

SB0077S01 compared with SB0077

~~text~~ shows text that was in SB0077 but was deleted in SB0077S01.

text shows text that was not in SB0077 but was inserted into SB0077S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Deidre M. Henderson proposes the following substitute bill:

AVAILABILITY OF GOVERNMENT INFORMATION

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the availability of government information.

Highlighted Provisions:

This bill:

- ▶ requires ~~pending and approved~~ certain public bodies to post minutes ~~to be posted~~ and audio recordings of meetings on the Utah Public Notice Website;
- ▶ modifies provisions regarding the manner and time of making minutes public;
- ▶ ~~requires the Utah Transparency Advisory Board to study how government can improve publicly available information and to report the results of its study to a legislative committee~~ modifies a provision relating to the Utah Public Notice Website to make conforming changes; and
- ▶ makes technical changes.

SB0077S01 compared with SB0077

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-203, as last amended by Laws of Utah 2009, Chapter 137

~~{63A-3-403}~~**63F-1-701**, as last amended by Laws of Utah 2010, Chapter ~~{286}~~138

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

Section 1. Section **52-4-203** is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting ~~{are the official record of action taken at the meeting and }~~ shall include:

- (a) the date, time, and place of the meeting;
- (b) the names of members present and absent;
- (c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
- (d) a record, by individual member, of each vote taken by the public body;
- (e) the name of each person who:
 - (i) is not a member of the public body; and
 - (ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
- (f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and
- (g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(3) A recording of an open meeting shall:

SB0077S01 compared with SB0077

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

~~[(4) The written minutes and recording of an open meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act, as follows:]~~

~~[(a) Written minutes that have been prepared in a form awaiting only formal approval by the public body are a public record.]~~

~~[(b) Written minutes shall be available to the public within a reasonable time after the end of the meeting.]~~

~~[(c) Written minutes that are made available to the public before approval by the public body under Subsection (4)(d) shall be clearly identified as "awaiting formal approval" or "unapproved" or with some other appropriate notice that the written minutes are subject to change until formally approved.]~~

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in a form awaiting only the approval of the public body that held the open meeting.

(iii) "Specified local public body" means a legislative body of a county, city, or town.

(iv) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A state public body and, subject to Subsection (4)(e), a specified local public body shall:

SB0077S01 compared with SB0077

- ~~(i) within seven business days after the public body holds an open meeting:~~
- ~~(A) make a copy of pending minutes from that meeting available to the public at the public body's primary office; and~~
- ~~(B) post the pending minutes on the Utah Public Notice Website created under Section 63F-1-701;~~
- ~~(ii) within 48 hours;~~ within two business days after the public body adopts written minutes of an open meeting:
- ~~(A) i) make a copy of the approved minutes available to the public at the public body's primary office; and~~
- ~~(B) post; a copy of the approved minutes and any public materials distributed at the meeting; and~~
- ~~(ii) post on the Utah Public Notice Website, created under Section 63F-1-701; and~~
- ~~(iii) within; the approved minutes and any public materials distributed at the meeting.~~
- (e) A specified local public body of a city of the fifth class or town is encouraged to comply with Subsection (4)(d) but is not required to comply until January 1, 2015.
- (f) Within three business days after the public body holds holding an open meeting, a state public body shall post an audio recording of the open meeting, or a link to the recording, on the Utah Public Notice Website created under Section 63F-1-701.
- (g) A public body shall make pending minutes of an open meeting available to the public within 30 days after the open meeting.
- (h) A public body that is not a state public body or a specified local public body shall, within two business days after an open meeting:
- (i) make approved minutes of the open meeting available to the public; and
- (ii) make an audio recording of the open meeting available to the public for listening.
- ~~(d)~~ ~~(e)~~ (i) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.
- ~~(e) Written~~ (j) Approved minutes of an open meeting are the official record of action taken at the meeting. ~~(j)~~
- ~~(f) A recording of an open meeting shall be available to the public for listening within three business days after the end of the meeting.]~~
- (5) All or any part of an open meeting may be independently recorded by any person in

SB0077S01 compared with SB0077

attendance if the recording does not interfere with the conduct of the meeting.

(6) ~~The~~ written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Section 2. Section ~~{63A-3-403}~~ 63F-1-701 is amended to read:

~~{63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --~~

Duties:

~~————~~ (1) } 63F-1-701. Utah Public Notice Website -- Establishment and administration.

(1) As used in this part:

(a) "Division" means the Division of Archives and Records Service of the Department of Administrative Services.

(b) "Public body" has the same meaning as provided under Section 52-4-103.

(c) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.

[~~(e)~~] (d) "Website" means the Utah Public Notice Website created under this section.

(2) There is created ~~{within the division the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public financial information as follows:~~

~~————~~ (a) one member designated by the director of the Utah Public Notice Website to be administered by the Division of ~~{Finance;~~

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

~~————~~ (c) one member appointed by the governor on advice from the Judicial Council, who

SB0077S01 compared with SB0077

~~shall serve until June 30, 2009;~~

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

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

~~—— (f) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;~~

~~—— (g) one member designated by the director;~~ Archives and Records Service.

(3) The website shall consist of an Internet website provided to assist the public to find posted public [notices of a public body of the state and its political subdivisions as required under Title 52, Chapter 4, Open and Public Meetings Act, and under other state statutes or state agency rules] information.

(4) The division, with the technical assistance of the Department of Technology Services, shall create the website which shall:

(a) allow a public body, or other certified entity, to easily post any public [notice] information [that the public body or other entity is required to post under statute];

~~(h) one member appointed by the governor from a state institution of higher education, who shall serve for one year beginning on July 1, 2009 and ending on June 30, 2010; and~~

~~—— (i) three additional members appointed by the governor, who shall each serve one-year terms as follows:~~

~~—— (i) for the term beginning on July 1, 2009 and ending on June 30, 2010, represent the following entities:~~

~~—— (A) a school district;~~

~~—— (B) a charter school; and~~

~~—— (C) a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and~~

~~—— (ii) for the term beginning on July 1, 2010 and ending on June 30, 2011, represent the following entities:~~

~~—— (A) a county;~~

~~—— (B) a municipality; and~~

SB0077S01 compared with SB0077

~~(C) (f) } b) allow the public to search the public [notices] information by:~~

~~(i) public body name;~~

~~(ii) date of posting of the notice;~~

~~(iii) date of any meeting or deadline included as part of the public [notice] information;~~

and

~~(iv) any other criteria approved by the division;~~

~~(c) allow the public to search and view past, archived public [notices] information;~~

~~(d) allow a person to subscribe to receive updates and notices associated with a public body or a particular type of [notice] public information;~~

~~(e) be easily accessible by the public from the State of Utah home page;~~

~~(f) have a unique and simplified website address;~~

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

~~(h) include other links, features, or functionality that will assist the public in obtaining and reviewing public information [in relation to public notices] posted on the website, as may be approved by the division.~~

~~(5) The division shall be responsible for:~~

~~(a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;~~

~~(b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying [notices] public information; and~~

~~(c) maintaining an archive of all [notices] public information posted to the website.~~

~~(6) The timing for posting and the content of the public [notices] information posted to the website shall be the responsibility of the public body or other entity posting the [notice] public information.~~

~~[(7) Until December 31, 2012 and notwithstanding any other provision of statute requiring the publishing or posting of a notice to the website, 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, (that is not a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or~~

~~(H) } or a special service district under Title 17D, Chapter 1, Special Service District Act{.~~

SB0077S01 compared with SB0077

- ~~—— (2) The board shall:~~
- ~~—— (a) advise the division on matters related to the implementation and administration of this part;~~
- ~~—— (b) develop plans, make recommendations, and assist in implementing the provisions of this part;~~
- ~~—— (c) determine what public financial information shall be provided by participating state and local entities, provided that the public financial information:~~
 - ~~—— (i) only includes records that:~~
 - ~~—— (A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act;~~
 - ~~—— (B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and~~
 - ~~—— (C) are owned, held, or administered by the participating state or local entity that is required to provide the record; and~~
 - ~~—— (ii) is of the type or nature that should be accessible to the public via a website based on considerations of:~~
 - ~~—— (A) the cost effectiveness of providing the information;~~
 - ~~—— (B) the value of providing the information to the public; and~~
 - ~~—— (C) privacy and security considerations;~~
- ~~—— (d) evaluate the cost effectiveness of implementing specific information resources and features on the website;~~
- ~~—— (e) establish size or budget thresholds to identify those local entities that qualify as participating local entities as defined in this part, giving special consideration to the budget and resource limitations of an entity with a current) with an annual budget of less than ~~{ \$10; } \$1,000,000 {;~~~~
- ~~—— (f) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;~~
- ~~—— (g) require a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the participating local entity does not use the Utah Public Finance Website; [and]~~

SB0077S01 compared with SB0077

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

~~_____ (i) fiscal year;~~

~~_____ (ii) expenditure type;~~

~~_____ (iii) name of the agency;~~

~~_____ (iv) payee;~~

~~_____ (v) date; and~~

~~_____ (vi) amount[.]; and~~

~~_____ (i) (i) study how state and local government can improve the amount and quality of information that is available to the public concerning the operations of state and local government in conducting the people's business; and~~

~~_____ (ii) report the results of its study, including any recommendations, to the Government Operations Interim Committee by November 30, 2013.~~

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

~~_____ (4) (a) Except for a member appointed under Subsections (1)(c) and (h), each member shall serve a two-year term.~~

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

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

~~_____ (6) Reasonable notice shall be given to each member of the board before any meeting.~~

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

~~_____ (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:~~

~~_____ (a) Section 63A-3-106;~~

~~_____ (b) Section 63A-3-107; and~~

~~_____ (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.~~

SB0077S01 compared with SB0077

Legislative Review Note

~~as of 2-14-13 9:25 AM~~

~~Office of Legislative Research and General Counsel;~~ is encouraged but not required to publish or post a notice to the website.]