

AIR QUALITY PROGRAMS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill enacts provisions related to the funding and establishment of air quality programs.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the governing body of certain Utah interlocal entities;
- ▶ requires a program utility to collect a charge less than or equal to \$1 per month from a utility customer and remit the collection to an interlocal entity;
- ▶ authorizes the interlocal entity to retain a portion of the collected charges and remit a portion of the charges to the Air Quality Board and one or more entities that represent public and private interests in improving air quality within the state;
- ▶ requires the entities that retain funds to use the funds for air quality public

education ~~to~~ grant

~~to~~ grant ~~to~~ programs, ~~to~~ research ~~to~~ , or other programs ;

- ▶ requires the interlocal entity to report to the governor and Legislative Management Committee each year that it collects the charge;
- ▶ permits a customer of a program utility to opt out of the charge;
- ▶ requires the Division of Finance to establish an expendable special revenue fund if the board receives funds from the interlocal entity;
- ▶ provides a repeal date; and
- ▶ makes technical corrections.

S.B. 243



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **11-13-224**, as enacted by Laws of Utah 2013, Chapter 311

35 **63I-1-211**, as enacted by Laws of Utah 2011, Second Special Session, Chapter 1

36 ENACTS:

37 **11-13-225**, Utah Code Annotated 1953

38 **19-2-128**, Utah Code Annotated 1953



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

41 Section 1. Section **11-13-224** is amended to read:

42 **11-13-224. Utah interlocal entity for alternative fuel vehicles and facilities.**

43 (1) As used in this section, "commission" means the Public Service Commission of
44 Utah, established in Section **54-1-1**.

45 (2) The governing body of a Utah interlocal entity created to facilitate the conversion to
46 alternative fuel vehicles or to facilitate the construction, operation, and maintenance of
47 facilities for alternative fuel vehicles, or both, shall consist of:

48 (a) an individual from the executive branch of state government, appointed by the
49 governor;

50 (b) a member of the Senate, appointed by the president of the Senate;

51 (c) a member of the House of Representatives, appointed by the speaker of the House
52 of Representatives;

53 (d) an individual from the Utah Association of Counties, appointed by the president of
54 the Senate;

55 (e) an individual from the Utah League of Cities and Towns, appointed by the speaker
56 of the House of Representatives;

57 (f) an individual employed by a school district in the state, appointed by the governor;

58 (g) an individual appointed by the public transit district under Title 17B, Chapter 2a,

59 Part 8, Public Transit District Act, with the largest budget of all public transit districts in the
60 state;

61 (h) an individual, appointed by the governor, who is employed by a gas corporation in
62 the state~~[, appointed by the governor, and] that:~~

63 (i) is a public utility as defined in Section 54-2-1; and

64 (ii) is regulated by the commission;

65 (i) an individual, appointed by the governor, who is an employee of ~~§~~ → **[a] an**
65a **electrical** ~~←~~ ~~§~~ corporation, as

66 defined in Section 54-2-1;

67 (j) a representative, appointed by the governor, from a municipal electric utility; and

68 ~~[(j)]~~ (k) a representative of the Utah Petroleum Marketers and Retailers Association,
69 appointed by the governor.

70 (3) A Utah interlocal entity described in Subsection (2):

71 (a) may contribute toward the funding required for the construction, operation, and
72 maintenance of facilities for alternative fuel vehicles that are used by or benefit the interlocal
73 entity; and

74 (b) shall participate with the commission in proceedings the commission conducts
75 under Section 54-1-13.

76 Section 2. Section 11-13-225 is enacted to read:

77 **11-13-225. Interlocal entity air quality funding -- Charge -- Collection and**
78 **remittance -- Disbursements -- Charge opt out.**

79 (1) As used in this section:

80 (a) "Alternative fuel vehicle interlocal entity" means an entity described in Section
81 11-13-224 that existed on January 1, 2014.

82 (b) "Distribution electrical cooperative" is as defined in Section 54-2-1.

83 (c) (i) "Electrical corporation" is as defined in Section 54-2-1.

84 (ii) "Electrical corporation" does not include an electrical corporation with fewer than
85 2,000 customers in the state and headquarters located in another state.

86 (d) (i) "Gas corporation" means a business or other entity that provides a retail natural
87 gas service.

88 (ii) "Gas corporation" does not include a business or other entity that provides a retail
89 natural gas service that is limited to refueling a vehicle with natural gas.

90 (e) "Municipal electric utility" is as defined in Section 10-19-102.

91 (f) "Program utility" means one of the following with ~~50~~ **50** or

91a more ~~50~~ customers:

92 (i) a distribution electrical cooperative;

93 (ii) an electrical corporation;

94 (iii) a gas corporation; or

95 (iv) a municipal electric utility.

96 (2) An alternative fuel vehicle interlocal entity may collect funds for the purpose of

97 funding programs and research to improve air quality in accordance with this section.

98 (3) The alternative fuel vehicle interlocal entity may collect a charge equal to or less

99 than \$1 per month from each customer of a program utility.

100 (4) Before an alternative fuel vehicle interlocal entity may collect a charge under

101 Subsection (3):

102 (a) the alternative fuel vehicle interlocal entity shall:

103 (i) agree to collect the charge by majority vote of the governing body;

104 (ii) at least ~~45~~ **60** ~~50~~ days before collecting a charge, provide notice to a program

104a utility from

105 which a charge will be collected that the alternative fuel vehicle interlocal entity intends to

106 collect the charge;

107 (iii) inform each program utility that the program utility shall collect the charge in

108 accordance with Subsection (5) from each customer unless the customer opts out of the charge

109 in accordance with Subsection (10); and

110 (iv) prepare and distribute to each program utility marketing information about:

111 (A) the purpose of the charge, including a general description of the types of air quality

112 programs and research funded by the charge; and

113 (B) the opportunity for a customer to opt out of the charge; and

114 (b) a program utility shall:

115 (i) notify its customers ~~50~~ **50** ~~in writing~~, in bold text on the program utility's website and

115a in its billing statements:

115b (A) of the creation and purpose of the program for which the charge is imposed;

115c (B) potential use of the money collected from the charge;

115d (C) ~~50~~ that the customer may opt out of the charge in

116 accordance with Subsection (10); and

116a ~~50~~ (D) the method by which the customer may opt out of the charge in accordance ~~50~~

116b ~~§~~→with Subsection (10); and ←~~§~~

117 (ii) provide to each customer the information prepared by the alternative fuel vehicle
118 interlocal entity in accordance with Subsection (4)(a)(iv).

119 (5) (a) A program utility shall:

120 (i) pass through to its customers in the state an amount equal to the charge the

121 alternative fuel vehicle interlocal entity claims for each month; and

122 (ii) except as provided in Subsection (5)(b), each month remit payment of all charges
 123 received in accordance with Subsection (5)(a) to the alternative fuel vehicle interlocal entity in
 124 a manner provided for by the alternative fuel vehicle interlocal entity's governing body.

125 (b) A program utility subject to Subsection (5)(a) may retain each month from the
 126 amount the seller is required to remit to the alternative fuel vehicle interlocal entity a portion
 127 for the program utility's administration of the charge collection and the collection opt-out as
 128 described in Subsection (10).

129 (6) An alternative fuel vehicle interlocal entity that receives funds in accordance with
 130 Subsection (5)(b) shall:

131 (a) (i) retain 70% of the funds;

132 (ii) remit 20% of the funds to the Air Quality Board created in Title 19, Chapter 2, Air
 133 Conservation Act, for use in accordance with Section 19-2-128; and

134 (iii) remit 10% of the funds to one or more entities that represent public and private
 135 interests in improving air quality within the state; and

136 (b) except as provided in Subsection (8)(b), retain or remit the funds in accordance
 137 with Subsection (6)(a) only for an approved public education or grant program or research
 138 described in Subsection (7)(a).

139 (7) (a) Before disbursing the funds in accordance with Subsection (6), the alternative
 140 fuel vehicle interlocal entity governing body shall:

141 (i) review and approve an air quality public education ~~grant~~, ~~grant~~ program

141a ~~grant~~, ~~grant~~ air quality

142 research ~~grant~~, or other program that implements measures to improve air quality that is ~~grant~~

142a proposed or administered by the alternative fuel vehicle interlocal entity, the Air

143 Quality Board, or an entity that represents public and private interests in improving air quality,

144 respectively; and

145 (ii) ensure that the public education ~~grant~~, ~~grant~~ program ~~grant~~, ~~grant~~ air quality

145a research ~~grant~~, or other program that implements measures to improve air quality ~~grant~~ increases

146 awareness of, or implements measures to improve, air quality in the state.

147 (b) The alternative vehicle interlocal entity shall review a public education ~~grant~~, ~~grant~~

147a grant

148 program ~~grant~~, ~~grant~~ research ~~grant~~, or other program ~~grant~~ that qualifies for and receives funds

148a in accordance with Subsection (7)(a)

149 at least annually to:

150 (i) ensure that the program or research complies with this section; and

151 (ii) evaluate the effectiveness and benefits of the program or research.

152 (8) (a) The governing body of the alternative fuel vehicle interlocal entity shall adopt
153 bylaws, policies, or procedures to govern, in accordance with this section, the use and
154 distribution of the funds and make those bylaws, policies, or procedures publicly available.

155 (b) The alternative fuel vehicle interlocal entity may, from the funds received in
156 accordance with this section, pay the interlocal entity's reasonable administrative expenses for:

157 (i) remitting funds in accordance with Subsections (6)(a)(ii) and (iii); and

158 (ii) reviewing and approving a program or research in accordance with Subsections
159 (7)(a) and (b).

160 (c) If an alternative fuel vehicle interlocal entity disburses funds, the alternative fuel
161 vehicle interlocal entity shall make the disbursement at a public meeting held in accordance
162 with Title 52, Chapter 4, Open and Public Meetings Act.

163 (d) Notwithstanding Subsection (8)(c), if financial information that would be disclosed
164 at the public meeting is private or protected in accordance with Title 63G, Chapter 2,
165 Government Records Access and Management Act, the alternative fuel vehicle interlocal entity
166 may not disclose the information at the public meeting.

167 (9) An alternative fuel vehicle interlocal entity that receives funds under this section
168 shall submit a report no later than October 31 of each year in which it receives funds to the
169 governor and the Legislative Management Committee that:

170 (a) indicates the amount of funds received;

171 (b) describes in detail how the alternative fuel vehicle interlocal entity has spent or
172 disbursed funds;

173 (c) explains the reason for retention of funds by the alternative fuel vehicle interlocal
174 entity;

175 (d) describes the benefits accrued from expenditure of the funds, including a projection
176 of the specific air quality improvement benefits anticipated by each program; and

177 (e) includes descriptions of specific funded programs or research.

178 (10) (a) A program utility customer may opt out of the charge described in Subsection
179 (3) by contacting, in accordance with Subsection (10)(c), the program utility.

180 (b) Before collecting a charge under this section, a program utility shall:

181 (i) allow a customer to opt out of the charge at least annually;

182 (ii) adopt a policy designating when, at least annually, a customer may opt out of the

183 charge; and

184 (iii) notify in writing each customer at least 30 days before and no more than 45 days
 185 before the beginning of the opt-out period described in Subsection (10)(b)(ii) that the customer
 186 may opt out of the charge and how, in accordance with Subsection (10)(c), the customer may
 187 contact the program utility to opt out.

188 (c) A program utility shall allow a customer to opt out of the charge in accordance with
 189 Subsection (10)(b) by:

190 (i) mail;

191 (ii) telephone; or

192 (iii) any other electronic means the program utility considers appropriate, including the
 193 Internet.

193a **Ŝ→ (d) If a customer opts out of the charge in accordance with this Subsection (10), the**
 193b **customer may not be imposed the charge unless after opting out of the program, the customer**
 193c **opts in to the program by contacting the program utility by:**

193d **(i) mail;**

193e **(ii) telephone; or**

193f **(iii) any other electronic means the program utility considers appropriate, including the**
 193g **Internet. ←Ŝ**

194 Section 3. Section **19-2-128** is enacted to read:

195 **19-2-128. Air quality research fund.**

196 (1) (a) If an alternative fuel vehicle interlocal entity, as defined in Section [11-13-225](#),
 197 distributes funds to the board, the Division of Finance shall:

198 (i) establish an expendable special revenue fund; and

199 (ii) deposit the funds received in accordance with Section [11-13-225](#) into the fund
 200 described in Subsection (1)(a)(i).

201 (b) The board shall administer the fund.

202 (2) The board shall use money in the fund to fund an air quality public education or
 203 grant program or air quality research, including:

204 (a) supplementing existing air quality monitoring efforts;

205 (b) creating mobile air quality monitoring tools; and

206 (c) other programs as approved by the board and an alternative fuel vehicle interlocal
 207 entity in accordance with Section [11-13-225](#).

208 Section 4. Section **63I-1-211** is amended to read:

209 **63I-1-211. Repeal dates, Title 11.**

210 (1) Section [11-13-224](#) is repealed December 31, 2019.

211 (2) Section [11-14-308](#) is repealed December 31, 2020.

Legislative Review Note
as of 2-24-14 4:48 PM

Office of Legislative Research and General Counsel