

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:

- ▶ 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;
 - promoting the use of clean energy sources by considering the emissions of an energy resource throughout the entire life cycle of the energy resource; and
 - mandating that state agencies conduct activities consistent with the state energy policy;
- ▶ 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 electric generation facility;
- ▶ authorizes the Office of the Attorney General to take any action to defend a qualified utility facing a proposed federal regulation that would result in the early retirement of an electric generation facility; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

ENACTS:

79-6-303, Utah Code Annotated 1953

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

Section 1. Section **79-6-301** is amended to read:

79-6-301. State energy policy.

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

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

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

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

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

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

(iv) alternative transportation fuels and technologies;

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

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

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

resources; and

(viii) increased refinery capacity;

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(i)]~~ (j) Utah ~~[with]~~ shall promote training and education programs focused on

developing a comprehensive understanding of energy, including:

(i) programs addressing:

(A) energy conservation;

(B) energy efficiency;

(C) supply and demand; and

(D) energy related workforce development; and

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

(k) Utah shall promote the use of clean energy sources by considering the emissions of an energy resource throughout the entire life cycle of the energy resource.

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

Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

Section 2. Section **79-6-303** is enacted to read:

79-6-303. Legislative findings -- Forced retirement of electric generation facilities.

(1) As used in this section:

(a) "Dispatchable" means available for use on demand and generally available to be delivered at a time and quantity of the operator's choosing.

(b) "Electric generation facility" means a facility that generates electricity for provision to customers.

(c) "Forced retirement" means the closure of an electric generation facility as a result of a federal regulation that either directly mandates the closure of an electric generation facility or where the costs of compliance are so high as to effectively force the closure of an electric generation facility.

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

(e) "Reliable" means not generally subject to intermittent availability.

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

(2) The Legislature finds that:

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

(b) the state has invested substantial resources in the development of affordable,

121 reliable, dispatchable, and secure energy resources within the state;

122 (c) the early retirement of an electric generation facility that provides affordable,
123 reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare of the
124 state's citizens;

125 (d) the state's police powers, reserved to the state by the U.S. Constitution, provide the
126 state with sovereign authority to make and enforce laws for the protection of the health, safety,
127 and welfare of the state's citizens;

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

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

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

137 (4) After being informed as described in Subsection (3), the Office of the Attorney
138 General may take any action necessary to defend the qualified utility, including filing an action
139 in court or participating in administrative proceedings.

140 **Section 3. Effective date.**

141 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
142 elected to each house, this bill takes effect upon approval by the governor, or the day following
143 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
144 signature, or in the case of a veto, the date of veto override.

145 (2) Section [79-6-301](#) takes effect on May 3, 2023.