

## HB0164S01 compared with HB0164

~~{deleted text}~~ shows text that was in HB0164 but was deleted in HB0164S01.

Inserted text shows text that was not in HB0164 but was inserted into HB0164S01.

**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 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

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#### LONG TITLE

##### General Description:

This bill modifies provisions relating to municipal budgets.

##### Highlighted Provisions:

This bill:

- ▶ ~~{eliminates language allowing municipalities to spend or}~~ modifies language relating to transfers of money from a municipal enterprise fund to another fund;
- ▶ requires a municipality that intends to transfer money ~~{in}~~ from an enterprise fund ~~{for something not directly related to the enterprise; and~~
- ▶ ~~authorizes}~~ 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 ~~{to spend}~~ that adopts a budget or ~~{transfer money~~

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~~in} budget amendment that includes an enterprise fund {for the proportionate share of the municipality's overhead costs attributable to the operation of the enterprise; under specified circumstances}~~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

### ENACTS:

**10-5-107.5, Utah Code Annotated 1953**

**10-6-135.5, Utah Code Annotated 1953**

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

Section 1. Section **10-5-107** 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) in accordance with Subsection (1)(b), prepare for the ensuing year 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 for 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

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

(2) (a) The mayor shall:

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- (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 spend or transfer 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, if the governing body:] { to pay the proportionate share of the town's overhead costs directly attributable to the operation of the enterprise for which the enterprise fund was created if: }~~

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

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

~~{(a) the budget clearly identifies the amount being spent or transferred; and~~

~~—— (b) the governing body describes in the budget or an appendix to the budget the methodology used to calculate the amount being spent or transferred.~~

~~—— } ~~[(4)]~~ [(3)] (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.~~

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

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~~described in Subsection (5)(b); and]~~

~~[(iii) subject to Subsection (5)(c), mail the notice to each 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 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 (5)(a)(ii) on the enterprise fund customer's bill; and]~~

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

~~[(d) A governing body is not required to repeat the notice and hearing requirements in this Subsection (5) if the funds to be allocated or transferred for the current year were previously approved by the governing body during the current year and at a public hearing that complies with the notice and hearing requirements of this Subsection (5);]~~

Section 2. Section ~~{10-6-135}~~10-5-107.5 is enacted to read:

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

(1) As used in this section:

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

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the town that includes:

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

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

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

(ii) specific enterprise fund information.

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

(3)(d).

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(d) "Specific enterprise fund information" means:

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

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

(2) Subject to the requirements of this section, a town may transfer money in an enterprise fund to another fund to pay 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.

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

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

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

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

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

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

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

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

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

(A) mailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created;

(B) posting the notice on the Utah Public Notice Website created in Section 63F-1-701;

and

(C) if the town has a website, prominently posting the notice on the town's website until the enterprise fund hearing is concluded; and

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

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

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

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

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

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

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

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

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

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

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

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

(B) the enterprise fund accounting data.

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

(i) within 60 days after adopting the budget, mail to users of the goods or services provided by the enterprise for which the enterprise fund was created a notice that:

(A) announces the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(B) includes the specific enterprise fund information;

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

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

(B) using the town's social medial platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the town communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) The governing body shall maintain the website posting required under Subsection (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

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Section 3. 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 a budget or budgets in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.

(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 spend or transfer 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, if the governing body:]~~ { to pay the proportionate share of the city's overhead costs directly attributable to the operation of the enterprise for which the enterprise fund was created if:}

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

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

{(i) the budget clearly identifies the amount being spent or transferred; and

~~— (ii) the governing body describes in the budget or an appendix to the budget the methodology used to calculate the amount being spent or transferred.~~

~~— }[(c)]~~ (b) 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:

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(A) each enterprise fund; and

(B) other required special funds;

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

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

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

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

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

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

~~[(C) subject to Subsection (3)(f)(iii), mail the written notice to each 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)(f)(i)(B) shall identify:]~~

~~[(A) the 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)(f)(i) on the enterprise fund customer's bill; and]~~

~~[(B) shall include the written notice required under Subsection (3)(f)(i) as a separate~~



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~~notification mailed or transmitted with the enterprise fund customer's bill.]~~

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

(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 17 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

~~Office of Legislative Research and General Counsel~~ Section 4. Section 10-6-135.5 is enacted to read:

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

(1) As used in this section:

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

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the city that includes:

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

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

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

(ii) specific enterprise fund information.

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

(3)(d).

(d) "Specific enterprise fund information" means:

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

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

(2) Subject to the requirements of this section, a city may transfer money in an enterprise fund to another fund to pay 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.

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

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

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

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

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

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

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

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

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

(A) mailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created;

(B) posting the notice on the Utah Public Notice Website created in Section 63F-1-701;

and

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the enterprise fund accounting data.

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

(i) within 60 days after adopting the budget or budget amendment, mail to users of the goods or services provided by the enterprise for which the enterprise fund was created a notice that:

(A) announces the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(B) includes the specific enterprise fund information;

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

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

(B) using the city's social medial platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the city communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) The governing body shall maintain the website posting required under Subsection (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).