

Representative Jefferson Moss proposes the following substitute bill:

MUNICIPAL ENTERPRISE FUND AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies provisions relating to municipal budgets.

Highlighted Provisions:

This bill:

▶ modifies language relating to transfers of money from a municipal enterprise fund to another fund;

▶ requires a municipality that intends to transfer money from an enterprise fund to another fund to provide public notice of the intended transfer, clearly identify the intended transfer in the tentative budget or budget amendment, and hold a separate and independent public hearing;

▶ requires a municipality that adopts a budget or budget amendment that includes an enterprise fund transfer to provide specified public notice; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 [10-5-107](#), as last amended by Laws of Utah 2016, Chapter 353

28 [10-6-135](#), as last amended by Laws of Utah 2016, Chapters 348 and 353

29 ENACTS:

30 [10-5-107.5](#), Utah Code Annotated 1953

31 [10-6-135.5](#), Utah Code Annotated 1953



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

34 Section 1. Section **10-5-107** is amended to read:

35 **10-5-107. Tentative budgets required for public inspection -- Contents --**

36 **Adoption of tentative budget.**

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

39 (i) in accordance with Subsection (1)(b), prepare for the ensuing year a tentative budget
40 for each fund for which a budget is required;

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

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

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

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

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

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

47 (2) (a) The mayor shall:

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

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

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

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

55 ~~[(3) A governing body may spend or transfer money deposited in an enterprise fund for~~
56 ~~a good, service, project, venture, or other purpose that is not directly related to the goods or~~

57 services provided by the enterprise for which the enterprise fund was created, if the governing
58 body:]

59 [~~(a) transfers the money from the enterprise fund to another fund; and]~~

60 [~~(b) complies with the hearing and notice requirements of Subsections (5)(a), (b), and~~

61 ~~(c).]~~

62 [~~(4)~~] (3) (a) Before the public hearing required under Section [10-5-108](#), the town
63 council:

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

66 (ii) may amend or revise the tentative budget.

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

69 [~~(5)(a) Except as provided in Subsection (5)(d), if a town council includes in a
70 tentative budget, or an amendment to a budget, allocations or transfers from an enterprise fund
71 to another fund for a good, service, project, venture, or purpose other than reasonable
72 allocations of costs between the enterprise fund and the other fund, the governing body shall:]~~

73 [~~(i) hold a public hearing;~~

74 [~~(ii) prepare a written notice of the date, time, place, and purpose of the hearing as
75 described in Subsection (5)(b); and]~~

76 [~~(iii) subject to Subsection (5)(c), mail the notice to each enterprise fund customer at
77 least seven days before the day of the hearing.]~~

78 [~~(b) The purpose portion of the written notice shall identify:]~~

79 [~~(i) the enterprise fund from which money is being allocated or transferred;]~~

80 [~~(ii) the amount being allocated or transferred; and]~~

81 [~~(iii) the fund to which the money is being allocated or transferred.]~~

82 [~~(c) The town council:]~~

83 [~~(i) may print the written notice required under Subsection (5)(a)(ii) on the enterprise
84 fund customer's bill; and]~~

85 [~~(ii) shall include the written notice required under Subsection (5)(a)(ii) as separate
86 notification mailed or transmitted with the enterprise fund customer's bill.]~~

87 [~~(d) A governing body is not required to repeat the notice and hearing requirements in~~

88 this Subsection (5) if the funds to be allocated or transferred for the current year were
89 previously approved by the governing body during the current year and at a public hearing that
90 complies with the notice and hearing requirements of this Subsection (5).]

91 Section 2. Section **10-5-107.5** is enacted to read:

92 **10-5-107.5. Transfer of enterprise fund money to another fund.**

93 (1) As used in this section:

94 (a) "Budget hearing" means a public hearing required under Section [10-5-108](#).

95 (b) "Enterprise fund accounting data" means a detailed overview of the various

96 enterprise funds of the town that includes:

97 (i) a cost accounting breakdown of how money in the enterprise fund is being used to
98 cover, as applicable:

99 (A) administrative and overhead costs of the town attributable to the operation of the
100 enterprise for which the enterprise fund was created; and

101 (B) other costs not associated with the enterprise for which the enterprise fund was
102 created; and

103 (ii) specific enterprise fund information.

104 (c) "Enterprise fund hearing" means the public hearing required under Subsection

105 (3)(d).

106 (d) "Specific enterprise fund information" means:

107 (i) the dollar amount of transfers from an enterprise fund to another fund; and

108 (ii) the percentage of the total enterprise fund expenditures represented by each transfer
109 to another fund.

110 (2) Subject to the requirements of this section, a town may transfer money in an
111 enterprise fund to another fund to pay for a good, service, project, venture, or other purpose
112 that is not directly related to the goods or services provided by the enterprise for which the
113 enterprise fund was created.

114 (3) The governing body of a town that intends to transfer money in an enterprise fund
115 to another fund shall:

116 (a) provide notice of the intended transfer as required under Subsection (4);

117 (b) clearly identify in a separate section or document accompanying the town's
118 tentative budget or, if an amendment to the town's budget includes or is based on an intended

119 transfer, in a separate section or document accompanying the amendment to the town's budget:

120 (i) the enterprise fund from which money is intended to be transferred; and

121 (ii) the specific enterprise fund information for that enterprise fund;

122 (c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

123 (d) hold an enterprise fund hearing before the adoption of the town's budget or, if

124 applicable, the amendment to the budget.

125 (4) (a) At least seven days before holding an enterprise fund hearing, a governing body
126 shall:

127 (i) provide the notice described in Subsection (4)(b) by:

128 (A) mailing a copy of the notice to users of the goods or services provided by the

129 enterprise for which the enterprise fund was created ~~Ŝ~~→ , if the town regularly mails users a
129a periodic billing for the goods or services ~~←~~Ŝ ;

129b ~~Ŝ~~→ (B) emailing a copy of the notice to users of the goods or services provided by the

129c enterprise for which the enterprise fund was created, if the town regularly emails users a

129d periodic billing for the goods or services; ~~←~~Ŝ

130 ~~Ŝ~~→ ~~[(B)]~~ (C) ~~←~~Ŝ posting the notice on the Utah Public Notice Website created in

130a Section [63F-1-701](#);

131 and

132 ~~Ŝ~~→ ~~[(C)]~~ (D) ~~←~~Ŝ if the town has a website, prominently posting the notice on the town's
132a website

133 until the enterprise fund hearing is concluded; and

134 (ii) if the town communicates with the public through a social media platform, publish

135 notice of the date, time, place, and purpose of the enterprise fund hearing using the social

136 media platform.

137 (b) The notice required under Subsection (4)(a)(i) shall:

138 (i) explain the intended transfer of enterprise fund money to another fund;

139 (ii) include specific enterprise fund information for each enterprise fund from which

140 money is intended to be transferred;

141 (iii) provide the date, time, and place of the enterprise fund hearing; and

142 (iv) explain the purpose of the enterprise fund hearing.

143 (5) (a) An enterprise fund hearing shall be separate and independent from a budget

144 hearing and any other public hearing.

145 (b) At an enterprise fund hearing, the governing body shall:

146 (i) explain the intended transfer of enterprise fund money to another fund;

147 (ii) provide enterprise fund accounting data to the public; and

148 (iii) allow members of the public in attendance at the hearing to comment on:

149 (A) the intended transfer of enterprise fund money to another fund; and

150 (B) the enterprise fund accounting data.

151 (6) (a) If a governing body adopts a budget or a budget amendment that includes or is
 152 based on a transfer of money from an enterprise fund to another fund, the governing body shall:

153 (i) within 60 days after adopting the budget ~~§~~ → [] **or budget amendment:** ~~←~~ ~~§~~

153a ~~§~~ → (A) ~~←~~ ~~§~~ mail ~~§~~ → **a notice** ~~←~~ ~~§~~ to users of the goods or services

154 provided by the enterprise for which the enterprise fund was created ~~§~~ → **[a notice that:**

155 ——— ~~(A) announces the adoption of a budget or budget amendment that includes or is based~~

156 ~~on a transfer of money from an enterprise fund to another fund; and~~

157 ——— ~~(B) includes the specific enterprise fund information;] , if the town regularly mails users a~~
 157a **periodic billing for the goods or services; and**

157b **(B) email a notice to users of the goods or services provided by the enterprise for which**

157c **the enterprise fund was created, if the town regularly emails users a periodic billing for the**

157d **goods or services; ~~←~~ ~~§~~**

158 (ii) within seven days after adopting the budget or budget amendment:

159 (A) post enterprise fund accounting data on the town's website, if the town has a

160 website;

161 (B) using the town's social ~~§~~ → **[media]** media ~~←~~ ~~§~~ platform, publish notice of the

161a adoption of a budget

162 or budget amendment that includes or is based on a transfer of money from an enterprise fund

163 to another fund, if the town communicates with the public through a social media platform; and

164 (iii) within 30 days after adopting the budget, submit to the state auditor the specific

165 enterprise fund information for each enterprise fund from which money will be transferred.

165a ~~§~~ → **(b) A notice required under Subsection (6)(a)(i) shall:** ~~←~~ ~~§~~

165b ~~§~~ → **(i) announce the adoption of a budget or budget amendment that includes or is based on**

165c **a transfer of money from an enterprise fund to another fund; and ~~←~~ ~~§~~**

165d ~~§~~ → **(ii) include the specific enterprise fund information.** ~~←~~ ~~§~~

166 ~~§~~ → ~~(b)~~ **(c) ~~←~~ ~~§~~ The governing body shall maintain the website posting required under**

166a Subsection

167 (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

168 Section 3. Section **10-6-135** is amended to read:

169 **10-6-135. Operating and capital budgets.**

170 (1) (a) As used in this section, "operating and capital budget" means a plan of financial

171 operation for an enterprise fund or other required special fund that includes estimates of

172 operating resources, expenses, and other outlays for a fiscal period.

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

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

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

180 (b) the type of budget for other special funds as required by the Uniform Accounting

181 Manual for Utah Cities.

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

184 [~~(b) A governing body may spend or transfer money deposited in an enterprise fund for
185 a good, service, project, venture, or other purpose that is not directly related to the goods or
186 services provided by the enterprise for which the enterprise fund was created, if the governing
187 body:]~~

188 [~~(i) transfers the money from the enterprise fund to another fund; and]~~

189 [~~(ii) complies with the hearing and notice requirements of Subsections (3)(f)(i), (ii),
190 and (iii):]~~

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

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

195 (A) each enterprise fund; and

196 (B) other required special funds;

197 (ii) include with the tentative operating and capital budget described in Subsection
198 (3)(c) specific work programs as submitted by each department head; and

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

200 [~~(d)~~] (c) Each city of the first or second class shall, and each city of the third, fourth, or
201 fifth class may, submit a supplementary estimate of all capital projects which a department
202 head believes should be undertaken within the three next succeeding fiscal periods.

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

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

208 [~~(f) (i) Except as provided in Subsection (3)(f)(iv), if the governing body includes in a
209 tentative budget or an amendment to a budget allocations or transfers from an enterprise fund
210 to another fund or a good, service, project, venture, or purpose other than reasonable
211 allocations of costs between the enterprise fund and the other fund, the governing body shall:]~~

- 212 ~~[(A) hold a public hearing;]~~
- 213 ~~[(B) prepare a written notice of the date, time, place, and purpose of the hearing as~~
- 214 ~~described in Subsection (3)(f)(ii); and]~~
- 215 ~~[(C) subject to Subsection (3)(f)(iii), mail the written notice to each enterprise fund~~
- 216 ~~customer at least seven days before the day of the hearing.]~~
- 217 ~~[(ii) The purpose portion of the written notice required under Subsection (3)(f)(i)(B)~~
- 218 ~~shall identify:]~~
- 219 ~~[(A) the enterprise fund from which money is being transferred;]~~
- 220 ~~[(B) the amount being transferred; and]~~
- 221 ~~[(C) the fund to which the money is being transferred.]~~
- 222 ~~[(iii) The governing body:]~~
- 223 ~~[(A) may print the written notice required under Subsection (3)(f)(i) on the enterprise~~
- 224 ~~fund customer's bill; and]~~
- 225 ~~[(B) shall include the written notice required under Subsection (3)(f)(i) as a separate~~
- 226 ~~notification mailed or transmitted with the enterprise fund customer's bill.]~~
- 227 ~~[(iv) A governing body is not required to repeat the notice and hearing requirements in~~
- 228 ~~this Subsection (3)(f) if the funds to be allocated or transferred for the current year were~~
- 229 ~~previously approved by the governing body during the current year and at a public hearing that~~
- 230 ~~complies with the notice and hearing requirements of this Subsection (3)(f).]~~
- 231 (4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and
- 232 considered by the governing body at any regular meeting or special meeting called for that
- 233 purpose.
- 234 (b) The governing body may make changes in the tentative budgets.
- 235 (5) Budgets for enterprise or other required special funds shall comply with the public
- 236 hearing requirements established in Sections [10-6-113](#) and [10-6-114](#).
- 237 (6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax
- 238 increase under Sections [59-2-919](#) through [59-2-923](#), before August 17 of the year for which a
- 239 property tax increase is proposed, the governing body shall adopt an operating and capital
- 240 budget for each applicable fund for the ensuing fiscal period.
- 241 (b) A copy of the budget as finally adopted for each fund shall be:
- 242 (i) certified by the budget officer;

- 243 (ii) filed by the budget officer in the office of the city auditor or city recorder;
- 244 (iii) available to the public during regular business hours; and
- 245 (iv) filed with the state auditor within 30 days after the day on which the budget is
- 246 adopted.

247 (7) (a) Upon final adoption, the operating and capital budget is in effect for the budget

248 period, subject to later amendment.

249 (b) During the budget period the governing body may, in any regular meeting or special

250 meeting called for that purpose, review any one or more of the operating and capital budgets

251 for the purpose of determining if the total of any of them should be increased.

252 (c) If the governing body decides that the budget total of one or more of the funds

253 should be increased under Subsection (7)(b), the governing body shall follow the procedures

254 set forth in Section [10-6-136](#).

255 (8) Expenditures from operating and capital budgets shall conform to the requirements

256 relating to budgets specified in Sections [10-6-121](#) through [10-6-126](#).

257 Section 4. Section **10-6-135.5** is enacted to read:

258 **10-6-135.5. Transfer of enterprise fund money to another fund.**

259 (1) As used in this section:

260 (a) "Budget hearing" means a public hearing required under Section [10-6-114](#).

261 (b) "Enterprise fund accounting data" means a detailed overview of the various

262 enterprise funds of the city that includes:

263 (i) a cost accounting breakdown of how money in the enterprise fund is being used to

264 cover, as applicable:

265 (A) administrative and overhead costs of the city attributable to the operation of the

266 enterprise for which the enterprise fund was created; and

267 (B) other costs not associated with the enterprise for which the enterprise fund was

268 created; and

269 (ii) specific enterprise fund information.

270 (c) "Enterprise fund hearing" means the public hearing required under Subsection

271 (3)(d).

272 (d) "Specific enterprise fund information" means:

273 (i) the dollar amount of transfers from an enterprise fund to another fund; and

274 (ii) the percentage of the total enterprise fund expenditures represented by each transfer
 275 to another fund.

276 (2) Subject to the requirements of this section, a city may transfer money in an
 277 enterprise fund to another fund to pay for a good, service, project, venture, or other purpose
 278 that is not directly related to the goods or services provided by the enterprise for which the
 279 enterprise fund was created.

280 (3) The governing body of a city that intends to transfer money in an enterprise fund to
 281 another fund shall:

282 (a) provide notice of the intended transfer as required under Subsection (4);

283 (b) clearly identify in a separate section or document accompanying the city's tentative
 284 budget or, if an amendment to the city's budget includes or is based on an intended transfer, in
 285 a separate section or document accompanying the amendment to the city's budget:

286 (i) the enterprise fund from which money is intended to be transferred; and

287 (ii) the specific enterprise fund information for that enterprise fund;

288 (c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

289 (d) hold an enterprise fund hearing before the adoption of the city's budget or, if

290 applicable, the amendment to the budget.

291 (4) (a) At least seven days before holding an enterprise fund hearing, a governing body
 292 shall:

293 (i) provide the notice described in Subsection (4)(b) by:

294 (A) mailing a copy of the notice to users of the goods or services provided by the
 295 enterprise for which the enterprise fund was created ~~§~~→ , if the city regularly mails users a
 295a periodic billing for the goods or services ~~←~~§ ;

295b ~~§~~→ (B) emailing a copy of the notice to users of the good or services provided by the
 295c enterprise for which the enterprise fund was created, if the city regularly emails users a
 295d periodic billing for the goods or services; ~~←~~§

296 ~~§~~→ ~~[(B)]~~ (C) ~~←~~§ posting the notice on the Utah Public Notice Website created in Section
 296a [63F-1-701](#);

297 and

298 ~~§~~→ ~~[(C)]~~ (D) ~~←~~§ if the city has a website, prominently posting the notice on the city's
 298a website until
 299 the enterprise fund hearing is concluded; and

300 (ii) if the city communicates with the public through a social media platform, publish
 301 notice of the date, time, place, and purpose of the enterprise fund hearing using the social
 302 media platform.

303 (b) The notice required under Subsection (4)(a)(i) shall:

304 (i) explain the intended transfer of enterprise fund money to another fund;

- 305 (ii) include specific enterprise fund information for each enterprise fund from which
 306 money is intended to be transferred;
- 307 (iii) provide the date, time, and place of the enterprise fund hearing; and
 308 (iv) explain the purpose of the enterprise fund hearing.
- 309 (5) (a) An enterprise fund hearing shall be separate and independent from a budget
 310 hearing and any other public hearing.
- 311 (b) At an enterprise fund hearing, the governing body shall:
- 312 (i) explain the intended transfer of enterprise fund money to another fund;
 313 (ii) provide enterprise fund accounting data to the public; and
 314 (iii) allow members of the public in attendance at the hearing to comment on:
- 315 (A) the intended transfer of enterprise fund money to another fund; and
 316 (B) the enterprise fund accounting data.
- 317 (6) (a) If a governing body adopts a budget or a budget amendment that includes or is
 318 based on a transfer of money from an enterprise fund to another fund, the governing body shall:
- 319 (i) within 60 days after adopting the budget or budget amendment ~~§~~ → [i] : ← ~~§~~
- 319a ~~§~~ → **(A) ← ~~§~~ mail** ~~§~~ → **a notice** ← ~~§~~ to users of the
 320 goods or services provided by the enterprise for which the enterprise fund was created ~~§~~ → **[a notice**
 321 **that:**
- 322 ~~—— (A) announces the adoption of a budget or budget amendment that includes or is based~~
 323 ~~on a transfer of money from an enterprise fund to another fund; and~~
- 324 ~~—— (B) includes the specific enterprise fund information;]~~ , if the city regularly mails users a
 324a **periodic billing for the goods or services; and** ← ~~§~~
- 324b ~~§~~ → **(B) email a notice to users of the goods or services provided by the enterprise for which**
 324c **the enterprise fund was created, if the city regularly emails users a periodic billing for the**
 324d **goods or services;** ← ~~§~~
- 325 (ii) within seven days after adopting the budget or budget amendment:
- 326 (A) post enterprise fund accounting data on the city's website, if the city has a website;
 327 (B) using the city's social ~~§~~ → **[media]** media ← ~~§~~ platform, publish notice of the adoption
 327a of a budget or
 328 budget amendment that includes or is based on a transfer of money from an enterprise fund to
 329 another fund, if the city communicates with the public through a social media platform; and
- 330 (iii) within 30 days after adopting the budget, submit to the state auditor the specific
 331 enterprise fund information for each enterprise fund from which money will be transferred.
- 331a ~~§~~ → **(b) A notice required under Subsection (6)(a)(i) shall:** ← ~~§~~

- 331b **Ŝ→ (i) announce the adoption of a budget or budget amendment that includes or is based on**
331c **a transfer of money from an enterprise fund to another fund; and ←Ŝ**
331d **Ŝ→ (ii) include the specific enterprise fund information. ←Ŝ**
332 **Ŝ→ [~~b~~] (c) ←Ŝ The governing body shall maintain the website posting required under**
332a **Subsection**
333 **(6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).**