

Senator Derrin R. Owens proposes the following substitute bill:

ENERGY SECURITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions related to the regulation of energy.

Highlighted Provisions:

This bill:

▶ requires a project entity to provide notice to the Legislative Management Committee
180 days prior to:

- the disposal or sale of any project entity asset; and
 - the decommissioning of a coal-powered electrical generation facility;
- ▶ defines terms;
- ▶ modifies the state energy policy to promote the state's energy independence by:
- promoting the use of energy resources generated within the state; and
 - promoting the use of clean energy sources by considering the emissions of an energy resource throughout the entire life cycle of the energy resource;

▶ provides legislative findings;

▶ requires a qualified utility to inform the Office of the Attorney General when a proposed federal regulation would result in the early retirement of an electrical generation facility;

▶ authorizes the Office of the Attorney General to take any action to defend the state's



26 interests with respect to electricity generation by a qualified utility facing a proposed federal
27 regulation that would result in the early retirement of an electrical generation facility; and
28 ▶ makes technical changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **79-6-301**, as last amended by Laws of Utah 2021, Chapter 383 and renumbered and
36 amended by Laws of Utah 2021, Chapter 280

37 ENACTS:

38 **11-13-318**, Utah Code Annotated 1953

39 **79-6-303**, Utah Code Annotated 1953



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

42 Section 1. Section **11-13-318** is enacted to read:

43 **11-13-318. Notice of decommissioning or disposal of project entity assets.**

44 (1) As used in this section,

45 (a) "Disposal" means the sale, transfer, or other disposition of a project entity's assets.

46 (b) (i) "Project entity asset" means a project entity's:

47 (A) land;

48 (B) buildings; or

49 (C) essential equipment, including turbines, generators, transformers, and transmission

50 lines.

51 (ii) "Project entity asset" does not include an asset that is not essential for the
52 generation of electricity in the project entity's coal-powered electrical generation facility.

53 (2) Before July 1, 2025, a project entity shall provide a notice of decommissioning or
54 disposal to the Legislative Management Committee at least 180 days before:

55 (a) the disposal of any project entity assets; or

56 (b) the decommissioning of the project entity's coal-powered electrical generation

57 facility.

58 (3) The notice of decommissioning or disposal described in Subsection (2) shall
59 include:

60 (a) the date of the intended decommissioning or disposal;

61 (b) a description of the project entity's coal-powered electrical generation facility
62 intended for decommissioning or any project entity asset intended for disposal; and

63 (c) the reasons for the decommissioning or disposal.

64 (4) Before July 1, 2025, a project entity may not intentionally prevent the functionality
65 of the project entity's existing coal-powered electrical generation facility.

66 (5) Notwithstanding the requirements in Subsections (2) through (4), a project entity
67 may take any action necessary to transition to a new electrical generation facility powered by
68 natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that
69 has been approved by a permitting authority.

70 Section 2. Section **79-6-301** is amended to read:

71 **79-6-301. State energy policy.**

72 (1) It is the policy of the state that:

73 (a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy
74 resources;

75 (b) Utah [~~will~~] shall promote the development of:

76 (i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil
77 sands;

78 (ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel,
79 and hydroelectric;

80 (iii) nuclear power generation technologies certified for use by the United States
81 Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;

82 (iv) alternative transportation fuels and technologies;

83 (v) infrastructure to facilitate energy development, diversified modes of transportation,
84 greater access to domestic and international markets for Utah's resources, and advanced
85 transmission systems;

86 (vi) energy storage, pumped storage, and other advanced energy systems, including
87 hydrogen from all sources;

88 (vii) electricity systems that can be controlled at the request of grid operators to meet
89 system load demands, to ensure an adequate supply of dispatchable energy generation
90 resources; and

91 (viii) increased refinery capacity;

92 (c) Utah ~~[with]~~ shall promote the development of resources and infrastructure sufficient
93 to meet the state's growing demand, while contributing to the regional and national energy
94 supply, thus reducing dependence on international energy sources;

95 (d) Utah ~~[with]~~ shall promote the development of resources, tools, and infrastructure to
96 enhance the state's ability to:

97 (i) respond effectively to significant disruptions to the state's energy generation, energy
98 delivery systems, or fuel supplies; ~~[and]~~

99 (ii) maintain adequate supply, including reserves of proven and cost-effective
100 dispatchable electricity reserves to meet grid demand; and

101 (iii) ensure the state's energy independence by promoting the use of energy resources
102 generated within the state;

103 (e) Utah ~~[with]~~ shall allow market forces to drive prudent use of energy resources,
104 although incentives and other methods may be used to ensure the state's optimal development
105 and use of energy resources in the short- and long-term;

106 (f) Utah ~~[with]~~ shall pursue energy conservation, energy efficiency, and environmental
107 quality;

108 (g) Utah shall promote the development of a secure supply chain from resource
109 extraction to energy production and consumption;

110 ~~[(g)]~~ (h) (i) state regulatory processes should be streamlined to balance economic costs
111 with the level of review necessary to ensure protection of the state's various interests; and

112 (ii) where federal action is required, Utah will encourage expedited federal action and
113 will collaborate with federal agencies to expedite review;

114 ~~[(h)]~~ (i) Utah ~~[with]~~ shall maintain an environment that provides for stable consumer
115 prices that are as low as possible while providing producers and suppliers a fair return on
116 investment, recognizing that:

117 (i) economic prosperity is linked to the availability, reliability, and affordability of
118 consumer energy supplies; and

119 (ii) investment will occur only when adequate financial returns can be realized; ~~and~~

120 ~~(†)~~ (j) Utah ~~will~~ shall promote training and education programs focused on

121 developing a comprehensive understanding of energy, including:

122 (i) programs addressing:

123 (A) energy conservation;

124 (B) energy efficiency;

125 (C) supply and demand; and

126 (D) energy related workforce development; and

127 (ii) energy education programs in grades ~~[K-12.]~~ kindergarten through grade 12; and

128 (k) Utah shall promote the use of clean energy sources by considering the emissions of

129 an energy resource throughout the entire life cycle of the energy resource.

130 (2) State agencies are encouraged to conduct agency activities consistent with

131 Subsection (1).

132 (3) A person may not file suit to challenge a state agency's action that is inconsistent

133 with Subsection (1).

134 Section 3. Section **79-6-303** is enacted to read:

135 **79-6-303. Legislative findings -- Forced retirement of electrical generation**
136 **facilities.**

137 (1) As used in this section:

138 (a) "Dispatchable" means available for use on demand and generally available to be

139 delivered at a time and quantity of the operator's choosing.

140 (b) "Electrical generation facility" means a facility that generates electricity for

141 provision to customers.

142 (c) "Forced retirement" means the closure of an electrical generation facility as a result

143 of a federal regulation that either directly mandates the closure of an electrical generation

144 facility or where the costs of compliance are so high as to effectively force the closure of an

145 electrical generation facility.

146 (d) "Qualified utility" means the same as that term is defined in Section [54-17-801](#).

147 (e) "Reliable" means $\hat{S} \rightarrow$ **supporting a system** $\leftarrow \hat{S}$ generally able to provide a continuous

147a supply of electricity at the

148 proper voltage and frequency and the resiliency to withstand sudden or unexpected

149 disturbances.

150 (f) "Secure" means protected against disruption, tampering, and external interference.

151 (2) The Legislature finds that:

152 (a) affordable, reliable, dispatchable, and secure energy resources are important to the
153 health, safety, and welfare of the state's citizens;

154 (b) the state has invested substantial resources in the development of affordable,
155 reliable, dispatchable, and secure energy resources within the state;

156 (c) the early retirement of an electrical generation facility that provides affordable,
157 reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare of the
158 state's citizens;

159 (d) the state's police powers, reserved to the state by the United States Constitution,
160 provide the state with sovereign authority to make and enforce laws for the protection of the
161 health, safety, and welfare of the state's citizens;

162 (e) the state has a duty to defend the production and supply of affordable, reliable,
163 dispatchable, and secure energy from external regulatory interference; and

164 (f) the state's sovereign authority with respect to the retirement of an electrical
165 generation facility for the protection of the health, safety, and welfare of the state's citizens is
166 primary and takes precedence over any attempt from an external regulatory body to mandate,
167 restrict, or influence the early retirement of an electrical generation facility in the state.

168 (3) A qualified utility that receives notice of any federal regulation that may result in
169 the forced retirement of the qualified utility's electrical generation facility shall inform the
170 Office of the Attorney General of the regulation within 30 days after the receipt of notice.

171 (4) After being informed as described in Subsection (3), the Office of the Attorney
172 General may take any action necessary to defend the interest of the state with respect to
173 electricity generation by the qualified utility, including filing an action in court or participating
174 in administrative proceedings.

175 **Section 4. Effective date.**

176 If approved by two-thirds of all the members elected to each house, this bill takes effect
177 upon approval by the governor, or the day following the constitutional time limit of Utah
178 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
179 the date of veto override.