1953

REPEALS:

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79-6-407 [~~(Effective 06/21/24)~~] (Effective upon governor's approval), as last amended by Laws of Utah 2024, Third Special Session, Chapter 4 [~~(Effective 06/21/24)~~] (Effective upon governor's approval), as last amended by Laws of Utah 2024, Third Special Session, Chapter 4

44 79-6-408 [~~(Effective 06/21/24)~~] (Effective upon governor's approval), as last amended by Laws of Utah 2024, Third Special Session, Chapter 4 [~~(Effective 06/21/24)~~] (Effective upon governor's approval), as last amended by Laws of Utah 2024, Third Special Session, Chapter 4

46

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

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

49 **11-13-318. (Effective upon governor's approval) Notice of decommissioning or disposal of project entity assets.** <compare mode="add">(Compare Error)</compare>

28 (1) As used in this section:

29 (a) "Alternative permit" means the same as that term is defined in Section 11-13-320.

30 "Critical switchyard equipment" means equipment located in a switchyard that is necessary for the delivery of electricity to the transmission or distribution system, including transformers, circuit breakers, disconnect switches, and other essential interconnection equipment.

34 [~~(b)~~] (c) "Decommissioning" means to remove an electrical generation facility from active service.

36 [(e)] (d) "Disposal" means the sale, transfer, dismantling, or other disposition of a project entity's assets.

38 [~~(d)~~] (e) "Division" means the Division of Air Quality created in Section 19-1-105.

39 [(e)] (f) "Fair market value" means the same as that term is defined in Section 79-6-408.

40 "Interconnection" means the physical system that connects an electrical generation facility to the transmission or distribution system, including all switching stations, transformers, and other equipment necessary to deliver electricity to customers.

43 [(f)] (h)

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

44 (A) land;

45 (B) water;

46 (C) buildings; or

47 (D) essential equipment, including turbines, generators, transformers, and transmission lines.

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

52 "Project purchaser" means any entity that has the right to purchase power from the project entity.

54 "Station service" means the electric supply required for the operation of an electrical generation facility
and associated facilities, essential auxiliary equipment, and all facilities necessary to maintain
electrical output.

57 (2) A project entity shall provide a notice of decommissioning or disposal to the Legislative
Management Committee at least 180 days before:

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

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

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

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

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

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

67 (4) A project entity may not intentionally prevent the functionality of the project entity's existing coal-
powered electrical generation facility.

69 A project entity shall:

70 maintain:

71 facilities that provide power to station service so as to ensure continued functionality;

73 existing interconnection and critical switchyard equipment in a manner that ensures the ability to
reactivate at least one of the project entity's coal-powered electrical generation units; and

76 make available an interconnection with the switchyard for a project entity's coal-powered electrical
generation facility that does not require a new interconnection request.

79 [(5)] (6) Notwithstanding the requirements in Subsections (2) through (4), a project entity may take
any action necessary to transition to a new electrical generation facility powered by natural gas,
hydrogen, or a combination of natural gas and hydrogen, including any action that has been
approved by a permitting authority[-] , provided that such actions:

84 do not violate the requirements in Subsection (5); or

85 are specifically required by a permitting authority as an essential component of the transition, with no
feasible alternative that would avoid violating Subsection (5).

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87 [(6)] (7)A project entity shall provide the state the option to purchase for fair market value a project
entity asset intended for decommissioning, with the option remaining open for at least two years,
beginning on July 2, 2025.

90 Prior to the decommissioning of a project entity asset, the project entity shall provide a notice to the
Legislative Management Committee that the project entity has satisfied all material conditions,
promises, and inducements made to any municipal or cooperative project purchaser to obtain
approval from the municipal or cooperative project purchaser for the early decommissioning of a
project entity asset.

120 Section 2. Section 11-13-320 is amended to read:

121 **11-13-320. Air quality permitting transition process.**

123 (1) As used in this section:

124 (a) "Alternative permit" means [~~an amendment to a transition permit that, for purposes of transitioning~~
~~an electrical generation facility to a new facility, allows one or more existing generating units to~~
~~continue operating while also providing for closure of one but not all existing generating units]~~ the
same as that term is defined in Section 19-2-109.4.

129 [(b) "Authority" means the Decommissioned Asset Disposition Authority established in Section
79-6-407.]

131 [(e)] (b) "Division" means the Division of Air Quality created in Section 19-1-105.

132 [(d)] (c) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical
generation facility prior to any amendments associated with transitioning to a new facility.

135 [(e)] (d) "Transition permit" [~~means an amendment to the pre-existing permit, issued to the operator~~
~~of an existing electrical generation facility for the purpose of transitioning to a new electrical~~
~~generation facility, which authorizes construction of the new facility but does not require closure of~~
~~all existing generating units until after the new facility commences operation]~~ means the same as
that term is defined in Section 19-2-109.4.

141 (2) A project entity that holds a pre-existing permit for an existing electrical generation facility with
multiple generating units, and has been issued a transition permit for a new electrical generation
facility, may submit an application to the division in accordance with Section 19-2-109.4 for
issuance of an alternative permit.

145 Section 3. Section 19-2-109.4 is amended to read:

146 **19-2-109.4. Project entity transition permit.**

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- 148 (1) As used in this section:
- 149 (a) ~~"Alternative permit" means an amendment to a transition permit that[, for purposes of transitioning~~
~~an electrical generation facility to a new facility, allows one or more existing generating units to~~
~~continue operating while also providing for closure of one but not all existing generating units.]~~
allows for multiple operating scenarios, including:
- 154 (i) the operating scenario set forth in the transition permit; and
- 155 (ii) at least one alternative operating scenario that allows:
- 156 (A) the operation of the new electrical generation facility at full capacity as contemplated by the
transition permit; and
- 158 (B) continued operation of one or more existing generating units at or below the capacity factor and in
compliance with the other conditions specified in the application for the amendment to the transition
permit.
- 161 ~~[(b) "Authority" means the Decommissioned Asset Disposition Authority established in Section~~
~~79-6-407.]~~
- 163 ~~[(e)] (b) "Division" means the Division of Air Quality created in Section 19-1-105.~~
- 164 (c) "Existing generating unit" means an electric generating unit that is part of an existing electrical
generation facility owned at any time by a project entity.
- 166 (d) "New electrical generation facility" means an electrical generation facility powered by natural gas,
hydrogen, or any combination of natural gas and hydrogen.
- 168 ~~[(d)] (e) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical~~
~~generation facility prior to any amendments associated with transitioning to a new facility.~~
- 171 ~~[(e)] (f) "Project entity" means the same as that term is defined in Section 11-13-103.~~
- 172 ~~[(f)] (g) "Transition permit" means an amendment to the pre-existing permit, issued to the operator~~
~~of an existing electrical generation facility for the purpose of transitioning to a new electrical~~
~~generation facility, which authorizes construction of the new electrical generation facility but does~~
~~not require closure of all existing generating units until after the new electrical generation facility~~
~~commences operation.~~
- 178 (2) The division shall accept an application for an alternative permit from a project entity that has
previously obtained a ~~[transition permit to authorize the same new electrical generating capacity~~
~~eontemplated by the]~~transition permit.
- 181 (3) If the application for an alternative permit meets the requirements established by the board:

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- 183 (a) the division shall issue an approval order for the alternative permit to the project entity;
- 185 (b) ~~[the conditions of the transition permit shall cease to apply, including requirements to reduce the capacity of existing generating units at the electrical generation facility]~~ if the division approves the alternative permit, the conditions of the transition permit, including those requiring an existing generating unit to cease operation and to be placed in maintenance status shall remain in effect until:
- 190 (i) the project entity's sale of the existing generating units; or
- 191 (ii) both the resolution of all administrative and judicial challenges to the alternative permit and the expiration of the applicable limitations period to file such challenges; and
- 194 (c) the project entity shall submit all documentation required to modify any federal operating permit required to be maintained by the project entity, consistent with deadlines established by the division.
- 197 (4) If an alternative permit is not approved under Subsection (3), the conditions of the transition permit shall remain effective.
- 199 ~~[(5)~~
- (a) ~~Upon receipt of an alternative air permit application prepared and submitted by the authority in accordance with Subsection 79-6-407(4)(c), the division shall conduct a full evaluation as if the application had been prepared and submitted by a project entity to determine whether the alternative air permit would be issued if applied for by the project entity.]~~
- 204 ~~[(b) The division shall provide the results of any evaluation conducted under Subsection (5)(a) to the authority within 30 days after the date that the division receives the application described in Subsection (5)(a), unless the division provides written notice to the authority that additional time is needed to complete the evaluation.]~~
- 208 ~~[(c) If the division concludes after evaluation that an alternative permit would likely be issued to a project entity, the authority shall, within 30 days after the authority receives the results of the evaluation, submit recommendations to the Legislative Management Committee regarding options for the state to continue to authorize construction of the project entity's new electrical generation facility that do not require the closure of all of the project entity's existing electrical generating facilities.]~~
- 214 ~~[(6)]~~ (5) The division shall evaluate an application for an alternative permit independently from any pre-existing permit or transition permit based on updated assumptions, modeling, and requirements established in rule by the division and may rely upon the reduction of capacity of the existing electrical generation facility only as necessary to ensure that emissions of the new

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[generating] electrical generation facility do not exceed thresholds established by federal law which would necessitate new source review as a major modification.

- 221 (6) If an administrative or judicial challenge to the alternative permit succeeds in invalidating:
223 (a) a portion of the alternative permit, the remaining conditions of the alternative permit shall remain
valid and in force; or
225 (b) the primary operating scenario of the alternative permit or the entire alternative permit, the transition
permit shall remain in force with respect to the conditions governing the construction and operation
of the new electrical generation facility.

228 Section 4. Section 4 is enacted to read:

229

Part 11. Utah Energy Council

230 79-6-1101. Utah Energy Council -- Creation and purpose.

232 (1) As used in this part:

233 (a) "Council" means the Utah Energy Council created in Section 79-6-1101.

234 (b) "Decommissioned asset" means a project entity asset that:

235 (i) has been removed from active service by a project entity;

236 (ii) has been transferred to the council, including:

237 (A) transfer of legal title; and

238 (B) transfer of operational responsibility; and

239 (iii) will be operated and managed under the direction of the council.

240 (c) "Operator" means an entity that:

241 (i) manages and maintains the daily operations of an electrical generation facility;

242 (ii) employs the workforce necessary to run the facility;

243 (iii) procures fuel and other necessary supplies;

244 (iv) ensures compliance with all applicable regulations; and

245 (v) maintains the reliability of power generation.

246 (d) "Project entity" means the same as that term is defined in Section 11-13-103.

247 (e) "Project entity asset" means the same as that term is defined in Section 11-13-318.

248 (2) There is created within the office the Utah Energy Council.

249 (3) The purpose of the council is to facilitate the development of electrical energy generation and
transmission projects within the state, including:

251 (a) power plants;

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- 252 (b) transmission lines;
253 (c) energy storage facilities; and
254 (d) related infrastructure.

255 Section 5. Section 5 is enacted to read:

256 **79-6-1102. Council composition -- Appointment -- Terms -- Staffing.**

258 (1) The council shall be composed of:

- 259 (a) the director or the director's designee, who shall serve as chair of the council;
260 (b) two individuals appointed by the governor;
261 (c) one individual appointed by the president of the Senate; and
262 (d) one individual appointed by the speaker of the House of Representatives.

263 (2)

(a) Except as provided in Subsection (2)(b), a council member appointed under Subsection (1):

- 265 (i) shall serve a four-year term;
266 (ii) may be removed by the appointing authority;
267 (iii) may be reappointed; and
268 (iv) continues to serve until the member's successor is appointed and qualified.

269 (b) Initial terms for the appointed council members shall be staggered as follows:

- 270 (i) one member appointed by the governor under Subsection (1)(b) shall serve a two-year term;
272 (ii) one member appointed by the governor under Subsection (1)(b) shall serve a three-year term;
274 (iii) the member appointed by the president of the Senate under Subsection (1)(c) shall serve a four-year
term; and
276 (iv) the member appointed by the speaker of the House of Representatives under Subsection (1)(d) shall
serve a two-year term.

278 (3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the
relevant appointing authority for the unexpired term.

280 (4)

(a) A majority of council members constitutes a quorum for conducting council business.

282 (b) A majority vote of the quorum present is required for any action taken by the council.

283 (5) The council shall meet:

- 284 (a) at least quarterly; and
285 (b) at the call of the chair or a majority of the council members.

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- 286 (6)
- (a) A council member who is not a legislator may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:
- 289 (i) Section 63A-3-106;
- 290 (ii) Section 63A-3-107; and
- 291 (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 292 (b) Compensation and expenses of a council member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- 295 (7) The office shall provide staff support to the council.
- 296 Section 6. Section 6 is enacted to read:
- 297 **79-6-1103. Council powers and duties.**
- 298 (1) The council shall:
- 299 (a) create and implement a strategic plan for a decommissioned asset, taking into consideration:
- 301 (i) the state energy policy, as provided in Section 79-6-301;
- 302 (ii) reliability of electrical generation; and
- 303 (iii) economic viability;
- 304 (b) make recommendations regarding electrical energy policy to state and local governments;
- 306 (c) identify and recommend solutions to barriers affecting electrical energy development;
- 307 (d) assess and address potential public health impacts of electrical energy development zones;
- 309 (e) enter into contracts necessary to fulfill the council's duties; and
- 310 (f) report annually by October 31 to the Public Utilities, Energy, and Technology Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee regarding:
- 313 (i) the council's activities;
- 314 (ii) energy development opportunities;
- 315 (iii) infrastructure needs;
- 316 (iv) the status of designated electrical energy development zones;
- 317 (v) investment decisions made by the council;
- 318 (vi) recommended policy changes; and
- 319 (vii) approve budgets and expenditures;
- 320 (g) establish policies and procedures for the management of a decommissioned asset;
- 321 (h) oversee the management and operations of a decommissioned asset;

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- 322 (i) enter into contracts necessary for the operation and management of a decommissioned asset;
324 (j) acquire, hold, and dispose of property related to a decommissioned asset;
325 (k) select an operator for a decommissioned asset as provided in Section 79-6-1104; and
326 (l) report annually to the Legislative Management Committee regarding:
327 (i) the status and progress of the asset transfer;
328 (ii) operational and financial status of the asset under council control;
329 (iii) status of the operator contract;
330 (iv) environmental compliance status; and
331 (v) recommendations for legislation.
332 (2) The council may:
333 (a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to fulfill
the council's duties under this part; and
335 (b) take other actions necessary to fulfill the council's purposes and duties as provided in this part.
337 (3) If the council acquires a project entity asset under Section 11-13-318, the council shall enter into an
agreement with the project entity that:
339 (a) provides for the transfer, disposition, and future operation of the asset; and
340 (b) ensures the transfer, disposition, and future operation does not interfere with the project entity's
ownership or operation of electrical generation facilities powered by natural gas, hydrogen, or a
combination of natural gas and hydrogen.
- 343 Section 7. Section 7 is enacted to read:
344 **79-6-1104. Selection of facility operator.**
345 (1) The council shall initiate the selection of an operator for a decommissioned asset by:
346 (a) issuing a request for proposals; and
347 (b) publishing the request for proposals on the Utah Public Notice Website created under Section
63A-16-601.
349 (2) The request for proposals shall specify that an entity must demonstrate:
350 (a) at least 10 years of experience operating coal-fired electrical generation facilities;
351 (b) a commitment to maintaining substantial operations within the state;
352 (c) financial capability to operate and maintain the facility;
353 (d) experience with similar coal types and specifications;
354 (e) proven capability to comply with state and federal environmental requirements;

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- 355 (f) existing relationships with regional transmission organizations;
356 (g) ability to maintain reliable baseload power generation;
357 (h) experience with western coal markets and transportation;
358 (i) capability to retain the existing skilled workforce; and
359 (j) ability to integrate operations with existing transmission infrastructure.
360 (3) The council shall:
361 (a) allow at least 60 days for the submission of proposals; and
362 (b) establish or contract with a technical review committee to evaluate proposals.
363 (4) In evaluating proposals, the council shall consider:
364 (a) operational efficiency metrics from similar facilities;
365 (b) proposed operational cost structure;
366 (c) economic considerations;
367 (d) reliability and availability guarantees;
368 (e) environmental compliance history and plans;
369 (f) workplace safety record and plans;
370 (g) local economic benefit commitments; and
371 (h) proposed timeline for assuming operations.
372 (5) Nothing in this section:
373 (a) requires the council to select any proposal; or
374 (b) prevents the council from:
375 (i) rejecting all proposals; or
376 (ii) terminating the request for proposals process.

377 Section 8. **Repealer.**

This Bill Repeals:

378 This bill repeals:

379 Section **79-6-407, (Effective 06/21/24)Decommissioned Asset Disposition Authority.**

380 Section **79-6-408, (Effective 06/21/24)Study of project entity asset intended for**
381 **decommissioning.**

382 Section 9. **Effective date.**

This bill takes effect:

97 (1) except as provided in Subsection (2), May 7, 2025; or

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- 98 (2) if approved by two-thirds of all members elected to each house:
- 99 (a) upon approval by the governor;
- 100 (b) without the governor's signature, the day following the constitutional time limit of Utah
 Constitution, Article VII, Section 8; or
- 102 (c) in the case of a veto, the date of veto override.

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