

HB0207S02 compared with HB0207

~~{deleted text}~~ shows text that was in HB0207 but was deleted in HB0207S02.

inserted text shows text that was not in HB0207 but was inserted into HB0207S02.

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Representative Kraig Powell proposes the following substitute bill:

OPEN AND PUBLIC MEETING ACT NOTICE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act by amending public notice requirements.

Highlighted Provisions:

This bill:

- ▶ ~~{increases the public notice of meetings requirement from not less than 24 hours before the public meeting to not less than 72 hours before the public meeting;~~
→ ~~allows}~~ requires a public body to give not less than ~~{24 hours public notice before the scheduled start time of the meeting for an item that was not foreseen in time to give 72 hours public notice;~~
- ~~allows a public body to give not less than 24 hours public notice before the scheduled start time for a meeting for which each item was not foreseen in time to~~

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~~give 72 hours public notice;~~

- ~~allows a public body within the Legislature to continue to provide not less than 24}72 hours public notice of {its meetings held for any special session, extraordinary session, or veto override session, or during the period of time beginning seven days before a general session and ending on the last day of the general session}~~ a meeting if the public body knows, at least 72 hours in advance, that it will hold the meeting;
- ▶ describes requirements for the notice described in the preceding paragraph;
- ▶ permits a public body to amend an agenda up to 24 hours before a meeting;
- ▶ provides an exception to the extended 72-hour notice requirement for certain meetings of a public body in the state legislative branch;
- ▶ prohibits a court from voiding final action taken in violation of the extended 72-hour notice requirement; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-203, as last amended by Laws of Utah 2009, Chapter 188

52-4-202, as last amended by Laws of Utah 2009, First Special Session, Chapter 5

52-4-302, as last amended by Laws of Utah 2012, Chapter 403

63F-1-702, as enacted by Laws of Utah 2007, Chapter 249

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

Section 1. Section 10-9a-203 is amended to read:

10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide 10

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calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Automated Geographic Reference Center created in Section 63F-1-506;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

(d) (i) on the Utah Public Notice Website created under Section 63F-1-701, if the municipality:

(A) is required under Subsection 52-4-202~~(3)~~(4) to use that website to provide public notice of a meeting; or

(B) voluntarily chooses to provide notice on that website despite not being required to do so under Subsection (1)(d)(i)(A); or

(ii) to the state planning coordinator appointed under Section 63J-4-202, if the municipality does not provide notice on the Utah Public Notice Website under Subsection (1)(d)(i).

(2) Each notice under Subsection (1) shall:

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the municipality's proposed general plan or amendment.

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Section ~~{1}~~2. Section 52-4-202 is amended to read:

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

(1) [A] Except as provided ~~under~~in Subsection ~~(5)3~~ or (6), a public body shall give not less than ~~{1}24{1}72~~ hours public notice ~~{before the scheduled start time}~~ of each meeting including the meeting:

- (a) agenda;
- (b) date;
- (c) ~~{scheduled start }~~time; and
- (d) place.

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

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

(3) (a) A public body that knows, at least 72 hours before the start time of a meeting, that it will hold the meeting, shall:

(i) give not less than 72 hours public notice of the meeting, including the agenda, date, time, and place of the meeting; and

(ii) include the following statement in the agenda: "This agenda may be amended up to 24 hours before the scheduled start time of the meeting."

(b) A public body may amend an agenda posted under Subsection (3)(a) by giving public notice in accordance with the requirements of Subsection (1).

(c) A public body that gives public notice of a meeting in accordance with Subsection (3)(a) and does not amend the agenda after giving the notice is not required to give additional notice of the meeting under Subsection (1).

(d) This Subsection (3) does not apply to a public body in the state legislative branch for a meeting held:

(i) for, or during, any special session, extraordinary session, or veto override session; or

(ii) during the period of time beginning seven days before a general session and ending on the last day of the general session.

~~{3}~~(4) (a) Public notice shall be satisfied by:

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(i) posting written notice:

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

(B) ~~[beginning October 1, 2008 and]~~ except as provided in Subsection ~~[(3)]~~ [(4)](b), on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) providing notice to:

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

(B) a local media correspondent.

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

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

~~[(4)]~~ [(5)] A public body is encouraged to develop and use additional electronic means to provide notice of its meetings under Subsection ~~[(3)]~~.

~~———— (5) (a) Except as provided in Subsection (5)(c) or (6), for an item that was not included on an agenda in time to give 72 hours public notice as required under Subsection (1), because the need to address the item was not foreseen at the time public notice was given, the public body shall:~~

~~———— (i) give not less than 24 hours public notice before the scheduled start time of the meeting; and~~

~~———— (ii) comply with all other provisions required for providing public notice under this section.~~

~~———— (b) Except as provided in Subsection (5)(c) or (6), for a meeting for which 72 hours public notice was not made as required under Subsection (1), because the need to address each item on the meeting agenda was not foreseen at the time public notice should have been given, the public body shall:~~

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~~(i) give not less than 24 hours public notice before the scheduled start time of the meeting; and~~

~~(ii) comply with all other provisions required for providing public notice under this section.~~

~~(c) Except as provided in Subsection (6), a public body within the Legislature shall provide not less than 24 hours public notice of each meeting held:~~

~~(i) for, or during, any special session, extraordinary session, or veto override session; or~~

~~(ii) during the period of time beginning seven days before a general session and ending on the last day of the general session.~~

~~†~~ (4).

~~[(5)(a) The notice requirement of Subsection (1) may be disregarded if:]~~

~~(6) (a) A public body is not required to comply with the notice requirements described in Subsections (1) ~~†~~ through ~~(†3)~~, and ~~(5)†4~~ if:~~

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

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

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

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

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

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

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

~~[(†6) (7) (a) A public notice that is required to include an agenda under Subsection (1) or (3) shall ~~†~~~~

~~(i) ~~†~~ provide reasonable specificity to notify the public ~~††~~ as to the topics ~~†~~ of each item~~†~~ to be considered at the meeting~~††~~. Each topic shall be listed under an agenda item~~†~~ and~~

~~(ii) list each item~~†~~ on the meeting agenda.~~

~~(b) Subject to the provisions of Subsection ~~[(†6) (7)(c)~~, and at the discretion of the presiding member of the public body, ~~††~~ a topic ~~†~~ an item~~†~~ raised by the public may be discussed during an open meeting, even if the ~~††~~ topic ~~†~~ item~~†~~ raised by the public was not included in the agenda or advance public notice for the meeting.~~

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(c) Except as provided in Subsection [(5)] (6), relating to emergency meetings, a public body may not take final action on ~~{}a topic~~ ~~{an item}~~ in an open meeting unless the ~~{}topic~~ ~~{item}~~ is:

(i) listed ~~{}under an~~ ~~{on the}~~ agenda ~~{}item~~ ~~{}as required by Subsection [(6)] (7)(a); and~~

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

†

Legislative Review Note

~~_____ as of 2-8-13 11:17 AM~~

~~_____ Office of Legislative Research and General Counsel; Section 3. Section 52-4-302 is amended to read:~~

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

(1) (a) [Any] Except as provided in Subsection (1)(b), a final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with [the posting written]:

(i) the public notice requirements described in Subsection 52-4-202(3); or

(ii) the notice requirements [under] described in Subsection 52-4-202[(3)](4)(a)(i)(B)

if:

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

[(iii)] (A) the public body otherwise complies with the provisions of Section 52-4-202;

and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

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(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

Section 4. Section **63F-1-702** is amended to read:

63F-1-702. Notice and training by the Division of Archives and Records Service.

(1) The division shall provide notice of the provisions and requirements of this chapter to all public bodies that are subject to the provision of Subsection 52-4-202~~(3)~~(4)(a)(ii).

(2) The division shall, as necessary, provide periodic training on the use of the Utah Public Notice Website to public bodies that are authorized to post notice on the website.