

UTAH TRANSPARENCY ADVISORY BOARD

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Kenneth W. Sumsion

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill includes certain local governments and entities as entities required to provide information to and participate in the Utah Public Finance Website.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ addresses the composition of the Utah Transparency Advisory Board;
 - ▶ provides for financial information from certain local entities to be included on the local entities' websites and linked to the Utah Public Finance Website under rules established by the board;
 - ▶ provides time periods for the provision of financial information by local entities;
- and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63A-3-401**, as enacted by Laws of Utah 2008, Chapter 234

31 **63A-3-402**, as enacted by Laws of Utah 2008, Chapter 234

32 **63A-3-403**, as enacted by Laws of Utah 2008, Chapter 234

33 **63A-3-404**, as enacted by Laws of Utah 2008, Chapter 234

34 ENACTS:

35 **63A-3-405**, Utah Code Annotated 1953



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

38 Section 1. Section **63A-3-401** is amended to read:

39 **63A-3-401. Definitions.**

40 As used in this part:

41 (1) "Board" means the Utah Transparency Advisory Board created under Section
42 63A-3-403.

43 (2) "Division" means the Division of Finance of the Department of Administrative
44 Services.

45 (3) "Participating local entity" means each of the following local entities, if the entity
46 meets the size or budget thresholds established by the rules authorized under Subsection
47 63A-3-404(2)(a):

48 (a) a county;

49 (b) a municipality;

50 (c) a local district under Title 17B, Limited Purpose Local Government Entities - Local
51 Districts;

52 (d) a special service district under Title 17D, Chapter 1, Special Service District Act;

53 (e) a school district; and

54 (f) a charter school.

55 [~~3~~] (4) "Participating state entity" means the state of Utah, including its executive,
56 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,
57 councils, committees, and institutions.

58 [~~4~~] (5) "Public financial information" means records that are required to be made

59 available on the Utah Public Finance Website [~~as required by this part~~] or a participating local
60 entity's website as required by this part and as the term is defined by rule under Section
61 63A-3-404.

62 Section 2. Section **63A-3-402** is amended to read:

63 **63A-3-402. Utah Public Finance Website -- Establishment and administration.**

64 (1) There is created the Utah Public Finance Website to be administered by the
65 Division of Finance with the technical assistance of the Department of Technology Services.

66 (2) The Utah Public Finance Website shall:

67 (a) permit Utah taxpayers to:

68 (i) view, understand, and track the use of taxpayer dollars by making participating state
69 entities' public financial information available on the Internet; and

70 (ii) provide links to websites administered by participating local entities for the
71 purpose of providing participating local entities' public financial information as required by this
72 part and by rule under Section 63A-3-404;

73 (b) allow a person who has Internet access to use the website without paying a fee;

74 (c) allow the public to search public financial information on the Utah Public Finance
75 Website using those criteria established by the board;

76 (d) provide access to financial reports, financial audits, budgets, or other financial
77 documents that are used to allocate, appropriate, spend, and account for the government funds,
78 as may be established by rule under Section 63A-3-404;

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

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

81 (g) include other links, features, or functionality that will assist the public in obtaining
82 and reviewing public financial information, as may be established by rule under Section
83 63A-3-404.

84 (3) The division shall [~~be responsible for~~]:

85 (a) [~~establishing and maintaining~~] establish and maintain the website, including the
86 provision of equipment, resources, and personnel as is necessary;

87 (b) [~~maintaining~~] maintain an archive of all information posted to the website;

88 (c) [~~coordinating and processing~~] coordinate and process the receipt and posting of
89 public financial information from participating state entities; [~~and~~]

90 (d) coordinate and regulate the posting of public financial information by participating
91 local entities; and

92 [~~(d) providing~~] (e) provide staff support for the advisory committee.

93 (4) (a) A participating state entity shall permit the public to view the participating
94 [state] entity's public financial information via the website, beginning with information that is
95 generated not later than the fiscal year that begins July 1, 2008.

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

97 (i) be operational; and

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

99 Section 3. Section **63A-3-403** is amended to read:

100 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**
101 **Duties.**

102 (1) There is created within the division the Utah Transparency Advisory Board
103 comprised of [~~seven~~] members knowledgeable about public finance or providing public access
104 to public financial information as follows:

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

106 (b) one member designated by the director of the Governor's Office of Planning and
107 Budget;

108 (c) one member appointed by the governor on advice from the Judicial Council, who
109 shall serve until June 30, 2010;

110 (d) one member appointed by the governor on advice from the Legislative Fiscal
111 Analyst;

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

114 (f) one member of the House of Representatives, appointed by the governor on advice
115 from the speaker of the House of Representatives; [~~and~~]

116 (g) one member designated by the director of the Department of Technology
117 Services[-];

118 (h) two additional members who shall each:

119 (i) serve one-year terms, except that the individuals appointed to the initial term of
120 these positions shall serve until June 30, 2010;

121 (ii) be designated by a majority of the board members appointed under Subsections
122 (1)(a) through (f); and
123 (iii) be a representative of a participating state entity or a participating local entity; and
124 (i) three additional members who shall each serve one-year terms as follows:
125 (i) for the term beginning on July 1, 2010 and ending on June 30, 2011, represent the
126 following entities:
127 (A) a school district;
128 (B) a charter school; and
129 (C) a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit
130 District Act; and
131 (ii) for the term beginning on July 1, 2011 and ending on June 30, 2012, represent the
132 following entities:
133 (A) a county;
134 (B) a municipality; and
135 (C) (I) a local district under Title 17B, Limited Purpose Local Government Entities -
136 Local Districts, that is not a public transit district created under Title 17B, Chapter 2a, Part 8,
137 Public Transit District Act; or
138 (II) a special service district under Title 17D, Chapter 1, Special Service District Act.
139 (2) The board shall:
140 (a) advise the division on matters related to the implementation and administration of
141 this part;
142 (b) develop plans, make recommendations, and assist in implementing the provisions
143 of this part;
144 (c) determine what public financial information shall be provided by participating state
145 and local entities, provided that the public financial information:
146 (i) only includes records that:
147 (A) are classified as public under Title 63G, Chapter 2, Government Records Access
148 and Management Act;
149 (B) are an accounting of monies, funds, accounts, bonds, loans, expenditures, or
150 revenues, regardless of the source; and
151 (C) are owned, held, or administered by the participating state or local entity that is

152 required to provide the record; and

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

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

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

157 (C) privacy and security considerations; and

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

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

161 (4) (a) ~~[Each]~~ Except for a member appointed under Subsections (1)(c), (h), and (i),
162 each member shall serve a two-year term.

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

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

166 (6) Reasonable notice shall be given to each member of the board ~~[prior to]~~ before any
167 meeting.

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

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

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

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

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

180 (c) Local government members who do not receive salary, per diem, or expenses from
181 the entity that they represent for their service may receive per diem and expenses incurred in
182 the performance of their official duties at the rates established by the Division of Finance under

183 Sections 63A-3-106 and 63A-3-107.

184 Section 4. Section **63A-3-404** is amended to read:

185 **63A-3-404. Rulemaking authority.**

186 (1) (a) After consultation with the board, and in accordance with Title 63G, Chapter 3,
187 Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

188 [~~(a)~~] (i) require participating state entities to provide public financial information for
189 inclusion on the Utah Public Finance Website;

190 (ii) (A) establish size or budget thresholds to identify those local entities that qualify as
191 participating local entities as defined in this part;

192 (B) require participating local entities to provide public financial information in
193 accordance with the requirements of this part, with a specified content, reporting frequency,
194 and form; and

195 (C) require the participating local entity's website to be accessible by link or other
196 direct route from the Utah Public Finance Website;

197 [~~(b)~~] (iii) define, either uniformly for all participating state or local entities, or on an
198 entity by entity basis, the term "public financial information" using the standards provided in
199 Subsection 63A-3-403(2)(c); [~~and~~]

200 [~~(c)~~] (iv) establish procedures for obtaining, submitting, reporting, storing, and
201 providing public financial information on the Utah Public Finance Website and on local
202 entities' websites, which may include a specified reporting frequency and form[-]; and

203 (v) determine the search methods and the search criteria that shall be made available to
204 the public as part of a website used by a participating local entity under the requirements of this
205 part, which criteria may include:

206 (A) fiscal year;

207 (B) expenditure type;

208 (C) name of the agency;

209 (D) payee;

210 (E) date;

211 (F) amount; and

212 (G) any other criteria designated by the rule.

213 (b) Rules that establish the obligations of participating state or local entities under the

214 authority of Subsection (1)(a) shall give special consideration to the budget and resource
215 limitations of a participating entity that has a current annual budget of less than \$10,000,000.

216 (2) After consultation with the board, and in accordance with Title 63G, Chapter 3,
217 Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

218 (a) require a participating state or local entity to list certain expenditures made by a
219 person under a contract with the entity; and

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

222 (i) the name of the participating state or local entity making the expenditure;

223 (ii) the name of the person receiving the expenditure;

224 (iii) the date of the expenditure;

225 (iv) the amount of the expenditure;

226 (v) the purpose of the expenditure;

227 (vi) the name of each party to the contract;

228 (vii) an electronic copy of the contract; or

229 (viii) any other criteria designated by rule.

230 Section 5. Section **63A-3-405** is enacted to read:

231 **63A-3-405. Participation by local entities.**

232 (1) (a) Not later than May 15, 2011, the following participating local entities, in
233 conformity with the rules established under Section 63A-3-404, shall provide public financial
234 information via their own website and provide a link to their website via the Utah Public
235 Finance Website:

236 (i) state institutions of higher education;

237 (ii) school districts;

238 (iii) charter schools; and

239 (iv) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit
240 District Act.

241 (b) Participating local entities subject to this Subsection (1) shall permit information
242 that is generated not later than the fiscal year that begins July 1, 2010 to be accessible via the
243 website.

244 (2) (a) Not later than May 15, 2012, the following participating local entities, in

245 conformity with the rules established under Section 63A-3-404, shall be required to provide
246 public financial information via their own website and provide a link to their website via the
247 Utah Public Finance Website:
248 (i) counties;
249 (ii) municipalities;
250 (iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local
251 Districts, that are not already required to report; and
252 (iv) special service districts under Title 17D, Chapter 1, Special Service District Act.
253 (b) Participating local entities subject to this Subsection (2) shall permit information
254 that is generated not later than the fiscal year that begins July 1, 2011 to be accessible via the
255 website.

Legislative Review Note
as of 11-20-08 1:53 PM

Office of Legislative Research and General Counsel

S.B. 18 - Utah Transparency Advisory Board Amendments

Fiscal Note

2009 General Session
State of Utah

State Impact

Implementation of this bill will require \$70,400 one-time in FY 2011 for a temporary Financial Analyst II Division of Finance.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund, One-Time	\$0	\$0	\$70,400	\$0	\$0	\$0
Total	\$0	\$0	\$70,400	\$0	\$0	\$0

Individual, Business and/or Local Impact

Specific costs will depend on what information cities, towns, counties, school districts, and special service districts currently keep; whether that information is currently available to the public; and what specific financial information the Utah Transparency Advisory Board requires to be posted to the internet. Businesses and individuals may receive certain benefits from the ability to view state and local government financial and contractual data online.