

**AVAILABILITY OF GOVERNMENT INFORMATION**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Deidre M. Henderson**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to the availability of government information.

**Highlighted Provisions:**

This bill:

- ▶ requires pending and approved minutes to be posted on the Utah Public Notice Website;
- ▶ modifies provisions regarding the manner and time of making minutes public;
- ▶ requires the Utah Transparency Advisory Board to study how government can improve publicly available information and to report the results of its study to a legislative committee; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**52-4-203**, as last amended by Laws of Utah 2009, Chapter 137

**63A-3-403**, as last amended by Laws of Utah 2010, Chapter 286



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

29 Section 1. Section **52-4-203** is amended to read:

30 **52-4-203. Written minutes of open meetings -- Public records -- Recording of**  
31 **meetings.**

32 (1) Except as provided under Subsection (7), written minutes and a recording shall be  
33 kept of all open meetings.

34 (2) Written minutes of an open meeting are the official record of action taken at the  
35 meeting and shall include:

36 (a) the date, time, and place of the meeting;

37 (b) the names of members present and absent;

38 (c) the substance of all matters proposed, discussed, or decided by the public body  
39 which may include a summary of comments made by members of the public body;

40 (d) a record, by individual member, of each vote taken by the public body;

41 (e) the name of each person who:

42 (i) is not a member of the public body; and

43 (ii) after being recognized by the presiding member of the public body, provided  
44 testimony or comments to the public body;

45 (f) the substance, in brief, of the testimony or comments provided by the public under  
46 Subsection (2)(e); and

47 (g) any other information that is a record of the proceedings of the meeting that any  
48 member requests be entered in the minutes or recording.

49 (3) A recording of an open meeting shall:

50 (a) be a complete and unedited record of all open portions of the meeting from the  
51 commencement of the meeting through adjournment of the meeting; and

52 (b) be properly labeled or identified with the date, time, and place of the meeting.

53 [~~4~~] ~~The written minutes and recording of an open meeting are public records under~~  
54 ~~Title 63G, Chapter 2, Government Records Access and Management Act, as follows:]~~

55 [~~a~~] ~~Written minutes that have been prepared in a form awaiting only formal approval~~  
56 ~~by the public body are a public record.]~~

57 [~~b~~] ~~Written minutes shall be available to the public within a reasonable time after the~~  
58 ~~end of the meeting.]~~

59 ~~[(c) Written minutes that are made available to the public before approval by the public~~  
60 ~~body under Subsection (4)(d) shall be clearly identified as "awaiting formal approval" or~~  
61 ~~"unapproved" or with some other appropriate notice that the written minutes are subject to~~  
62 ~~change until formally approved.]~~

63 (4) (a) As used in this Subsection (4):

64 (i) "Approved minutes" means written minutes:

65 (A) of an open meeting; and

66 (B) that have been approved by the public body that held the open meeting.

67 (ii) "Pending minutes" means written minutes:

68 (A) of an open meeting; and

69 (B) that have been prepared in a form awaiting only the approval of the public body  
70 that held the open meeting.

71 (b) Pending minutes, approved minutes, and a recording of a public meeting are public  
72 records under Title 63G, Chapter 2, Government Records Access and Management Act.

73 (c) Pending minutes shall contain a clear indication that the public body has not yet  
74 approved the minutes or that the minutes are subject to change until the public body approves  
75 them.

76 (d) A public body shall:

77 (i) within seven business days after the public body holds an open meeting:

78 (A) make a copy of pending minutes from that meeting available to the public at the  
79 public body's primary office; and

80 (B) post the pending minutes on the Utah Public Notice Website created under Section  
81 63F-1-701;

82 (ii) within 48 hours after the public body adopts written minutes of an open meeting:

83 (A) make a copy of the approved minutes available to the public at the public body's  
84 primary office; and

85 (B) post the approved minutes on the Utah Public Notice Website created under  
86 Section 63F-1-701; and

87 (iii) within three business days after the public body holds an open meeting, post an  
88 audio recording of the open meeting, or a link to the recording, on the Utah Public Notice  
89 Website created under Section 63F-1-701.

90           ~~[(d)]~~ (e) A public body shall establish and implement procedures for the public body's  
91 approval of the written minutes of each meeting.

92           ~~[(e) Written minutes are the official record of action taken at the meeting.]~~

93           ~~[(f) A recording of an open meeting shall be available to the public for listening within  
94 three business days after the end of the meeting.]~~

95           (5) All or any part of an open meeting may be independently recorded by any person in  
96 attendance if the recording does not interfere with the conduct of the meeting.

97           (6) The written minutes or recording of an open meeting that are required to be retained  
98 permanently shall be maintained in or converted to a format that meets long-term records  
99 storage requirements.

100           (7) Notwithstanding Subsection (1), a recording is not required to be kept of:

101           (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken  
102 by the public body; or

103           (b) an open meeting of a local district under Title 17B, Limited Purpose Local  
104 Government Entities - Local Districts, or special service district under Title 17D, Chapter 1,  
105 Special Service District Act, if the district's annual budgeted expenditures for all funds,  
106 excluding capital expenditures and debt service, are \$50,000 or less.

107           Section 2. Section **63A-3-403** is amended to read:

108           **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**  
109 **Duties.**

110           (1) There is created within the division the Utah Transparency Advisory Board  
111 comprised of members knowledgeable about public finance or providing public access to  
112 public financial information as follows:

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

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

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

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

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

121 of the Senate;

122 (f) one member of the House of Representatives, appointed by the governor on advice  
123 from the speaker of the House of Representatives;

124 (g) one member designated by the director of the Department of Technology Services;

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

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

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

131 (A) a school district;

132 (B) a charter school; and

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

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

137 (A) a county;

138 (B) a municipality; and

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

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

143 (2) The board shall:

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

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

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

150 (i) only includes records that:

151 (A) are classified as public under Title 63G, Chapter 2, Government Records Access

152 and Management Act;

153 (B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or  
154 revenues, regardless of the source; and

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

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

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

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

161 (C) privacy and security considerations;

162 (d) evaluate the cost effectiveness of implementing specific information resources and  
163 features on the website;

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

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

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

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

176 (i) fiscal year;

177 (ii) expenditure type;

178 (iii) name of the agency;

179 (iv) payee;

180 (v) date; and

181 (vi) amount[-]; and

182 (i) (i) study how state and local government can improve the amount and quality of

183 information that is available to the public concerning the operations of state and local  
184 government in conducting the people's business; and  
185 (ii) report the results of its study, including any recommendations, to the Government  
186 Operations Interim Committee by November 30, 2013.  
187 (3) The board shall annually elect a chair and a vice chair from its members.  
188 (4) (a) Except for a member appointed under Subsections (1)(c) and (h), each member  
189 shall serve a two-year term.  
190 (b) When a vacancy occurs in the membership for any reason, the replacement shall be  
191 appointed for the remainder of the unexpired term.  
192 (5) The board shall meet as it determines necessary to accomplish its duties.  
193 (6) Reasonable notice shall be given to each member of the board before any meeting.  
194 (7) A majority of the board constitutes a quorum for the transaction of business.  
195 (8) A member may not receive compensation or benefits for the member's service, but  
196 may receive per diem and travel expenses in accordance with:  
197 (a) Section 63A-3-106;  
198 (b) Section 63A-3-107; and  
199 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
200 63A-3-107.

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**Legislative Review Note**  
as of 2-14-13 9:25 AM

**Office of Legislative Research and General Counsel**