

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:

AMENDS:

10-5-107, as last amended by Laws of Utah 2016, Chapter 353

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, if the town regularly mails users a
130 periodic billing for the goods or services;

131 (B) emailing a copy of the notice to users of the goods or services provided by the
132 enterprise for which the enterprise fund was created, if the town regularly emails users a
133 periodic billing for the goods or services;

134 (C) posting the notice on the Utah Public Notice Website created in Section
135 [63F-1-701](#); and

136 (D) if the town has a website, prominently posting the notice on the town's website

137 until the enterprise fund hearing is concluded; and
138 (ii) if the town communicates with the public through a social media platform, publish
139 notice of the date, time, place, and purpose of the enterprise fund hearing using the social
140 media platform.
141 (b) The notice required under Subsection (4)(a)(i) shall:
142 (i) explain the intended transfer of enterprise fund money to another fund;
143 (ii) include specific enterprise fund information for each enterprise fund from which
144 money is intended to be transferred;
145 (iii) provide the date, time, and place of the enterprise fund hearing; and
146 (iv) explain the purpose of the enterprise fund hearing.
147 (5) (a) An enterprise fund hearing shall be separate and independent from a budget
148 hearing and any other public hearing.
149 (b) At an enterprise fund hearing, the governing body shall:
150 (i) explain the intended transfer of enterprise fund money to another fund;
151 (ii) provide enterprise fund accounting data to the public; and
152 (iii) allow members of the public in attendance at the hearing to comment on:
153 (A) the intended transfer of enterprise fund money to another fund; and
154 (B) the enterprise fund accounting data.
155 (6) (a) If a governing body adopts a budget or a budget amendment that includes or is
156 based on a transfer of money from an enterprise fund to another fund, the governing body shall:
157 (i) within 60 days after adopting the budget or budget amendment:
158 (A) mail a notice to users of the goods or services provided by the enterprise for which
159 the enterprise fund was created, if the town regularly mails users a periodic billing for the
160 goods or services; and
161 (B) email a notice to users of the goods or services provided by the enterprise for
162 which the enterprise fund was created, if the town regularly emails users a periodic billing for
163 the goods or services;

- 164 (ii) within seven days after adopting the budget or budget amendment:
- 165 (A) post enterprise fund accounting data on the town's website, if the town has a
- 166 website;
- 167 (B) using the town's social media platform, publish notice of the adoption of a budget
- 168 or budget amendment that includes or is based on a transfer of money from an enterprise fund
- 169 to another fund, if the town communicates with the public through a social media platform; and
- 170 (iii) within 30 days after adopting the budget, submit to the state auditor the specific
- 171 enterprise fund information for each enterprise fund from which money will be transferred.
- 172 (b) A notice required under Subsection (6)(a)(i) shall:
- 173 (i) announce the adoption of a budget or budget amendment that includes or is based
- 174 on a transfer of money from an enterprise fund to another fund; and
- 175 (ii) include the specific enterprise fund information.
- 176 (c) The governing body shall maintain the website posting required under Subsection
- 177 (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

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

179 **10-6-135. Operating and capital budgets.**

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

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

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

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

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

191 Manual for Utah Cities.

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

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

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

199 ~~[(ii) complies with the hearing and notice requirements of Subsections (3)(f)(i), (ii),
200 and (iii).]~~

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

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

205 (A) each enterprise fund; and

206 (B) other required special funds;

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

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

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

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

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

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

222 ~~[(A) hold a public hearing;]~~

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

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

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

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

230 ~~[(B) the amount being transferred; and]~~

231 ~~[(C) the fund to which the money is being transferred.]~~

232 ~~[(iii) The governing body:]~~

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

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

237 ~~[(iv) A governing body is not required to repeat the notice and hearing requirements in~~
238 ~~this Subsection (3)(f) if the funds to be allocated or transferred for the current year were~~
239 ~~previously approved by the governing body during the current year and at a public hearing that~~
240 ~~complies with the notice and hearing requirements of this Subsection (3)(f).]~~

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

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

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

247 (6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax
248 increase under Sections 59-2-919 through 59-2-923, before August 17 of the year for which a
249 property tax increase is proposed, the governing body shall adopt an operating and capital
250 budget for each applicable fund for the ensuing fiscal period.

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

252 (i) certified by the budget officer;

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

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

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

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

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

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

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

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

268 **10-6-135.5. Transfer of enterprise fund money to another fund.**

269 (1) As used in this section:

270 (a) "Budget hearing" means a public hearing required under Section 10-6-114.

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

272 enterprise funds of the city that includes:

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

275 (A) administrative and overhead costs of the city attributable to the operation of the
276 enterprise for which the enterprise fund was created; and

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

279 (ii) specific enterprise fund information.

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

281 (3)(d).

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

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

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

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

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

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

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

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

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

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

299 (d) hold an enterprise fund hearing before the adoption of the city's budget or, if
300 applicable, the amendment to the budget.

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

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

304 (A) mailing a copy of the notice to users of the goods or services provided by the
305 enterprise for which the enterprise fund was created, if the city regularly mails users a periodic
306 billing for the goods or services;

307 (B) emailing a copy of the notice to users of the goods or services provided by the
308 enterprise for which the enterprise fund was created, if the city regularly emails users a periodic
309 billing for the goods or services;

310 (C) posting the notice on the Utah Public Notice Website created in Section
311 [63F-1-701](#); and

312 (D) if the city has a website, prominently posting the notice on the city's website until
313 the enterprise fund hearing is concluded; and

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

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

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

319 (ii) include specific enterprise fund information for each enterprise fund from which
320 money is intended to be transferred;

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

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

323 (5) (a) An enterprise fund hearing shall be separate and independent from a budget
324 hearing and any other public hearing.

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

326 (i) explain the intended transfer of enterprise fund money to another fund;
327 (ii) provide enterprise fund accounting data to the public; and
328 (iii) allow members of the public in attendance at the hearing to comment on:
329 (A) the intended transfer of enterprise fund money to another fund; and
330 (B) the enterprise fund accounting data.
331 (6) (a) If a governing body adopts a budget or a budget amendment that includes or is
332 based on a transfer of money from an enterprise fund to another fund, the governing body shall:
333 (i) within 60 days after adopting the budget or budget amendment:
334 (A) mail a notice to users of the goods or services provided by the enterprise for which
335 the enterprise fund was created, if the city regularly mails users a periodic billing for the goods
336 or services; and
337 (B) email a notice to users of the goods or services provided by the enterprise for
338 which the enterprise fund was created, if the city regularly emails users a periodic billing for
339 the goods or services;
340 (ii) within seven days after adopting the budget or budget amendment:
341 (A) post enterprise fund accounting data on the city's website, if the city has a website;
342 (B) using the city's social media platform, publish notice of the adoption of a budget or
343 budget amendment that includes or is based on a transfer of money from an enterprise fund to
344 another fund, if the city communicates with the public through a social media platform; and
345 (iii) within 30 days after adopting the budget, submit to the state auditor the specific
346 enterprise fund information for each enterprise fund from which money will be transferred.
347 (b) A notice required under Subsection (6)(a)(i) shall:
348 (i) announce the adoption of a budget or budget amendment that includes or is based
349 on a transfer of money from an enterprise fund to another fund; and
350 (ii) include the specific enterprise fund information.
351 (c) The governing body shall maintain the website posting required under Subsection
352 (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

