

## HB0425S04 compared with HB0425S03

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inserted text shows text that was not in HB0425S03 but was inserted into HB0425S04.

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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

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#### LONG TITLE

##### General Description:

This bill modifies provisions related to the regulation of energy.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ 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}~~requires the Office of Energy Development to:
  - conduct a study of a project entity; and
  - report the results of the study to the Public Utilities, Energy, and Technology

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### Interim Committee;

- ▶ 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 interests with respect to electricity generation by a qualified utility facing a proposed federal regulation that would result in the early retirement of an electrical 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:

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

**11-13-319**, Utah Code Annotated 1953

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

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

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

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

(1) As used in this section,

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

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

(A) land;

(B) buildings; or

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

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

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

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

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

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

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

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

(c) the reasons for the decommissioning or disposal.

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

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

Section 2. Section ~~{79-6-301 is amended to read:~~

~~}{11-13-319 is enacted to read:~~

**11-13-319. Project entity continued operation study.**

**(1) The Office of Energy Development shall conduct a study to:**

**(a) evaluate all environmental regulations and permits to be filed to continue operation of a project entity's existing coal-powered electrical generation facility;**

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(b) identify best available technology to implement additional environmental controls for continued operation of a project entity's existing coal-powered electrical generation facility;

(c) identify the transmission capacity of the project entity;

(d) coordinate with state and local economic development agencies to evaluate economic opportunities for continued use of a project entity's existing coal-powered electrical generation facility;

(e) analyze the financial assets and liabilities of a project entity;

(f) identify the best interests of the local economies, local tax base, and the state in relation to a project entity;

(g) evaluate the viability of the continued operation of a project entity's existing coal-powered electrical generation facility;

(i) under ownership of the state; or

(ii) in a public private partnership; and

(h) identify the steps necessary for the state to obtain first right of refusal for ownership of a project existing coal-powered electrical generation facility.

(2) A project entity shall cooperate and provide timely assistance and information to the Office of Energy Development in the preparation of the study described in Subsection (1).

(3) The Office of Energy Development shall report to the Public Utilities, Energy and Technology Interim Committee and the Legislative Management Committee on or before the Public Utilities, Energy, and Technology Interim Committee's September 2023 interim committee meeting.

(4) The report described in Subsection (3) shall include:

(a) the results of the study described in Subsection (1);

(b) recommendations for continued operation of a project entity's existing coal-powered electrical generation facility;

(c) environmental controls that need to be implemented for the continued operation of a project entity's existing coal-powered electrical generation facility;

(d) recommendations to increase local and state tax revenue through the continued operation of a project entity's existing coal-powered electrical generation facility; and

(e) recommendations for legislation to be introduced in the 2024 General Session to enable the continued operation of a project entity's existing coal-powered electrical generation

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facility.

Section 3. 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 [~~will~~] 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 [~~will~~] 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 [~~will~~] 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

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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

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Subsection (1).

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

Section ~~33~~<sup>4</sup>. Section **79-6-303** is enacted to read:

**79-6-303. Legislative findings -- Forced retirement of electrical 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) "Electrical generation facility" means a facility that generates electricity for provision to customers.

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

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

(e) "Reliable" means ~~supporting a system~~ generally able to provide a continuous supply of electricity at the proper voltage and frequency and the resiliency to withstand sudden or unexpected disturbances.

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

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

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

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

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

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

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

Section ~~{4}~~5. **Effective date.**

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