

**UNIFORM FISCAL PROCEDURES ACT
AMENDMENTS FOR TOWNS, CITIES, AND
COUNTIES AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Fred R Hunsaker

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the public notice and hearing requirements for the uniform fiscal procedures of towns, cities, and counties.

Highlighted Provisions:

This bill:

- ▶ amends notice requirements;
- ▶ requires the governing body of a town to give public notice and hold a hearing before amending a budget or an enterprise fund;
- ▶ requires the governing body of a city to give public notice and hold a hearing before increasing an enterprise fund;
- ▶ requires the governing body of a county to give public notice and hold a hearing before amending a budgetary fund or increasing a budget appropriation of any budgetary fund;
- ▶ requires the governing body of a county to give public notice and hold a hearing before increasing an enterprise fund; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-5-108**, as last amended by Laws of Utah 2009, Chapter 388

33 **10-5-117**, as last amended by Laws of Utah 1986, Chapter 181

34 **10-6-113**, as last amended by Laws of Utah 2009, Chapter 388

35 **10-6-135**, as last amended by Laws of Utah 2006, Chapter 178

36 **17-36-26**, as last amended by Laws of Utah 2009, Chapter 388

37 **17-36-32**, as last amended by Laws of Utah 2006, Chapter 178

38 REPEALS:

39 **17-36-25**, as last amended by Laws of Utah 2009, Chapter 388



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

42 Section 1. Section **10-5-108** is amended to read:

43 **10-5-108. Budget hearing -- Notice -- Adjustments.**

44 (1) Prior to the adoption of the final budget~~[, each]~~ or an amendment to a budget, a
45 town council shall hold a public hearing to receive public comment.

46 (2) The town council shall provide notice of the place, purpose, and time of the public
47 hearing by publishing notice at least seven days before the hearing:

48 (a) (i) at least once in a newspaper of general circulation in the town; or

49 (ii) if there is no newspaper of general circulation, then by posting the notice in three
50 public places at least 48 hours prior to the hearing; and

51 ~~[(b) as required in Section 45-1-101.]~~

52 (b) on the Utah Public Notice Website created under Section 63F-1-701.

53 (3) After the hearing, the town council, subject to Section 10-5-110, may adjust
54 expenditures and revenues in conformity with this chapter.

55 Section 2. Section **10-5-117** is amended to read:

56 **10-5-117. Increasing budget total of fund.**

57 ~~[Except for enterprise funds, which may be increased without a public hearing, the]~~ A
58 town council may not increase the budget total of one or more funds or enterprise funds unless

59 ~~the town council [may increase the budget total of one or more of these funds by following]~~
 60 ~~follows~~ the procedures set forth in Section 10-5-108.

61 Section 3. Section **10-6-113** is amended to read:

62 **10-6-113. Budget -- Notice of hearing to consider adoption.**

63 At the meeting at which each tentative budget is adopted, the governing body shall
 64 establish the time and place of a public hearing to consider its adoption and shall order that
 65 notice of the public hearing be published at least seven days prior to the hearing:

66 (1) (a) in at least one issue of a newspaper of general circulation published in the
 67 county in which the city is located; or

68 (b) if there is not a newspaper as described in Subsection (1)(a), then the notice
 69 required by this section may be posted in three public places within the city; and

70 ~~[(2) as required in Section 45-1-101.]~~

71 (2) on the Utah Public Notice Website created under Section 63F-1-701.

72 Section 4. Section **10-6-135** is amended to read:

73 **10-6-135. Operating and capital budgets.**

74 (1) (a) As used in this section, "operating and capital budget" means a plan of financial
 75 operation for an enterprise or other required special fund that includes estimates of operating
 76 resources, expenses, and other outlays for a fiscal period.

77 (b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and
 78 the procedures and controls relating to them in other sections of this chapter do not apply or
 79 refer to the operating and capital budgets described in this section.

80 ~~[(1) On]~~ (2) At or before the time the governing body adopts budgets for the funds [set
 81 ~~forth] described in Section 10-6-109, [it] the governing body shall adopt [for the ensuing fiscal
 82 ~~period]:~~~~

83 (a) an ["operating and capital budget[" for each enterprise fund for the ensuing fiscal
 84 period; and [shall adopt]

85 (b) the type of budget for other special funds as required by the Uniform Accounting
 86 Manual for Utah Cities.

87 ~~[(2) (a) An "operating and capital budget," for purposes of this section, means a plan of~~
 88 ~~financial operation for an enterprise or other required special fund, embodying estimates of~~
 89 ~~operating resources and expenses and other outlays for a fiscal period.]~~

90 ~~[(b) Except as otherwise expressly provided, the reference to "budget" or "budgets" and~~
91 ~~the procedures and controls relating to them in other sections of this chapter do not apply or~~
92 ~~refer to the "operating and capital budgets" provided for in this section.]~~

93 ~~[(3) "Operating and capital budgets" shall be adopted and administered in the following~~
94 ~~manner:]~~

95 (3) (a) The governing body shall adopt and administer an operating and capital budget
96 in accordance with this Subsection (3).

97 ~~[(a) On]~~ (b) At or before the first regularly scheduled meeting of the governing body in
98 the last May of the current fiscal period, the budget officer shall:

99 (i) prepare for the ensuing fiscal period and file with the governing body a tentative
100 operating and capital budget for:

101 (A) each enterprise fund; and [for]

102 (B) other required special funds[, together with];

103 (ii) include with the tentative operating and capital budget described in Subsection

104 (3)(b)(i) specific work programs as submitted by [the] each department head; and

105 (iii) include any other supporting data required by the governing body.

106 ~~[(b)]~~ (c) Each city of the first or second class shall, and [a] each city of the third, fourth,
107 or fifth class may, submit a supplementary estimate of all capital projects which [the] a
108 department head believes should be undertaken within the three next succeeding fiscal periods.

109 ~~[(c) (i) The budget officer shall prepare estimates in cooperation with the appropriate~~
110 ~~department heads.]~~

111 ~~[(ii) Each department head shall be heard by the budget officer before making final~~
112 ~~estimates, but thereafter the officer may revise any department's estimate for the purpose of~~
113 ~~presenting the budget to the governing body.]~~

114 ~~[(d) (i) If within any enterprise fund,]~~

115 (d) (i) Subject to Subsection (3)(d)(ii), the budget officer shall prepare all estimates
116 after review and consultation with each department head described in Subsection (3)(c).

117 (ii) After complying with Subsection (3)(d)(i), the budget officer may revise any
118 departmental estimate before it is filed with the governing body.

119 (e) (i) If the governing body includes in a tentative budget or an amendment to a budget
120 allocations or transfers from an enterprise fund to another fund that are not reasonable

121 allocations of costs between ~~[funds are included in a tentative budget,]~~ the enterprise fund and
 122 the other fund, the governing body shall:

123 (A) hold a public hearing;

124 (B) prepare a written notice of the date, time, place, and purpose of the hearing ~~[shall~~
 125 ~~be mailed to utility fund customers]~~, as described in Subsection (3)(e)(ii); and

126 (C) subject to Subsection (3)(e)(iii), mail the written notice to each enterprise fund
 127 customer at least seven days [prior to the hearing] before the day of the hearing.

128 (ii) The purpose portion of the written notice required under Subsection ~~[(3)(d)(i)]~~
 129 (3)(e)(i)(B) shall identify:

130 (A) the enterprise ~~[utility]~~ fund from which money is being transferred;

131 (B) the amount being transferred; and

132 (C) the fund to which the money is being transferred.

133 (iii) The governing body:

134 (A) may print the written notice required under Subsection (3)(e)(i) on the enterprise
 135 fund customer's bill; and

136 (B) shall include the written notice required under Subsection (3)(e)(i) as a separate
 137 notification mailed or transmitted with the enterprise fund customer's bill.

138 (4) (a) ~~[The]~~ Each tentative budget [or budgets], amendment to a budget, or budget
 139 shall be reviewed and considered by the governing body at any regular meeting or special
 140 meeting called for that purpose.

141 (b) The governing body may make changes in the tentative budgets.

142 (5) Budgets for enterprise or other required special funds shall comply with the public
 143 hearing requirements established in Sections 10-6-113 and 10-6-114.

144 (6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax
 145 increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a
 146 property tax increase is proposed, the governing body shall adopt an operating and capital
 147 budget for each applicable fund for the ensuing fiscal period.

148 (b) A copy of the budget as finally adopted for each fund shall be:

149 (i) certified by the budget officer;

150 (ii) filed by the budget officer in the office of the city auditor or city recorder;

151 (iii) available to the public during regular business hours; and

152 (iv) filed with the state auditor within 30 days after ~~[adoption]~~ the day on which the
153 budget is adopted.

154 (7) (a) Upon final adoption, the operating and capital budget is in effect for the budget
155 period, subject to later amendment.

156 (b) During the budget period the governing body may, in any regular meeting or special
157 meeting called for that purpose, review any one or more of the operating and capital budgets
158 for the purpose of determining if the total of any of them should be increased.

159 (c) If the governing body decides that the budget total of one or more of the funds
160 should be increased under Subsection (7)(b), the governing body shall follow the procedures
161 set forth in Section 10-6-136 ~~[shall be followed].~~

162 (8) Expenditures from operating and capital budgets shall conform to the requirements
163 relating to budgets specified in Sections 10-6-121 through 10-6-126.

164 Section 5. Section **17-36-26** is amended to read:

165 **17-36-26. Increase in budgetary fund or general fund -- Public hearing.**

166 (1) ~~[(a) The]~~ Before the governing body may, by resolution, increase a budget
167 appropriation of any budgetary fund, increase the budget of the general fund ~~[may be increased~~
168 ~~by resolution of the governing body, only after a duly called hearing shall have been held and~~
169 ~~all], or make an amendment to a budgetary fund or the general fund, the governing body shall~~
170 hold a public hearing giving all interested parties ~~[shall have been given]~~ an opportunity to be
171 heard.

172 ~~[(b)]~~ (2) Notice of ~~[such]~~ the public hearing described in Subsection (1) shall be
173 published at least five days before ~~[such]~~ the day of the hearing:

174 (a) (i) ~~[(A)]~~ in at least one issue of a newspaper generally circulated in the county; or

175 ~~[(B)]~~ (ii) if there is not a newspaper generally circulated in the county, the hearing may
176 be published by posting notice in three conspicuous places within the county; and

177 ~~[(ii) as required in Section 45-1-101.]~~

178 ~~[(2) After such public hearing the governing body may amend the general fund budget~~
179 ~~as it deems appropriate with due consideration to matters discussed at the public hearing and to~~
180 ~~revised estimates of revenues.]~~

181 (b) on the Utah Public Notice Website created under Section 63F-1-701.

182 Section 6. Section **17-36-32** is amended to read:

183 **17-36-32. Operating and capital budget -- Expenditures.**

184 (1) (a) [~~"Operating and capital budget," for purposes of this section;~~] As used in this
 185 section, "operating and capital budget" means a plan of financial operation for an enterprise or
 186 other special fund embodying estimates of operating and nonoperating resources and expenses
 187 and other outlays for a fiscal period.

188 (b) Except as otherwise expressly provided, "budget" or "budgets" and the procedures
 189 and controls relating [~~thereto~~] to them in other sections of this act are not applicable to the
 190 [~~operating and capital budgets~~] provided in this section.

191 (2) [~~Before or at~~] At or before the time that the governing body adopts budgets for the
 192 budgetary funds specified in Section 17-36-8, [~~it~~] the governing body shall adopt an
 193 [~~operating and capital budget~~] for the next fiscal period for:

194 (a) each enterprise fund; and [~~for~~]

195 (b) any other special nonbudgetary fund for which operating and capital budgets are
 196 prescribed by the uniform system of budgeting, accounting, and reporting.

197 [~~(3) Operating and capital budgets shall be adopted and administered in the following~~
 198 ~~manner:~~]

199 (3) (a) The governing body shall adopt and administer the operating and capital budget
 200 in accordance with this Subsection (3).

201 [~~(a) On~~] (b) At or before the first day of the next to last month of each fiscal period,
 202 the budget officer shall prepare for the next fiscal period on forms provided pursuant to Section
 203 17-36-4, and file with the governing body a tentative operating and capital budget for:

204 (i) each enterprise fund; and [~~for~~]

205 (ii) any other special fund that requires an operating and capital budget.

206 [~~(b)~~] (c) The tentative operating and capital budget shall be accompanied by a
 207 supplementary estimate of all capital projects or planned capital projects;

208 (i) within the next fiscal period; and

209 (ii) within the [~~next succeeding~~] fiscal period immediately following the fiscal period
 210 described in Subsection (3)(c)(i).

211 [~~(c) The~~] (d) (i) Subject to Subsection (3)(d)(ii), the budget officer shall prepare all
 212 [~~the~~] estimates after review and consultation, if requested, with [~~the concerned~~] a department[;
 213 but thereafter] proposing a capital project.

214 (ii) After complying with Subsection (3)(d)(i), the budget officer ~~[has authority to]~~ may
215 revise any departmental estimate before it is filed with the governing body.

216 ~~[(d) (i) If within any enterprise utility fund,]~~

217 (e) (i) If a governing body includes in a tentative budget, or an amendment to a budget,
218 allocations or transfers between an enterprise fund and another fund that are not reasonable
219 allocations of costs between [funds are included in a tentative budget,] the enterprise fund and
220 the other fund, the governing body shall:

221 (A) hold a public hearing;

222 (B) prepare a written notice of the date, time, place, and purpose of the hearing [shall
223 be mailed to utility fund customers], in accordance with Subsection (3)(e)(ii); and

224 (C) subject to Subsection (3)(e)(iii), mail the notice to each enterprise fund customer at
225 least seven days before the day of the hearing.

226 (ii) The purpose portion of the written notice described in Subsection (3)(e)(i)(B) shall
227 identify:

228 (A) the enterprise ~~[utility]~~ fund from which money is being transferred;

229 (B) the amount being transferred; and

230 (C) the fund to which the money is being transferred.

231 (iii) The governing body:

232 (A) may print the written notice required under Subsection (3)(e)(i) on the enterprise
233 fund customer's bill; and

234 (B) shall include the written notice required under Subsection (3)(e)(i) as a separate
235 notification mailed or transmitted with the enterprise fund customer's bill.

236 ~~[(e) (i) The]~~ (f) (i) The governing body shall review the tentative operating and capital
237 budget ~~[shall be reviewed by the governing body]~~ at any regular or special meeting called for
238 that purpose.

239 (ii) ~~[The]~~ In accordance with Subsection (3)(f)(i), the governing body may make any
240 changes [it] to the tentative operating and capital budget that the governing body considers
241 advisable.

242 (iii) Before the close of the fiscal period, the governing body shall adopt an operating
243 and capital budget for the next fiscal period.

244 ~~[(f)]~~ (g) (i) Upon final adoption by the governing body, the operating and capital

245 budget shall be in effect for the budget period subject to amendment.

246 (ii) The governing body shall:

247 ~~[(ii) A] (A) certify a copy of the operating and capital budget for each fund [shall be~~
248 ~~certified by]~~ with the budget officer; and ~~[made]~~

249 (B) make a copy available to the public during business hours in the offices of the
250 county auditor.

251 (iii) ~~[A] The governing body shall file a copy of the operating and capital budget [shall~~
252 ~~be filed]~~ with the state auditor within 30 days after ~~[its adoption]~~ the day on which the
253 operating and capital budget is adopted.

254 (iv) The governing body may during the budget period amend the operating and capital
255 budget of an enterprise or other special fund by resolution.

256 (v) A copy of the operating and capital budget as amended shall be filed with the state
257 auditor.

258 (4) Any expenditure from an operating and capital budget shall conform to the
259 requirements for budgets specified by Sections 17-36-20, 17-36-22, 17-36-23, and 17-36-24.

260 Section 7. **Repealer.**

261 This bill repeals:

262 Section **17-36-25, Budget appropriation increase.**

Legislative Review Note
as of 1-18-10 3:35 PM

Office of Legislative Research and General Counsel

Fiscal Note

**H.B. 94 - Uniform Fiscal Procedures Act Amendments for Towns, Cities, and
Counties Amendments**

2010 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.
