

Representative John Dougall proposes the following substitute bill:

TRANSPARENCY IN GOVERNMENT

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill modifies the Utah Administrative Services Code by providing that certain public financial information be made available on the Internet and modifies certain notice requirements of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ extends the date that notice of open and public meetings must be placed on the Utah Public Notice Website from April 1, 2008 to October 1, 2008;
- ▶ prohibits a court from voiding a final action taken by a public body for failure to comply with the posting written notice requirements on the Utah Public Notice Website if the posting is made for a meeting that is held prior to April 1, 2009;
- ▶ provides for definitions;
- ▶ creates the Utah Public Finance Website for the purpose of providing public financial information, and provides that it be administered by the Division of Finance;
- ▶ requires state entities to provide public financial information that will be accessed through the Utah Public Finance Website;
- ▶ provides the required capabilities of the website, and provides for website



26 accessibility;

27 ▶ creates the Utah Transparency Advisory Board to:

28 • advise the Division of Finance on website implementation and administration

29 and on what public financial information must be made available on the

30 Internet; and

31 • to develop plans, make recommendations, and evaluate the cost effectiveness of
32 implementing certain information resources on the website;

33 ▶ provides that the Division of Finance, in connection with the board, may make rules
34 to:

35 • determine what public financial information must be made available on the
36 Internet;

37 • require specific reporting obligations that are required of participating entities,
38 including the frequency and form of submission of the information; and

39 • establish minimum website capability requirements; and

40 ▶ provides for board membership and other duties.

41 **Monies Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 This bill provides an immediate effective date.

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **52-4-202**, as last amended by Laws of Utah 2007, Chapters 45 and 249

48 **52-4-302**, as last amended by Laws of Utah 2007, Chapter 249

49 ENACTS:

50 **63A-3-401**, Utah Code Annotated 1953

51 **63A-3-402**, Utah Code Annotated 1953

52 **63A-3-403**, Utah Code Annotated 1953

53 **63A-3-404**, Utah Code Annotated 1953



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

56 Section 1. Section **52-4-202** is amended to read:

57 **52-4-202. Public notice of meetings -- Emergency meetings.**

58 (1) A public body shall give not less than 24 hours public notice of each meeting
59 including the meeting:

- 60 (a) agenda;
- 61 (b) date;
- 62 (c) time; and
- 63 (d) place.

64 (2) (a) In addition to the requirements under Subsection (1), a public body which holds
65 regular meetings that are scheduled in advance over the course of a year shall give public
66 notice at least once each year of its annual meeting schedule as provided in this section.

67 (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of
68 the scheduled meetings.

69 (3) (a) Public notice shall be satisfied by:

70 (i) posting written notice:

71 (A) at the principal office of the public body, or if no principal office exists, at the
72 building where the meeting is to be held; and

73 (B) beginning [~~April 1, 2008~~] October 1, 2008 and except as provided in Subsection
74 (3)(b), on the Utah Public Notice Website created under Section 63F-1-701; and

75 (ii) providing notice to:

76 (A) at least one newspaper of general circulation within the geographic jurisdiction of
77 the public body; or

78 (B) a local media correspondent.

79 (b) A public body of a municipality under Title 10, Utah Municipal Code, a local
80 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a special
81 service district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, or a
82 dependent district under Title 17A, Chapter 3, Dependent Districts, is encouraged, but not
83 required, to post written notice on the Utah Public Notice Website, if the municipality or
84 district has a current annual budget of less than \$1 million.

85 (c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by
86 providing notice to a newspaper or local media correspondent under the provisions of
87 Subsection 63F-1-701(4)(d).

88 (4) A public body is encouraged to develop and use additional electronic means to
89 provide notice of its meetings under Subsection (3).

90 (5) (a) The notice requirement of Subsection (1) may be disregarded if:

91 (i) because of unforeseen circumstances it is necessary for a public body to hold an
92 emergency meeting to consider matters of an emergency or urgent nature; and

93 (ii) the public body gives the best notice practicable of:

94 (A) the time and place of the emergency meeting; and

95 (B) the topics to be considered at the emergency meeting.

96 (b) An emergency meeting of a public body may not be held unless:

97 (i) an attempt has been made to notify all the members of the public body; and

98 (ii) a majority of the members of the public body approve the meeting.

99 (6) (a) A public notice that is required to include an agenda under Subsection (1) shall
100 provide reasonable specificity to notify the public as to the topics to be considered at the
101 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

102 (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding
103 member of the public body, a topic raised by the public may be discussed during an open
104 meeting, even if the topic raised by the public was not included in the agenda or advance public
105 notice for the meeting.

106 (c) Except as provided in Subsection (5), relating to emergency meetings, a public
107 body may not take final action on a topic in an open meeting unless the topic is:

108 (i) listed under an agenda item as required by Subsection (6)(a); and

109 (ii) included with the advance public notice required by this section.

110 Section 2. Section **52-4-302** is amended to read:

111 **52-4-302. Suit to void final action -- Limitation -- Exceptions.**

112 (1) (a) Any final action taken in violation of Section 52-4-201, 52-4-202, or 52-4-207
113 is voidable by a court of competent jurisdiction.

114 (b) A court may not void a final action taken by a public body for failure to comply
115 with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:

116 (i) the posting is made for a meeting that is held before April 1, 2009; or

117 [(†) (ii) (A) the public body otherwise complies with the provisions of Section
118 52-4-202; and

150 as may be established by rule under Section 63A-3-404;

151 (e) have a unique and simplified website address;

152 (f) be directly accessible via a link from the main page of the official state website; and

153 (g) include other links, features, or functionality that will assist the public in obtaining

154 and reviewing public financial information, as may be established by rule under Section

155 63A-3-404.

156 (3) The division shall be responsible for:

157 (a) establishing and maintaining the website, including the provision of equipment,

158 resources, and personnel as is necessary;

159 (b) maintaining an archive of all information posted to the website;

160 (c) coordinating and processing the receipt and posting of public financial information

161 from participating state entities; and

162 (d) providing staff support for the advisory committee.

163 (4) (a) A participating state entity shall permit the public to view the participating state

164 entity's public financial information via the website, beginning with information that is

165 generated not later than the fiscal year that begins July 1, 2008.

166 (b) Not later than May 15, 2009, the website shall:

167 (i) be operational; and

168 (ii) permit public access to participating state entities' public financial information.

169 Section 5. Section **63A-3-403** is enacted to read:

170 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**

171 **Duties.**

172 (1) There is created within the division the Utah Transparency Advisory Board

173 comprised of seven members knowledgeable about public finance or providing public access to

174 public financial information as follows:

175 (a) one member designated by the director of the Division of Finance;

176 (b) one member designated by the director of the Governor's Office of Planning and

177 Budget;

178 (c) one member appointed by the governor on advice from the Judicial Council;

179 (d) one member appointed by the governor on advice from the Legislative Fiscal

180 Analyst;

181 (e) one member of the Senate, appointed by the governor on advice from the president
182 of the Senate;

183 (f) one member of the House of Representatives, appointed by the governor on advice
184 from the speaker of the House of Representatives; and

185 (g) one member designated by the director of the Department of Technology Services.

186 (2) The board shall:

187 (a) advise the division on matters related to the implementation and administration of
188 this part;

189 (b) develop plans, make recommendations, and assist in implementing the provisions
190 of this part;

191 (c) determine what public financial information shall be provided by participating state
192 entities, provided that the public financial information:

193 (i) only includes records that:

194 (A) are classified as public under Title 63, Chapter 2, Government Records Access and
195 Management Act;

196 (B) are an accounting of monies, funds, accounts, bonds, loans, expenditures, or
197 revenues, regardless of the source; and

198 (C) are owned, held, or administered by the participating state entity that is required to
199 provide the record; and

200 (ii) is of the type or nature that should be accessible to the public via a website based
201 on considerations of:

202 (A) the cost effectiveness of providing the information;

203 (B) the value of providing the information to the public; and

204 (C) privacy and security considerations; and

205 (d) evaluate the cost effectiveness of implementing specific information resources and
206 features on the website.

207 (3) The board shall annually elect a chair and a vice chair from its members.

208 (4) (a) Each member shall serve a two year term.

209 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
210 appointed for the remainder of the unexpired term.

211 (5) The board shall meet as it determines necessary to accomplish its duties.

212 (6) Reasonable notice shall be given to each member of the board prior to any meeting.

213 (7) A majority of the board constitutes a quorum for the transaction of business.

214 (8) (a) (i) Members who are not government employees shall receive no compensation
215 or benefits for their services, but may receive per diem and expenses incurred in the
216 performance of the member's official duties at the rates established by the Division of Finance
217 under Sections 63A-3-106 and 63A-3-107.

218 (ii) Members may decline to receive per diem and expenses for their service.

219 (b) (i) State government officer and employee members who do not receive salary, per
220 diem, or expenses from their agency for their service may receive per diem and expenses
221 incurred in the performance of their official duties from the board at the rates established by the
222 Division of Finance under Sections 63A-3-106 and 63A-3-107.

223 (ii) State government officer and employee members may decline to receive per diem
224 and expenses for their service.

225 Section 6. Section **63A-3-404** is enacted to read:

226 **63A-3-404. Rulemaking authority.**

227 (1) After consultation with the board, and in accordance with Title 63, Chapter 46a,
228 Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

229 (a) require participating state entities to provide public financial information for
230 inclusion on the Utah Public Finance Website;

231 (b) define, either uniformly for all participating state entities, or on an entity by entity
232 basis, the term "public financial information" using the standards provided in Subsection
233 63A-3-403(2)(c); and

234 (c) establish procedures for obtaining, submitting, reporting, storing, and providing
235 public financial information on the Utah Public Finance Website, which may include a
236 specified reporting frequency and form.

237 (2) After consultation with the board, and in accordance with Title 63, Chapter 46a,
238 Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

239 (a) require a participating state entity to list certain expenditures made by a person
240 under a contract with the entity; and

241 (b) if a list is required under Subsection (2)(a), require the following information to be
242 included:

- 243 (i) the name of the participating state entity making the expenditure;
- 244 (ii) the name of the person receiving the expenditure;
- 245 (iii) the date of the expenditure;
- 246 (iv) the amount of the expenditure;
- 247 (v) the purpose of the expenditure;
- 248 (vi) the name of each party to the contract;
- 249 (vii) an electronic copy of the contract; or
- 250 (viii) any other criteria designated by rule.

251 Section 7. **Effective date.**

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

S.B. 38 6th Sub. (Cherry) - Transparency in Government

Fiscal Note

2008 General Session
State of Utah

State Impact

Implementation of this bill will require \$250,800 ongoing and \$480,400 one-time for the Division of Finance for additional hardware, software, and personnel hours to develop and maintain a public facing financial data warehouse for state agencies.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$250,800	\$250,800	\$0	\$0	\$0
General Fund, One-Time	\$0	\$229,600	\$0	\$0	\$0	\$0
Total	\$0	\$480,400	\$250,800	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs for individuals, businesses, or local governments. Businesses and individuals may receive certain benefits from the ability to view state and local government financial and contractual data online.
