

AVAILABILITY OF PUBLIC INFORMATION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Craig Hall

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

▶ moves the Utah Transparency Advisory Board from the Division of Finance to the Department of Administrative Services;

▶ modifies the board's membership;

▶ expands the duties of the board to include responsibility for developing recommendations concerning making public information more accessible through a website;

▶ provides principles to guide the board in fulfilling its new duties;

▶ directs the Department of Administrative Services to implement board recommendations if certain conditions are met; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:



28 **63A-3-403**, as last amended by Laws of Utah 2010, Chapter 286

29

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

31 Section 1. Section **63A-3-403** is amended to read:

32 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**
33 **Duties.**

34 (1) There is created within the [~~division~~] department the Utah Transparency Advisory
35 Board comprised of members knowledgeable about public finance or providing public access
36 to public [~~financial~~] information [~~as follows:~~].

37 (2) The board consists of:

38 (a) [~~one member designated~~] an individual appointed by the director of the Division of
39 Finance;

40 (b) [~~one member designated~~] an individual appointed by the director of the Governor's
41 Office of Planning and Budget;

42 ~~[(c) one member appointed by the governor on advice from the Judicial Council, who~~
43 ~~shall serve until June 30, 2009;]~~

44 ~~[(d) one member]~~

45 (c) an individual appointed by the governor on advice from the Legislative Fiscal
46 Analyst;

47 ~~[(e)]~~ (d) one member of the Senate, appointed by the governor on advice from the
48 president of the Senate;

49 ~~[(f)]~~ (e) one member of the House of Representatives, appointed by the governor on
50 advice from the speaker of the House of Representatives;

51 ~~[(g) one member designated]~~

52 (f) an individual appointed by the director of the Department of Technology Services;

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

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

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

59 ~~[(A) a school district;]~~
60 ~~[(B) a charter school; and]~~
61 ~~[(C) a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit~~
62 ~~District Act; and]~~

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

65 ~~[(A) a county;]~~
66 ~~[(B) a municipality; and]~~
67 ~~[(C) (f) a local district under Title 17B, Limited Purpose Local Government Entities =~~
68 ~~Local Districts, that is not a public transit district created under Title 17B, Chapter 2a, Part 8,~~
69 ~~Public Transit District Act; or]~~

70 ~~[(H) a special service district under Title 17D, Chapter 1, Special Service District Act.]~~

71 (g) the director of the Division of Archives created in Section 63A-12-101 or the
72 director's designee;

73 (h) an individual who is a member of the State Records Committee created in Section
74 63G-2-501, appointed by the governor; and

75 (i) two individuals who are members of the public and who have knowledge, expertise,
76 or experience in matters relating to the board's duties under Subsection (10), appointed by the
77 board members identified in Subsections (2)(a) through (h).

78 ~~[(2)]~~ (3) The board shall:

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

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

83 (c) determine what public financial information shall be provided by participating state
84 and local entities, ~~[provided that]~~ if the public financial information:

85 (i) only includes records that:

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

88 (B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or
89 revenues, regardless of the source; and

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

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

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

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

96 (C) privacy and security considerations;

97 (d) evaluate the cost effectiveness of implementing specific information resources and
98 features on the website;

99 (e) establish size or budget thresholds to identify those local entities that qualify as
100 participating local entities as defined in this part, giving special consideration to the budget and
101 resource limitations of an entity with a current annual budget of less than \$10,000,000;

102 (f) require participating local entities to provide public financial information in
103 accordance with the requirements of this part, with a specified content, reporting frequency,
104 and form;

105 (g) require a participating local entity's website to be accessible by link or other direct
106 route from the Utah Public Finance Website if the participating local entity does not use the
107 Utah Public Finance Website; and

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

111 (i) fiscal year;

112 (ii) expenditure type;

113 (iii) name of the agency;

114 (iv) payee;

115 (v) date; and

116 (vi) amount.

117 [~~3~~] (4) The board shall annually elect a chair and a vice chair from its members.

118 [~~4~~] (5) (a) [~~Except for a member appointed under Subsections (1)(c) and (h), each~~
119 Each member shall serve a two-year term.

120 (b) When a vacancy occurs in the membership for any reason, the replacement shall be

121 appointed for the remainder of the unexpired term.

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

123 (6) To accomplish its duties, the board:

124 (a) may meet as many as eight times during 2013; and

125 (b) shall, after 2013, meet as it determines necessary.

126 ~~[(6)] (7) Reasonable notice shall be given to each member of the board before any~~
127 meeting.

128 ~~[(7)] (8) A majority of the board constitutes a quorum for the transaction of business.~~

129 ~~[(8)] (9) A member may not receive compensation or benefits for the member's service,~~
130 but may receive per diem and travel expenses in accordance with:

131 (a) Section 63A-3-106;

132 (b) Section 63A-3-107; and

133 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
134 63A-3-107.

135 (10) (a) As used in this Subsection (10):

136 (i) "Information website" means a single Internet website containing public information
137 or links to public information.

138 (ii) "Public information" means records of state or local government that are classified
139 as public under Title 63G, Chapter 2, Government Records Access and Management Act.

140 (b) The board shall:

141 (i) study the establishment of an information website and develop recommendations for
142 its establishment;

143 (ii) develop recommendations about how to make public information more readily
144 available to the public through the information website;

145 (iii) develop standards to make uniform the format and accessibility of public
146 information posted to the information website; and

147 (iv) no later than November 30, 2013, report the board's recommendations and
148 standards developed under Subsections (10)(b)(i) through (iii) to the executive director and the
149 Legislative Management Committee.

150 (c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by
151 principles that encourage:

152 (i) (A) the establishment of a standardized format of public information that makes the
153 information more easily accessible by the public;

154 (B) the removal of restrictions on the reuse of public information;

155 (C) minimizing limitations on the disclosure of public information while appropriately
156 safeguarding sensitive information; and

157 (D) balancing factors in favor of excluding public information from an information
158 website against the public interest in having the information accessible on an information
159 website;

160 (ii) (A) permanent, lasting, open access to public information; and

161 (B) the publication of bulk public information;

162 (iii) the implementation of well-designed public information systems that ensure data
163 quality, create a public, comprehensive list or index of public information, and define a process
164 for continuous publication of and updates to public information;

165 (iv) the identification of public information not currently made available online and the
166 implementation of a process, including a timeline and benchmarks, for making that public
167 information available online; and

168 (v) accountability on the part of those who create, maintain, manage, or store public
169 information or post it to an information website.

170 (d) The department shall implement the board's recommendations, including the
171 establishment of an information website, to the extent that implementation:

172 (i) is approved by the Legislative Management Committee;

173 (ii) does not require further legislative appropriation; and

174 (iii) is within the department's existing statutory authority.

175 **Section 2. Effective date.**

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

Legislative Review Note
as of 3-4-13 9:31 AM

Office of Legislative Research and General Counsel