

**Public Agency Insurance Mutuals Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE****Committee Note:**

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 8 absent

**General Description:**

This bill amends provisions related to public agency insurance mutuals.

**Highlighted Provisions:**

This bill:

- defines terms;
- exempts a public agency insurance mutual from the State Money Management Act;
- authorizes a public agency insurance mutual to create one or more captive insurance companies;
- establishes requirements for a public agency insurance mutual's investments; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

**11-13-103**, as last amended by Laws of Utah 2023, Chapter 16

**11-13-502**, as last amended by Laws of Utah 2016, Chapter 382

**51-7-2**, as last amended by Laws of Utah 2024, Chapters 418, 492 and 510

**51-7-11**, as last amended by Laws of Utah 2019, Chapter 56

**ENACTS:**

**11-13-533**, Utah Code Annotated 1953

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

31 Section 1. Section **11-13-103** is amended to read:

32 **11-13-103 . Definitions.**

33 As used in this chapter:

34 (1)(a) "Additional project capacity" means electric generating capacity provided by a  
35 generating unit that first produces electricity on or after May 6, 2002, and that is  
36 constructed or installed at or adjacent to the site of a project that first produced  
37 electricity before May 6, 2002, regardless of whether:

38 (i) the owners of the new generating unit are the same as or different from the owner  
39 of the project; and

40 (ii) the purchasers of electricity from the new generating unit are the same as or  
41 different from the purchasers of electricity from the project.

42 (b) "Additional project capacity" does not mean or include replacement project capacity.

43 (2) "Board" means the Permanent Community Impact Fund Board created by Section  
44 35A-8-304, and its successors.

45 (3) "Candidate" means one or more of:

46 (a) the state;

47 (b) a county, municipality, school district, special district, special service district, or  
48 other political subdivision of the state; and

49 (c) a prosecution district.

50 (4) "Commercial project entity" means a project entity, defined in Subsection (18), that:

51 (a) has no taxing authority; and

52 (b) is not supported in whole or in part by and does not expend or disburse tax revenues.

53 (5) "Direct impacts" means an increase in the need for public facilities or services that is  
54 attributable to the project or facilities providing additional project capacity, except  
55 impacts resulting from the construction or operation of a facility that is:

56 (a) owned by an owner other than the owner of the project or of the facilities providing  
57 additional project capacity; and

58 (b) used to furnish fuel, construction, or operation materials for use in the project.

59 (6) "Electric interlocal entity" means an interlocal entity described in Subsection  
60 11-13-203(3).

61 (7) "Energy services interlocal entity" means an interlocal entity that is described in  
62 Subsection 11-13-203(4).

63 (8)(a) "Estimated electric requirements," when used with respect to a qualified energy  
64 services interlocal entity, includes any of the following that meets the requirements of

- 65 Subsection (8)(b):
- 66 (i) generation capacity;
- 67 (ii) generation output; or
- 68 (iii) an electric energy production facility.
- 69 (b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if
- 70 it is needed by the qualified energy services interlocal entity to perform the qualified
- 71 energy services interlocal entity's contractual or legal obligations to any of its
- 72 members.
- 73 (9)(a) "Facilities providing replacement project capacity" means facilities that have
- 74 been, are being, or are proposed to be constructed, reconstructed, converted,
- 75 repowered, acquired, leased, used, or installed to provide replacement project
- 76 capacity.
- 77 (b) "Facilities providing replacement project capacity" includes facilities that have been,
- 78 are being, or are proposed to be constructed, reconstructed, converted, repowered,
- 79 acquired, leased, used, or installed:
- 80 (i) to support and facilitate the construction, reconstruction, conversion, repowering,
- 81 installation, financing, operation, management, or use of replacement project
- 82 capacity; or
- 83 (ii) for the distribution of power generated from existing capacity or replacement
- 84 project capacity to facilities located on real property in which the project entity
- 85 that owns the project has an ownership, leasehold, right-of-way, or permitted
- 86 interest.
- 87 (10) "Governing authority" means a governing board or joint administrator.
- 88 (11)(a) "Governing board" means the body established in reliance on the authority
- 89 provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.
- 90 (b) "Governing board" includes a board of directors described in an agreement, as
- 91 amended, that creates a project entity.
- 92 (c) "Governing board" does not include a board as defined in Subsection (2).
- 93 (12) "Interlocal entity" means:
- 94 (a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal
- 95 entity; or
- 96 (b) a separate legal or administrative entity created under Section 11-13-205.
- 97 (13) "Joint administrator" means an administrator or joint board described in Section
- 98 11-13-207 to administer a joint or cooperative undertaking.

- 99 (14) "Joint or cooperative undertaking" means an undertaking described in Section  
100 11-13-207 that is not conducted by an interlocal entity.
- 101 (15) "Member" means a public agency that, with another public agency, creates an  
102 interlocal entity under Section 11-13-203.
- 103 (16) "Out-of-state public agency" means a public agency as defined in Subsection (19)(c),  
104 (d), or (e).
- 105 (17)(a) "Project":
- 106 (i) means an electric generation and transmission facility owned by a Utah interlocal  
107 entity or an electric interlocal entity; and
- 108 (ii) includes fuel facilities, fuel production facilities, fuel transportation facilities,  
109 energy storage facilities, or water facilities that are:
- 110 (A) owned by that Utah interlocal entity or electric interlocal entity; and  
111 (B) required for the generation and transmission facility.
- 112 (b) "Project" includes a project entity's ownership interest in:
- 113 (i) facilities that provide additional project capacity;  
114 (ii) facilities providing replacement project capacity;  
115 (iii) additional generating, transmission, fuel, fuel transportation, water, or other  
116 facilities added to a project; and  
117 (iv) a Utah interlocal energy hub, as defined in Section 11-13-602.
- 118 (18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns  
119 a project as defined in this section.
- 120 (19) "Public agency" means:
- 121 (a) a city, town, county, school district, special district, special service district, an  
122 interlocal entity, or other political subdivision of the state;  
123 (b) the state or any department, division, or agency of the state;  
124 (c) any agency of the United States;  
125 (d) any political subdivision or agency of another state or the District of Columbia  
126 including any interlocal cooperation or joint powers agency formed under the  
127 authority of the law of the other state or the District of Columbia; or  
128 (e) any Indian tribe, band, nation, or other organized group or community which is  
129 recognized as eligible for the special programs and services provided by the United  
130 States to Indians because of their status as Indians.
- 131 (20) "Public agency insurance mutual" means the same as that term is defined in Section  
132 31A-1-103.

133 [~~(20)~~] (21) "Qualified energy services interlocal entity" means an energy services interlocal  
 134 entity that at the time that the energy services interlocal entity acquires its interest in  
 135 facilities providing additional project capacity has at least five members that are Utah  
 136 public agencies.

137 [~~(21)~~] (22) "Replacement project capacity" means electric generating capacity or  
 138 transmission capacity that:

139 (a) replaces all or a portion of the existing electric generating or transmission capacity of  
 140 a project; and

141 (b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected  
 142 with the site of a project, regardless of whether:

143 (i) the capacity replacing existing capacity is less than or exceeds the generating or  
 144 transmission capacity of the project existing before installation of the capacity  
 145 replacing existing capacity;

146 (ii) the capacity replacing existing capacity is owned by the project entity that is the  
 147 owner of the project, a segment established by the project entity, or a person with  
 148 whom the project entity or a segment established by the project entity has  
 149 contracted; or

150 (iii) the facility that provides the capacity replacing existing capacity is constructed,  
 151 reconstructed, converted, repowered, acquired, leased, used, or installed before or  
 152 after any actual or anticipated reduction or modification to existing capacity of the  
 153 project.

154 [~~(22)~~] (23) "Transportation reinvestment zone" means an area created by two or more public  
 155 agencies by interlocal agreement to capture increased property or sales tax revenue  
 156 generated by a transportation infrastructure project as described in Section 11-13-227.

157 [~~(23)~~] (24) "Utah interlocal entity":

158 (a) means an interlocal entity described in Subsection 11-13-203(2); and

159 (b) includes a separate legal or administrative entity created under Laws of Utah 1977,  
 160 Chapter 47, Section 3, as amended.

161 [~~(24)~~] (25) "Utah public agency" means a public agency under Subsection (19)(a) or (b).  
 162 Section 2. Section **11-13-502** is amended to read:

163 **11-13-502 . Application -- Conflicts with federal law -- Other applicable law.**

164 (1) This part does not apply to a taxed interlocal entity as defined in Section 11-13-602.

165 (2) Except as provided in Subsection (1), and notwithstanding any other provision of law,  
 166 this part governs an interlocal entity's fiscal procedures but only to the extent that the

167 provision does not conflict with or cause an interlocal entity to be noncompliant with  
168 federal law.

169 (3) ~~[An]~~ Except as provided in Subsection (4), an interlocal entity is subject to Title 51,  
170 Chapter 7, State Money Management Act.

171 (4) A public agency insurance mutual is not subject to Title 51, Chapter 7, State Money  
172 Management Act.

173 Section 3. Section **11-13-533** is enacted to read:

174 **11-13-533 . Public agency insurance mutuals -- Investment standard for public**  
175 **agency insurance mutuals.**

176 (1) A public agency insurance mutual may form one or more captive insurance companies  
177 in accordance with Title 31A, Chapter 37, Captive Insurance Companies Act.

178 (2) A public agency insurance mutual shall invest the public agency insurance mutual's  
179 assets with the primary goal of providing for the stability, income, and growth of the  
180 principal.

181 (3) Nothing in this section requires a specific outcome from investing.

182 (4) A public agency insurance mutual may employ professional asset managers to assist in  
183 the investment of the public agency insurance mutual's assets.

184 (5)(a) To accomplish the primary goal described in Subsection (2), a public agency  
185 insurance mutual shall invest and manage the public agency insurance mutual's assets  
186 as a prudent investor would by:

187 (i) considering the purposes, terms, distribution requirements, and other  
188 circumstances of the public agency insurance mutual's investments; and

189 (ii) exercising reasonable care, skill, and caution to meet the standard of care of a  
190 prudent investor.

191 (b) In determining whether a public agency insurance mutual has met the standard of  
192 care of a prudent investor, a court shall:

193 (i) consider the public agency insurance mutual's actions in light of the facts and  
194 circumstances existing at the time of the investment decision or action; and

195 (ii) evaluate the public agency insurance mutual's investment and management  
196 decisions respecting individual assets:

197 (A) not in isolation, but in the context of an investment portfolio as a whole; and

198 (B) as part of an overall investment strategy that has risk and return objectives that  
199 are reasonably suited to the investments.

200 Section 4. Section **51-7-2** is amended to read:

201           **51-7-2 . Exemptions from chapter.**

- 202   (1) Except as provided in Subsection (2), the following funds are exempt from this chapter:
- 203       (a) funds invested in accordance with the participating employees' designation or  
204           direction pursuant to a public employees' deferred compensation plan established and  
205           operated in compliance with Section 457 of the Internal Revenue Code of 1986, as  
206           amended;
- 207       (b) funds of the Utah State Retirement Board;
- 208       (c) funds of the Utah Housing Corporation;
- 209       (d) endowment funds of higher education institutions, including funds of the Higher  
210           Education Student Success Endowment, created in Section 53B-7-802;
- 211       (e) permanent and other land grant trust funds established pursuant to the Utah Enabling  
212           Act and the Utah Constitution;
- 213       (f) the State Post-Retirement Benefits Trust Fund;
- 214       (g) the funds of the Utah Educational Savings Plan;
- 215   (h) funds of the permanent state trust fund created by and operated under Utah  
216       Constitution, Article XXII, Section 4;
- 217       (i) the funds in the Navajo Trust Fund;
- 218       (j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;
- 219       (k) the funds in the Employers' Reinsurance Fund;
- 220       (l) the funds in the Uninsured Employers' Fund;
- 221       (m) the Utah State Developmental Center Long-Term Sustainability Fund, created in  
222           Section 26B-1-331;
- 223       (n) the funds in the Risk Management Fund created in Section 63A-4-201;
- 224       (o) the Utah fund of funds created in Section 63N-6-401;
- 225       (p) the funds deposited into the Utah Homes Investment Program from the  
226           Transportation Infrastructure General Fund Support Subfund created in Section  
227           72-2-134; ~~and~~
- 228       (q) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts  
229           invested by the state treasurer in precious metals:
- 230           (i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;
- 231           (ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;
- 232           (iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and
- 233           (iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in  
234           Section 63J-1-315[-] ; and

- 235 (r) the funds of a public agency insurance mutual as that term is defined in Section  
236 31A-1-103.
- 237 (2) Except for the funds of the Utah State Retirement Board and the Utah Educational  
238 Savings Plan, the funds described in Subsection (1) are not exempt from Subsections  
239 51-7-14(2) and (3).
- 240 (3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that  
241 administers a fund described in Subsection (1) may hold a closed meeting to discuss the  
242 sale or purchase of identifiable securities, investment funds, or investment contracts.
- 243 (4) A paper, electronic, or other depiction or record of information relating to investment  
244 activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2,  
245 Government Records Access and Management Act.
- 246 Section 5. Section **51-7-11** is amended to read:  
247 **51-7-11 . Authorized deposits or investments of public funds.**
- 248 (1)(a) Except as provided in Subsections (1)(b) through (1)(d), a public treasurer shall  
249 conduct investment transactions through qualified depositories, certified dealers, or  
250 directly with issuers of the investment securities.
- 251 (b) A public treasurer may designate a certified investment adviser to make trades on  
252 behalf of the public treasurer.
- 253 (c) A public treasurer may make a deposit in accordance with Section 53B-7-601 in a  
254 foreign depository institution as defined in Section 7-1-103.
- 255 (d) The state treasurer is exempt from the requirement to conduct investment  
256 transactions through a certified dealer under Subsection (1)(a).
- 257 (2) The remaining term to maturity of the investment may not exceed the period of  
258 availability of the funds to be invested.
- 259 (3) Except as provided in Subsection (4), all public funds shall be deposited or invested in  
260 the following assets that meet the criteria of Section 51-7-17:
- 261 (a) negotiable or nonnegotiable deposits of qualified depositories;  
262 (b) qualifying or nonqualifying repurchase agreements and reverse repurchase  
263 agreements with qualified depositories using collateral consisting of:  
264 (i) Government National Mortgage Association mortgage pools;  
265 (ii) Federal Home Loan Mortgage Corporation mortgage pools;  
266 (iii) Federal National Mortgage Corporation mortgage pools;  
267 (iv) Small Business Administration loan pools;  
268 (v) Federal Agriculture Mortgage Corporation pools; or



- 269 (vi) other investments authorized by this section;
- 270 (c) qualifying repurchase agreements and reverse repurchase agreements with certified  
 271 dealers, permitted depositories, or qualified depositories using collateral consisting of:
- 272 (i) Government National Mortgage Association mortgage pools;
- 273 (ii) Federal Home Loan Mortgage Corporation mortgage pools;
- 274 (iii) Federal National Mortgage Corporation mortgage pools;
- 275 (iv) Small Business Administration loan pools; or
- 276 (v) other investments authorized by this section;
- 277 (d) commercial paper that is classified as "first tier" by two nationally recognized  
 278 statistical rating organizations, which has a remaining term to maturity of:
- 279 (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or
- 280 (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);
- 281 (e) bankers' acceptances that:
- 282 (i) are eligible for discount at a Federal Reserve bank; and
- 283 (ii) have a remaining term to maturity of 270 days or fewer;
- 284 (f) fixed rate negotiable deposits issued by a permitted depository that have a remaining  
 285 term to maturity of 365 days or fewer;
- 286 (g) obligations of the United States Treasury, including United States Treasury bills,  
 287 United States Treasury notes, and United States Treasury bonds that, unless the funds  
 288 invested are pledged or otherwise deposited in an irrevocable trust escrow account,  
 289 have a remaining term to final maturity of:
- 290 (i) five years or less; or
- 291 (ii) if the funds are invested by an institution of higher education as defined in  
 292 Section 53B-3-102, a city of the first class, or a county of the first class, 10 years  
 293 or less; ~~[or]~~
- 294 ~~[(iii) if the funds are invested by a public agency insurance mutual, as defined in~~  
 295 ~~Subsection 31A-1-103(7)(a), 20 years or less;]~~
- 296 (h) obligations other than mortgage pools and other mortgage derivative products that:
- 297 (i) are issued by, or fully guaranteed as to principal and interest by, the following  
 298 agencies or instrumentalities of the United States in which a market is made by a  
 299 primary reporting government securities dealer, unless the agency or  
 300 instrumentality has become private and is no longer considered to be a  
 301 government entity:
- 302 (A) Federal Farm Credit banks;

- 303 (B) Federal Home Loan banks;
- 304 (C) Federal National Mortgage Association;
- 305 (D) Federal Home Loan Mortgage Corporation;
- 306 (E) Federal Agriculture Mortgage Corporation; and
- 307 (F) Tennessee Valley Authority; and
- 308 (ii) unless the funds invested are pledged or otherwise deposited in an irrevocable
- 309 trust escrow account, have a remaining term to final maturity of:
- 310 (A) five years or less; or
- 311 (B) if the funds are invested by an institution of higher education as defined in
- 312 Section 53B-3-102, a city of the first class, or a county of the first class, 10
- 313 years or less; ~~or~~
- 314 ~~[(C) if the funds are invested by a public agency insurance mutual, as defined in~~
- 315 ~~Subsection 31A-1-103(7)(a), 20 years or less;]~~
- 316 (i) fixed rate corporate obligations that:
- 317 (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally
- 318 recognized statistical rating organizations;
- 319 (ii) are senior unsecured or secured obligations of the issuer, excluding covered
- 320 bonds;
- 321 (iii) are publicly traded; and
- 322 (iv) have a remaining term to final maturity of 15 months or less or are subject to a
- 323 hard put at par value or better, within 365 days;
- 324 (j) tax anticipation notes and general obligation bonds of the state or a county,
- 325 incorporated city or town, school district, or other political subdivision of the state,
- 326 including bonds offered on a when-issued basis without regard to the limitations
- 327 described in Subsection (7) that, unless the funds invested are pledged or otherwise
- 328 deposited in an irrevocable trust escrow account, have a remaining term to final
- 329 maturity of:
- 330 (i) five years or less; or
- 331 (ii) if the funds are invested by an institution of higher education as defined in
- 332 Section 53B-3-102, a city of the first class, or a county of the first class, 10 years
- 333 or less; ~~or~~
- 334 ~~[(iii) if the funds are invested by a public agency insurance mutual, as defined in~~
- 335 ~~Subsection 31A-1-103(7)(a), 20 years or less;]~~
- 336 (k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or

- 337 town, school district, or other political subdivision of the state that are payable from  
 338 assessments or from revenues or earnings specifically pledged for payment of the  
 339 principal and interest on these obligations, including bonds offered on a when-issued  
 340 basis without regard to the limitations described in Subsection (7) that, unless the  
 341 funds invested are pledged or otherwise deposited in an irrevocable trust escrow  
 342 account, have a remaining term to final maturity of:
- 343 (i) five years or less;
  - 344 (ii) if the funds are invested by an institution of higher education as defined in  
 345 Section 53B-3-102, a city of the first class, or a county of the first class, 10 years  
 346 or less; or
  - 347 (iii) if the funds are invested by a public agency insurance mutual, as defined in  
 348 Subsection 31A-1-103(7)(a), 20 years or less;
- 349 (l) shares or certificates in a money market mutual fund;
- 350 (m) variable rate negotiable deposits that:
- 351 (i) are issued by a qualified depository or a permitted depository;
  - 352 (ii) are repriced at least semiannually; and
  - 353 (iii) have a remaining term to final maturity not to exceed three years;
- 354 (n) variable rate securities that:
- 355 (i)(A) are rated "A" or higher or the equivalent of "A" or higher by two nationally  
 356 recognized statistical rating organizations;
  - 357 (B) are senior unsecured or secured obligations of the issuer, excluding covered  
 358 bonds;
  - 359 (C) are publicly traded;
  - 360 (D) are repriced at least semiannually; and
  - 361 (E) have a remaining term to final maturity not to exceed three years or are subject  
 362 to a hard put at par value or better, within 365 days;
  - 363 (ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a  
 364 security making unscheduled periodic principal payments other than optional  
 365 redemptions;
- 366 (o) reciprocal deposits made in accordance with Subsection 51-7-17(4); and
- 367 (p) negotiable brokered certificates of deposit made in accordance with Subsection  
 368 51-7-17(4).
- 369 (4) The following public funds are exempt from the requirements of Subsection (3):
- 370 (a) a local government other post-employment benefits trust fund under Section

- 371 51-7-12.2; and
- 372 (b) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign  
373 depository institution as defined in Section 7-1-103.
- 374 (5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable  
375 large time deposits issued in amounts of \$100,000 or more, the interest shall be  
376 calculated on the basis of the actual number of days divided by 360 days.
- 377 (6) A public treasurer may maintain fully insured deposits in demand accounts in a  
378 federally insured nonqualified depository only if a qualified depository is not reasonably  
379 convenient to the entity's geographic location.
- 380 (7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure  
381 that all purchases and sales of securities are settled within:
- 382 (a) 15 days of the trade date for outstanding issues; and  
383 (b) 30 days for new issues.

384 Section 1. **Effective Date.**

385 This bill takes effect on May 7, 2025.