

UTAH TRANSPARENCY ADVISORY BOARD

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill requires certain local governments and other entities to provide information to and participate in the Utah Public Finance Website.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ changes the composition of the Utah Transparency Advisory Board;
- ▶ provides for financial information from certain local entities to be included on the local entities' websites and linked to the Utah Public Finance Website;
- ▶ provides for an exception from liability provisions for improper disclosure of records under Title 63G, Chapter 2, Government Records Access and Management Act;
- ▶ provides time periods for the provision of financial information by local entities;

and

32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **63A-3-401**, as enacted by Laws of Utah 2008, Chapter 234

40 **63A-3-402**, as enacted by Laws of Utah 2008, Chapter 234

41 **63A-3-403**, as enacted by Laws of Utah 2008, Chapter 234

42 **63A-3-404**, as enacted by Laws of Utah 2008, Chapter 234

43 ENACTS:

44 **63A-3-405**, Utah Code Annotated 1953



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

47 Section 1. Section **63A-3-401** is amended to read:

48 **63A-3-401. Definitions.**

49 As used in this part:

50 (1) "Board" means the Utah Transparency Advisory Board created under Section
51 63A-3-403.

52 (2) "Division" means the Division of Finance of the Department of Administrative
53 Services.

54 (3) "Participating local entity" means each of the following local entities, if the entity
55 meets the size or budget thresholds established by the rules authorized under Subsection
56 63A-3-404(2)(a):

57 (a) a county;

58 (b) a municipality;

59 (c) a local district under Title 17B, Limited Purpose Local Government Entities -

60 Local Districts:

61 (d) a special service district under Title 17D, Chapter 1, Special Service District Act;

62 (e) a school district; and

63 (f) a charter school.

64 [~~(3)~~] (4) "Participating state entity" means the state of Utah, including its executive,
65 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,
66 councils, committees, and institutions.

67 [~~(4)~~] (5) "Public financial information" means records that are required to be made
68 available on the Utah Public Finance Website [as required by this part] or a participating local
69 entity's website as required by this part and as the term is defined by rule under Section
70 63A-3-404.

71 Section 2. Section **63A-3-402** is amended to read:

72 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**
73 **Records disclosure.**

74 (1) There is created the Utah Public Finance Website to be administered by the
75 Division of Finance with the technical assistance of the Department of Technology Services.

76 (2) The Utah Public Finance Website shall:

77 (a) permit Utah taxpayers to:

78 (i) view, understand, and track the use of taxpayer dollars by making public financial
79 information available on the Internet for participating state entities' [public financial
80 information available on the Internet;] and participating local entities, using the Utah Public
81 Finance Website; and

82 (ii) link to websites administered by participating local entities that do not use the
83 Utah Public Finance Website for the purpose of providing participating local entities' public
84 financial information as required by this part and by rule under Section 63A-3-404;

85 (b) allow a person who has Internet access to use the website without paying a fee;

86 (c) allow the public to search public financial information on the Utah Public Finance
87 Website using those criteria established by the board;

88 (d) provide access to financial reports, financial audits, budgets, or other financial
89 documents that are used to allocate, appropriate, spend, and account for the government funds,
90 as may be established by rule under Section 63A-3-404;

91 (e) have a unique and simplified website address;

92 (f) be directly accessible via a link from the main page of the official state website;

93 and

94 (g) include other links, features, or functionality that will assist the public in obtaining
95 and reviewing public financial information, as may be established by rule under Section
96 63A-3-404.

97 (3) The division shall ~~[be responsible for]~~:

98 (a) ~~[establishing and maintaining]~~ establish and maintain the website, including the
99 provision of equipment, resources, and personnel as is necessary;

100 (b) ~~[maintaining]~~ maintain an archive of all information posted to the website;

101 (c) ~~[coordinating and processing]~~ coordinate and process the receipt and posting of
102 public financial information from participating state entities; ~~[and]~~

103 (d) coordinate and regulate the posting of public financial information by participating
104 local entities; and

105 ~~[(d) providing]~~ (e) provide staff support for the advisory committee.

106 (4) (a) A participating state entity shall permit the public to view the participating
107 [state] entity's public financial information via the website, beginning with information that is
108 generated not later than the fiscal year that begins July 1, 2008, except that public financial
109 information for an institution of higher education shall be provided beginning with
110 information generated for the fiscal year beginning July 1, 2009.

111 (b) Not later than May 15, 2009, the website shall:

112 (i) be operational; and

113 (ii) permit public access to participating state entities' public financial information,
114 except as provided in Subsection (4)(c).

115 (c) An institution of higher education that is a participating state entity shall submit

116 the entity's public financial information at a time allowing for inclusion on the website no later
117 than May 15, 2010.

118 (5) A person who negligently discloses a record that is classified as private, protected,
119 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is
120 not criminally or civilly liable for an improper disclosure of the record if the record is
121 disclosed solely as a result of the preparation or publication of the Utah Public Finance
122 Website.

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

124 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**
125 **Duties.**

126 (1) There is created within the division the Utah Transparency Advisory Board
127 comprised of [~~seven~~] members knowledgeable about public finance or providing public access
128 to public financial information as follows:

129 (a) one member designated by the director of the Division of Finance;

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

132 (c) one member appointed by the governor on advice from the Judicial Council, who
133 shall serve until June 30, 2009;

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

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

138 (f) one member of the House of Representatives, appointed by the governor on advice
139 from the speaker of the House of Representatives; [~~and~~]

140 (g) one member designated by the director of the Department of Technology
141 Services[-];

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

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

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

148 (A) a school district;

149 (B) a charter school; and

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

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

154 (A) a county;

155 (B) a municipality; and

156 (C) (I) a local district under Title 17B, Limited Purpose Local Government Entities -
157 Local Districts, that is not a public transit district created under Title 17B, Chapter 2a, Part 8,
158 Public Transit District Act; or

159 (II) a special service district under Title 17D, Chapter 1, Special Service District Act.

160 (2) The board shall:

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

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

165 (c) determine what public financial information shall be provided by participating
166 state and local entities, provided that the public financial information:

167 (i) only includes records that:

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

170 (B) are an accounting of monies, funds, accounts, bonds, loans, expenditures, or
171 revenues, regardless of the source; and

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

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

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

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

178 (C) privacy and security considerations; [~~and~~]

179 (d) evaluate the cost effectiveness of implementing specific information resources and
180 features on the website[-];

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

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

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

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

193 (i) fiscal year;

194 (ii) expenditure type;

195 (iii) name of the agency;

196 (iv) payee;

197 (v) date; and

198 (vi) amount.

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

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

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

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

205 (6) Reasonable notice shall be given to each member of the board ~~[prior to]~~ before any
206 meeting.

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

208 (8) (a) (i) Members who are not government employees shall receive no compensation
209 or benefits for their services, but may receive per diem and expenses incurred in the
210 performance of the member's official duties at the rates established by the Division of Finance
211 under Sections 63A-3-106 and 63A-3-107.

212 (ii) Members may decline to receive per diem and expenses for their service.

213 (b) (i) State government officer and employee members who do not receive salary, per
214 diem, or expenses from their agency for their service may receive per diem and expenses
215 incurred in the performance of their official duties from the board at the rates established by
216 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

217 (ii) State government officer and employee members may decline to receive per diem
218 and expenses for their service.

219 (c) (i) Local government members who do not receive salary, per diem, or expenses
220 from the entity that they represent for their service may receive per diem and expenses
221 incurred in the performance of their official duties at the rates established by the Division of
222 Finance under Sections 63A-3-106 and 63A-3-107.

223 (ii) Local government officer and employee members may decline to receive per diem
224 and expenses for their service.

225 Section 4. Section **63A-3-404** is amended to read:

226 **63A-3-404. Rulemaking authority.**

227 (1) After consultation with the board, and in accordance with Title 63G, Chapter 3,

228 Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

229 (a) require participating state entities to provide public financial information for
230 inclusion on the Utah Public Finance Website;

231 (b) define, either uniformly for all participating state entities, or on an entity by entity
232 basis, the term "public financial information" using the standards provided in Subsection
233 63A-3-403(2)(c); and

234 (c) establish procedures for obtaining, submitting, reporting, storing, and providing
235 public financial information on the Utah Public Finance Website, which may include a
236 specified reporting frequency and form.

237 (2) After consultation with the board, and in accordance with Title 63G, Chapter 3,
238 Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

239 (a) require a participating state or local entity to list certain expenditures made by a
240 person under a contract with the entity; and

241 (b) if a list is required under Subsection (2)(a), require the following information to be
242 included:

243 (i) the name of the participating state or local entity making the expenditure;

244 (ii) the name of the person receiving the expenditure;

245 (iii) the date of the expenditure;

246 (iv) the amount of the expenditure;

247 (v) the purpose of the expenditure;

248 (vi) the name of each party to the contract;

249 (vii) an electronic copy of the contract; or

250 (viii) any other criteria designated by rule.

251 Section 5. Section **63A-3-405** is enacted to read:

252 **63A-3-405. Participation by local entities.**

253 (1) (a) Not later than May 15, 2010, the following participating local entities, in
254 conformity with the rules established under Section 63A-3-404, shall provide public financial
255 information through the Utah Public Finance Website or their own website and provide a link

256 to their website through the Utah Public Finance Website:

257 (i) school districts;

258 (ii) charter schools; and

259 (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit

260 District Act.

261 (b) Participating local entities subject to this Subsection (1) shall permit information
262 that is generated not later than the fiscal year that begins July 1, 2009 to be accessible via the
263 website.

264 (2) (a) Not later than May 15, 2011, the following participating local entities, in
265 conformity with the rules established under Section 63A-3-404, shall be required to provide
266 public financial information through the Utah Public Finance Website or their own website
267 and provide a link to their website through the Utah Public Finance Website:

268 (i) counties;

269 (ii) municipalities;

270 (iii) local districts under Title 17B, Limited Purpose Local Government Entities -

271 Local Districts, that are not already required to report; and

272 (iv) special service districts under Title 17D, Chapter 1, Special Service District Act.

273 (b) Participating local entities subject to this Subsection (2) shall permit information
274 that is generated not later than the fiscal year that begins July 1, 2010 to be accessible via the
275 website.