

Representative Kraig Powell proposes the following substitute bill:

OPEN AND PUBLIC MEETING ACT NOTICE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act by amending public notice requirements.

Highlighted Provisions:

This bill:

- ▶ requires a public body to give not less than 72 hours public notice of a meeting if the public body knows, at least 72 hours in advance, that it will hold the meeting;
- ▶ describes requirements for the notice described in the preceding paragraph;
- ▶ permits a public body to amend an agenda up to 24 hours before a meeting;
- ▶ provides an exception to the extended 72-hour notice requirement for certain meetings of a public body in the state legislative branch;
- ▶ prohibits a court from voiding final action taken in violation of the extended 72-hour notice requirement; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **10-9a-203**, as last amended by Laws of Utah 2009, Chapter 188

29 **52-4-202**, as last amended by Laws of Utah 2009, First Special Session, Chapter 5

30 **52-4-302**, as last amended by Laws of Utah 2012, Chapter 403

31 **63F-1-702**, as enacted by Laws of Utah 2007, Chapter 249



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

34 Section 1. Section **10-9a-203** is amended to read:

35 **10-9a-203. Notice of intent to prepare a general plan or comprehensive general**
36 **plan amendments in certain municipalities.**

37 (1) Before preparing a proposed general plan or a comprehensive general plan
38 amendment, each municipality within a county of the first or second class shall provide 10
39 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general
40 plan amendment:

41 (a) to each affected entity;

42 (b) to the Automated Geographic Reference Center created in Section 63F-1-506;

43 (c) to the association of governments, established pursuant to an interlocal agreement
44 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member;
45 and

46 (d) (i) on the Utah Public Notice Website created under Section 63F-1-701, if the
47 municipality:

48 (A) is required under Subsection 52-4-202[(3)](4) to use that website to provide public
49 notice of a meeting; or

50 (B) voluntarily chooses to provide notice on that website despite not being required to
51 do so under Subsection (1)(d)(i)(A); or

52 (ii) to the state planning coordinator appointed under Section 63J-4-202, if the
53 municipality does not provide notice on the Utah Public Notice Website under Subsection
54 (1)(d)(i).

55 (2) Each notice under Subsection (1) shall:

56 (a) indicate that the municipality intends to prepare a general plan or a comprehensive

57 general plan amendment, as the case may be;

58 (b) describe or provide a map of the geographic area that will be affected by the general
59 plan or amendment;

60 (c) be sent by mail, e-mail, or other effective means;

61 (d) invite the affected entities to provide information for the municipality to consider in
62 the process of preparing, adopting, and implementing a general plan or amendment concerning:

63 (i) impacts that the use of land proposed in the proposed general plan or amendment
64 may have; and

65 (ii) uses of land within the municipality that the affected entity is considering that may
66 conflict with the proposed general plan or amendment; and

67 (e) include the address of an Internet website, if the municipality has one, and the name
68 and telephone number of a person where more information can be obtained concerning the
69 municipality's proposed general plan or amendment.

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

71 **52-4-202. Public notice of meetings -- Emergency meetings.**

72 (1) ~~[A] Except as provided in Subsection (3) or (6), a public body shall give not less~~
73 than 24 hours public notice of each meeting including the meeting:

74 (a) agenda;

75 (b) date;

76 (c) time; and

77 (d) place.

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

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

83 (3) (a) A public body that knows, at least 72 hours before the start time of a meeting,
84 that it will hold the meeting, shall:

85 (i) give not less than 72 hours public notice of the meeting, including the agenda, date,
86 time, and place of the meeting; and

87 (ii) include the following statement in the agenda: "This agenda may be amended up to

88 24 hours before the scheduled start time of the meeting."

89 (b) A public body may amend an agenda posted under Subsection (3)(a) by giving
90 public notice in accordance with the requirements of Subsection (1).

91 (c) A public body that gives public notice of a meeting in accordance with Subsection
92 (3)(a) and does not amend the agenda after giving the notice is not required to give additional
93 notice of the meeting under Subsection (1).

94 (d) This Subsection (3) does not apply to a public body in the state legislative branch
95 for a meeting held:

96 (i) for, or during, any special session, extraordinary session, or veto override session; or

97 (ii) during the period of time beginning seven days before a general session and ending
98 on the last day of the general session.

99 [~~3~~] (4) (a) Public notice shall be satisfied by:

100 (i) posting written notice:

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

103 (B) [~~beginning October 1, 2008 and~~] except as provided in Subsection [~~3~~] (4)(b), on
104 the Utah Public Notice Website created under Section 63F-1-701; and

105 (ii) providing notice to:

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

108 (B) a local media correspondent.

109 (b) A public body of a municipality under Title 10, Utah Municipal Code, a local
110 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a
111 special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged,
112 but not required, to post written notice on the Utah Public Notice Website, if the municipality
113 or district has a current annual budget of less than \$1 million.

114 (c) A public body is in compliance with the provisions of Subsection [~~3~~] (4)(a)(ii) by
115 providing notice to a newspaper or local media correspondent under the provisions of
116 Subsection 63F-1-701(4)(d).

117 [~~4~~] (5) A public body is encouraged to develop and use additional electronic means to
118 provide notice of its meetings under Subsection [~~3~~] (4).

119 ~~[(5) (a) The notice requirement of Subsection (1) may be disregarded if:]~~

120 (6) (a) A public body is not required to comply with the notice requirements described
 121 in Subsections (1) through (4) if:

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

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

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

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

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

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

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

130 ~~[(6)]~~ (7) (a) A public notice that is required to include an agenda under Subsection (1)
 131 or (3) shall provide reasonable specificity to notify the public as to the topics to be considered
 132 at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

133 (b) Subject to the provisions of Subsection ~~[(6)]~~ (7)(c), and at the discretion of the
 134 presiding member of the public body, a topic raised by the public may be discussed during an
 135 open meeting, even if the topic raised by the public was not included in the agenda or advance
 136 public notice for the meeting.

137 (c) Except as provided in Subsection ~~[(5)]~~ (6), relating to emergency meetings, a public
 138 body may not take final action on a topic in an open meeting unless the topic is:

139 (i) listed under an agenda item as required by Subsection ~~[(6)]~~ (7)(a); and

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

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

142 **52-4-302. Suit to void final action -- Limitation -- Exceptions.**

143 (1) (a) ~~[Any]~~ Except as provided in Subsection (1)(b), a final action taken in violation
 144 of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of competent
 145 jurisdiction.

146 (b) A court may not void a final action taken by a public body for failure to comply
 147 with ~~[the posting written]~~:

148 (i) the public notice requirements described in Subsection 52-4-202(3); or

149 (ii) the notice requirements ~~[under]~~ described in Subsection 52-4-202~~[(3)]~~(4)(a)(i)(B)

150 if:

151 ~~[(i) the posting is made for a meeting that is held before April 1, 2009; or]~~

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

153 and

154 (B) the failure was a result of unforeseen Internet hosting or communication
155 technology failure.

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

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

160 Section 4. Section **63F-1-702** is amended to read:

161 **63F-1-702. Notice and training by the Division of Archives and Records Service.**

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

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