

## HB0066S01 compared with HB0066

~~deleted text~~ shows text that was in HB0066 but was deleted in HB0066S01.

inserted text shows text that was not in HB0066 but was inserted into HB0066S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: \_\_\_\_\_

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#### 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:

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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

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

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

### ENACTS:

10-5-102.5, Utah Code Annotated 1953

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

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

#### 10-5-102.5. Definitions.

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

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

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

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

#### **Adoption of tentative budget.**

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

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

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

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

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

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

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

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

(2) (a) The mayor shall:

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

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

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

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

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

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

(b) complies with the hearing and notice requirements of Subsections (6)(a), (b), and

(c).

(4) A town shall:

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

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

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

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

(ii) may amend or revise the tentative budget.

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

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

(6) (a) If a town council includes in a tentative budget, or an amendment to a budget,

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allocations or transfers from ~~[a utility]~~ an enterprise fund to another fund that are not reasonable allocations of costs between the ~~[utility]~~ enterprise fund and the other fund, the governing body shall:

- (i) hold a public hearing;
  - (ii) prepare a written notice of the date, time, place, and purpose of the hearing as described in Subsection ~~[(4)]~~ [(6)](b); and
  - (iii) subject to Subsection ~~[(4)]~~ [(6)](c), mail the notice to each ~~[utility]~~ enterprise fund customer at least seven days before the day of the hearing.
- (b) The purpose portion of the written notice shall identify:
- (i) the ~~[utility]~~ enterprise fund from which money is being allocated or transferred;
  - (ii) the amount being allocated or transferred; and
  - (iii) the fund to which the money is being allocated or transferred.
- (c) The town council:
- (i) may print the written notice required under Subsection ~~[(4)]~~ [(6)](a)(ii) on the ~~[utility]~~ enterprise fund customer's bill; and
  - (ii) shall include the written notice required under Subsection ~~[(4)]~~ [(6)](a)(ii) as separate notification mailed or transmitted with the ~~[utility]~~ enterprise fund customer's bill.
- ~~[(d)] The notice and hearing requirements in this Subsection (4) are not required for an allocation or a transfer included in an original budget or in a subsequent budget amendment previously approved by the town council for the current fiscal year.~~

Section ~~[(1)]~~ [(3)]. Section **10-6-106** is amended to read:

### **10-6-106. Definitions.**

As used in this chapter:

- (1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.
- (2) "Appropriation" means an allocation of money by the governing body for a specific purpose.
- (3) (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them.
- (b) "Budget" may refer to the budget of a particular fund for which a budget is required

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by law or it may refer collectively to the budgets for all such funds.

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

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

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

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

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

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

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

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

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

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

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

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

~~(15)~~ (16) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such terms under generally accepted accounting principles as reflected in

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the Uniform Accounting Manual for Utah Cities.

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

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

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

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

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

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

(22) "Utility" means a ~~{municipally-owned utility}~~ utility owned by a city, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them.

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

Section ~~{2}~~4. Section **10-6-135** is amended to read:

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

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

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

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

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

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

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

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

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

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

(c) A municipality shall:

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

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

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

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

(A) each enterprise fund; and

(B) other required special funds;

(ii) include with the tentative operating and capital budget described in Subsection (3)~~(b)~~(d)(i) specific work programs as submitted by each department head; and

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

~~(c)~~ (e) Each city of the first or second class shall, and each city of the third, fourth, or

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fifth class may, submit a supplementary estimate of all capital projects which a department head believes should be undertaken within the three next succeeding fiscal periods.

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

(ii) After complying with Subsection (3)~~[(d)]~~(f)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.

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

(g) (i) ~~Except as provided in Subsection (3)(e)(g) If (iv), if~~ the governing body includes in a tentative budget or an amendment to a budget allocations or transfers from [a utility] an enterprise fund to another fund that are not reasonable allocations of costs between the [utility] enterprise fund and the other fund, the governing body shall:

(A) hold a public hearing;

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

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

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

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

(B) the amount being transferred; and

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

(iii) The governing body:

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

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

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

~~{~~ (iv) A governing body is not required to repeat the notice and hearing requirements in



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this Subsection (3)(g) if the funds to be allocated or transferred for the current year were previously approved by the governing body at a public hearing that complied with the notice and hearing requirements of this Subsection (3)(g):

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

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

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

(6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period.

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

(i) certified by the budget officer;

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

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

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

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

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

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

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

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~~Legislative Review Note~~

~~\_\_\_\_\_ as of 1-20-14 1:21 PM~~

~~\_\_\_\_\_ Office of Legislative Research and General Counsel}~~