

**Representative John Dougall** proposes the following substitute bill:

**OPEN AND PUBLIC MEETINGS -**

**ELECTRONIC NOTICE**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John Dougall**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill modifies the Open and Public Meetings Act to amend provisions related to electronic notice of public meetings and establishes a Utah Public Notice Website.

**Highlighted Provisions:**

This bill:

- ▶ modifies notice requirements in the Interlocal Cooperation Act to ensure compliance with notice provisions of the Open and Public Meetings Act;
- ▶ requires a public body to provide public notice of its meetings on the Utah Public Notice Web Site instead of requiring that the notice be provided to a newspaper or local media correspondent and gives certain smaller municipalities and special districts the option of either method of providing public notice;
- ▶ prohibits a court from voiding a final action of a public body due to a technology failure affecting posting public notice on the Internet under certain circumstances;
- ▶ amends the duties of the Division of Archives and Records Service;
- ▶ authorizes the Division of Archives and Records Service, with the technical assistance of the Department of Technology Services, to establish and maintain the Utah Public Notices Website;



- 26           ▶ provides requirements for the website;
- 27           ▶ provides that responsibility for the content of notices posted and the timing of
- 28 notices posted is the responsibility of the public body posting the notice; and
- 29           ▶ makes technical changes.

30 **Monies Appropriated in this Bill:**

31           None

32 **Other Special Clauses:**

33           This bill takes effect on January 1, 2008.

34 **Utah Code Sections Affected:**

35 AMENDS:

36           **11-13-223**, as last amended by Chapter 14, Laws of Utah 2006

37           **52-4-202**, as renumbered and amended by Chapter 14 and last amended by Chapter  
38 265, Laws of Utah 2006

39           **52-4-302**, as renumbered and amended by Chapter 14, Laws of Utah 2006

40           **63-2-901**, as last amended by Chapter 280, Laws of Utah 1992

41 ENACTS:

42           **63F-1-701**, Utah Code Annotated 1953

43           **63F-1-702**, Utah Code Annotated 1953



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

46           Section 1. Section **11-13-223** is amended to read:

47           **11-13-223. Open and public meetings.**

48           (1) To the extent that an interlocal entity is subject to or elects, by formal resolution of  
49 its governing body to comply with the provisions of Title 52, Chapter 4, Open and Public  
50 Meetings Act, it may for purposes of complying with those provisions:

51           (a) convene and conduct any public meeting by means of a telephonic or  
52 telecommunications conference; and

53           (b) give public notice of its meeting pursuant to Section 52-4-202 [by:].

54           ~~[(i) posting written notice at the principal office of the governing body of the interlocal~~  
55 ~~entity, or if no such office exists, at the building where the meeting is to be held; and]~~

56           ~~[(ii) providing notice to at least one newspaper of general circulation within the~~

57 boundaries of the municipality in which that principal office is located, or to a local media  
58 correspondent.]

59 (2) In order to convene and conduct a public meeting by means of a telephonic or  
60 telecommunications conference, each interlocal entity shall if it is subject to or elects by formal  
61 resolution of its governing body to comply with Title 52, Chapter 4, Open and Public Meetings  
62 Act:

63 (a) in addition to giving public notice required by Subsection (1) provide:

64 (i) notice of the telephonic or telecommunications conference to the members of the  
65 governing body at least 24 hours before the meeting so that they may participate in and be  
66 counted as present for all purposes, including the determination that a quorum is present; and

67 (ii) a description of how the members will be connected to the telephonic or  
68 telecommunications conference;

69 (b) establish written procedures governing the conduct of any meeting at which one or  
70 more members of the governing body are participating by means of a telephonic or  
71 telecommunications conference;

72 (c) provide for an anchor location for the public meeting at the principal office of the  
73 governing body; and

74 (d) provide space and facilities for the physical attendance and participation of  
75 interested persons and the public at the anchor location, including providing for interested  
76 persons and the public to hear by speaker or other equipment all discussions and deliberations  
77 of those members of the governing body participating in the meeting by means of telephonic or  
78 telecommunications conference.

79 (3) Compliance with the provisions of this section by a governing body constitutes full  
80 and complete compliance by the governing body with the corresponding provisions of Sections  
81 52-4-201 and 52-4-202, to the extent that those sections are applicable to the governing body.

82 Section 2. Section **52-4-202** is amended to read:

83 **52-4-202. Public notice of meetings -- Emergency meetings.**

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

86 (a) agenda;

87 (b) date;

88 (c) time; and

89 (d) place.

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

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

95 (3) (a) Public notice shall be satisfied by~~[-(a)]~~ posting written notice:

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

98 (ii) on the Utah Public Notice Website.

99 ~~[(b) providing notice to:]~~

100 (b) In lieu of posting a written notice on the Utah Public Notice Website under  
101 Subsection (3)(a)(ii), if a municipality as defined under Title 10, Utah Municipal Code, a  
102 special district as defined under Title 17A, Special Districts, or a local district as defined under  
103 Title 17B, Chapter 2, Local Districts, has a current annual budget of less than \$1 million, a  
104 public body of the municipality, special district, or local district may provide the public notice  
105 to:

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

108 (ii) a local media correspondent.

109 (4) A public body is encouraged to~~[-(a)]~~ develop and use additional electronic means  
110 to provide notice of its meetings under Subsection (3)~~[(b);]~~ to requesters.

111 ~~[(b) provide public notice to all other media agencies that make a periodic written~~  
112 ~~request to receive them; and]~~

113 ~~[(c) post public notice of its meetings on the Internet.]~~

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

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

117 (ii) the best notice practicable is given.

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

119 (i) an attempt has been made to notify all of its members; and

120 (ii) a majority of its members approves holding the meeting.

121 (6) (a) A public notice that is required to include an agenda under Subsection (2) shall  
122 provide reasonable specificity to notify the public as to the topics to be considered at the  
123 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

124 (b) Except as provided in Subsection (5) and Subsection (6)(c), a public body may not  
125 consider a topic in an open meeting that is not:

126 (i) listed under an agenda item under Subsection (6)(a); and

127 (ii) included with the advanced public notice in accordance with this section.

128 (c) A topic not listed on the open meeting agenda that is raised during an open meeting  
129 may be discussed but no final action may be taken by the public body during that meeting.

130 Section 3. Section **52-4-302** is amended to read:

131 **52-4-302. Suit to void final action -- Limitation -- Exceptions.**

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

134 (b) A court may not void a final action taken by a public body for failure to comply  
135 with the posting written notice requirements on the Internet under Subsection  
136 52-4-202(3)(a)(ii) if:

137 (i) the public body otherwise complies with the provisions of Section 52-4-202; and

138 (ii) the failure was a result of unforeseen Internet hosting or communication technology  
139 failure.

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

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

144 Section 4. Section **63-2-901** is amended to read:

145 **63-2-901. Division of Archives and Records Service created -- Duties.**

146 (1) There is created the Division of Archives and Records Service within the  
147 Department of Administrative Services.

148 (2) The state archives shall:

149 (a) administer the state's archives and records management programs, including storage

150 of records, central microphotography programs, and quality control;

151 (b) apply fair, efficient, and economical management methods to the collection,  
152 creation, use, maintenance, retention, preservation, disclosure, and disposal of records and  
153 documents;

154 (c) establish standards, procedures, and techniques for the effective management and  
155 physical care of records;

156 (d) conduct surveys of office operations and recommend improvements in current  
157 records management practices, including the use of space, equipment, automation, and supplies  
158 used in creating, maintaining, storing, and servicing records;

159 (e) establish standards for the preparation of schedules providing for the retention of  
160 records of continuing value and for the prompt and orderly disposal of state records no longer  
161 possessing sufficient administrative, historical, legal, or fiscal value to warrant further  
162 retention;

163 (f) establish, maintain, and operate centralized microphotography lab facilities and  
164 quality control for the state;

165 (g) provide staff and support services to the records committee;

166 (h) develop training programs to assist records officers and other interested officers and  
167 employees of governmental entities to administer this chapter;

168 (i) provide access to public records deposited in the archives;

169 (j) administer and maintain the Utah Public Notice Website established under Section  
170 63F-1-701;

171 [~~(j)~~] (k) provide assistance to any governmental entity in administering this chapter;  
172 and

173 [~~(k)~~] (l) prepare forms for use by all governmental entities for a person requesting  
174 access to a record.

175 (3) The state archives may:

176 (a) establish a report and directives management program; and

177 (b) establish a forms management program.

178 (4) The executive director of the Department of Administrative Services may direct the  
179 state archives to administer other functions or services consistent with this chapter.

180 Section 5. Section **63F-1-701** is enacted to read:

181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211

**Part 7. Utah Public Notice Website**

**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) "Website" means the Utah Public Notice Website created under this section.

(2) There is created the Utah Public Notice Website to be administered by the Division of 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.

(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;

(b) allow the public to search the public notices by:

(i) public body name;

(ii) date of posting of the notice;

(iii) date any meeting or deadline included as part of the public notice; and

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

(c) allow the public to search and view past, archived public notices, beginning with notices posted on or after January 1, 2008;

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

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

(f) have a unique and simplified website address;

(g) shall 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

212 and reviewing information in relation to public notices posted on the website, as may be  
213 approved by the division.

214 (5) The division shall be responsible for:

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

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

219 (c) maintaining an archive of all notices posted to the website.

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

222 Section 6. Section **63F-1-702** is enacted to read:

223 **63F-1-702. Notice and training by the Division of Archives and Records Service.**

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

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

228 Section 7. **Effective date.**

229 This bill takes effect on January 1, 2008.