

STATE ENERGY POLICY RESTRICTIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Roger E. Barrus

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires legislative approval of certain interstate agreements affecting state energy resources and use.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires legislative approval of certain interstate agreements affecting state energy resources and use; and
- ▶ addresses the effect of other interstate compacts and agreements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

- 63G-12-101**, Utah Code Annotated 1953
- 63G-12-102**, Utah Code Annotated 1953
- 63G-12-201**, Utah Code Annotated 1953
- 63G-12-202**, Utah Code Annotated 1953
- 63G-12-203**, Utah Code Annotated 1953



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

Section 1. Section **63G-12-101** is enacted to read:

CHAPTER 12. INTERSTATE COMPACTS AND AGREEMENTS

Part 1. General Provisions

63G-12-101. Title.

This chapter is known as "Interstate Compacts and Agreements."

Section 2. Section **63G-12-102** is enacted to read:

63G-12-102. Definitions.

As used in this chapter:

(1) "Agency head" means a cabinet officer, an elected official, an executive director, or a board or commission vested with the authority to administer or make policy for a state agency.

(2) "Executive officer" means:

(a) the governor;

(b) the lieutenant governor;

(c) the attorney general;

(d) the state treasurer;

(e) the state auditor;

(f) an agency head; or

(g) any other person or entity vested with the authority to enter into an agreement on behalf of the state.

(3) "Interstate agreement" means any agreement that is entered into between this state and:

(a) one or more other states;

(b) an Indian tribe as defined in Section 9-9-402; or

(c) a foreign government.

(4) (a) "Significant interstate agreement" means an interstate agreement that:

(i) could or would require a statute or rule change in order to implement the agreement or to conform to its provisions or requirements;

(ii) could or would require the state to expend more than \$50,000 in order to

59 implement the agreement or to conform to its provisions or requirements; or
60 (iii) would legally bind the state to a new or substantially different policy in order to
61 implement the agreement or to conform to its provisions or requirements.
62 (b) "Significant interstate agreement" includes an interstate compact, whether or not
63 the compact requires federal congressional approval.
64 (c) "Significant interstate agreement" does not mean:
65 (i) an agreement entered into by the governor dealing with extradition or other matters
66 dealing with incarceration; or
67 (ii) an agreement entered into by an executive officer under authority that:
68 (A) is granted by the Legislature; and
69 (B) explicitly authorizes the executive officer to enter into the agreement.
70 (5) (a) "State agency" means:
71 (i) each department, commission, board, council, agency, institution, officer,
72 corporation, fund, division, office, committee, authority, hospital, laboratory, library, unit,
73 bureau, panel, program, or other instrumentality of the state; and
74 (ii) each state public education entity.
75 (b) "State agency" does not mean:
76 (i) a legislative branch agency;
77 (ii) an independent agency;
78 (iii) a state institution of higher education as defined in Section 53B-3-102;
79 (iv) a county, municipality, school district, local district, or special service district; or
80 (v) any administrative subdivision of a county, municipality, school district, local
81 district, or special service district.
82 (6) "State energy resources and use" includes:
83 (a) natural resources used for the production of energy;
84 (b) infrastructure used in connection with the production, distribution, or consumption
85 of energy, but not including a highway, as defined in Section 41-1a-102;
86 (c) policies concerning the consumption of energy, including conservation measures;
87 (d) policies concerning the taxation of energy; and
88 (e) other aspects of state law or policy that limit, reward, or otherwise regulate the
89 production, distribution, or consumption of energy.

90 Section 3. Section 63G-12-201 is enacted to read:

91 **Part 2. Legislative Approval of Interstate Agreements**

92 **63G-12-201. Approval of significant interstate agreements -- Validity.**

93 (1) (a) Before legally binding the state by executing a significant interstate agreement
94 affecting state energy resources or use, an executive officer shall:

95 (i) submit the proposed significant interstate agreement to the governor for the
96 governor's written approval or rejection; and

97 (ii) if the governor approves the significant interstate agreement, submit the significant
98 interstate agreement to the Legislature for the Legislature's approval or rejection by means of:

99 (A) a concurrent resolution approving or rejecting the agreement; or

100 (B) enacting the agreement into law.

101 (b) (i) If the Legislature approves the agreement as required by this section, the
102 executive officer may execute the significant interstate agreement.

103 (ii) If the Legislature rejects the agreement, the executive officer may not execute the
104 significant interstate agreement.

105 (2) If an executive officer executes a significant interstate agreement without obtaining
106 the governor's approval or the Legislature's approval as required by Subsection (1), the
107 agreement is void ab initio.

108 (3) The requirements of this section do not apply to a significant interstate agreement
109 that is entered into:

110 (a) before May 12, 2009; or

111 (b) by a state institution of higher education as defined in Section 53B-3-102.

112 Section 4. Section 63G-12-202 is enacted to read:

113 **63G-12-202. Other interstate agreements.**

114 Notwithstanding the provisions of this chapter, the Legislature may enact legislation
115 prohibiting the enactment of an interstate agreement even if the agreement is not a significant
116 interstate agreement as defined in this chapter.

117 Section 5. Section 63G-12-203 is enacted to read:

118 **63G-12-203. Application of chapter in emergencies.**

119 (1) Notwithstanding the requirements of Section 63G-12-201, an executive officer may
120 enter into a significant interstate agreement on a temporary basis without legislative approval

121 during:

122 (a) an emergency or major disaster declared by the President of the United States of
123 America; or

124 (b) a state of emergency declared by the governor under Section 63K-4-203.

125 (2) If a significant interstate agreement is entered into without legislative approval
126 under Subsection (1), the executive officer entering into the agreement shall provide notice of
127 the execution of the agreement to the Legislature at the next meeting of the Executive
128 Appropriations Subcommittee of the Legislature and shall comply with the requirements of
129 Section 63G-12-201 to thereafter obtain the approval of the Legislature.

Legislative Review Note

as of 1-19-09 11:38 AM

Office of Legislative Research and General Counsel

H.B. 190 - State Energy Policy Restrictions

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
