

Representative John Dougall proposes the following substitute bill:

TRANSPARENCY IN GOVERNMENT

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill modifies certain notice requirements in the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ extends the date that notice of open and public meetings must be placed on the Utah Public Notice Website from April 1, 2008 to October 1, 2008; and

- ▶ prohibits a court from voiding a final action taken by a public body for failure to comply with the requirements to post written notice on the Utah Public Notice Website for a meeting that is held prior to April 1, 2009.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

52-4-202, as last amended by Laws of Utah 2007, Chapters 45 and 249

52-4-302, as last amended by Laws of Utah 2007, Chapter 249



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

27 Section 1. Section **52-4-202** is amended to read:

28 **52-4-202. Public notice of meetings -- Emergency meetings.**

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

- 31 (a) agenda;
- 32 (b) date;
- 33 (c) time; and
- 34 (d) place.

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

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

40 (3) (a) Public notice shall be satisfied by:

41 (i) posting written notice:

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

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

46 (ii) providing notice to:

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

49 (B) a local media correspondent.

50 (b) A public body of a municipality under Title 10, Utah Municipal Code, a local
51 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a special
52 service district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, or a
53 dependent district under Title 17A, Chapter 3, Dependent Districts, is encouraged, but not
54 required, to post written notice on the Utah Public Notice Website, if the municipality or
55 district has a current annual budget of less than \$1 million.

56 (c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by

57 providing notice to a newspaper or local media correspondent under the provisions of
58 Subsection 63F-1-701(4)(d).

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

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

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

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

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

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

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

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

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

70 (6) (a) A public notice that is required to include an agenda under Subsection (1) shall
71 provide reasonable specificity to notify the public as to the topics to be considered at the
72 meeting. Each topic shall be listed under an agenda item on the meeting agenda.

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

77 (c) Except as provided in Subsection (5), relating to emergency meetings, a public
78 body may not take final action on a topic in an open meeting unless the topic is:

79 (i) listed under an agenda item as required by Subsection (6)(a); and

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

81 Section 2. Section **52-4-302** is amended to read:

82 **52-4-302. Suit to void final action -- Limitation -- Exceptions.**

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

85 (b) A court may not void a final action taken by a public body for failure to comply
86 with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:

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

88 ~~[(i)]~~ (ii) (A) the public body otherwise complies with the provisions of Section
89 52-4-202; and

90 ~~[(i)]~~ (B) the failure was a result of unforeseen Internet hosting or communication
91 technology failure.

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

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

96 Section 3. **Effective date.**

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

S.B. 38 4th Sub. (Pumpkin) - Transparency in Government

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
