

Senator Deidre M. Henderson proposes the following substitute bill:

TRANSPARENCY FOR POLITICAL

SUBDIVISIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Craig Hall

LONG TITLE

General Description:

This bill modifies provisions relating to local government disclosures.

Highlighted Provisions:

This bill:

▸ requires a local district or a special service district to post on the Utah Public Notice Website the contact information of each member of the district's governing body;

▸ removes a size and budget threshold for local government participation in the Utah Public Finance Website; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-303, as last amended by Laws of Utah 2014, Chapters 362 and 377

17D-1-106, as last amended by Laws of Utah 2014, Chapter 362



26 63A-3-401, as last amended by Laws of Utah 2015, Chapter 38

27 63A-3-403, as last amended by Laws of Utah 2014, Chapters 75, 185, and 387

28 63A-3-405, as last amended by Laws of Utah 2012, Chapter 94

29 63F-1-701, as last amended by Laws of Utah 2013, Chapter 63



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

32 Section 1. Section 17B-1-303 is amended to read:

33 **17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice**
34 **of board member contact information.**

35 (1) (a) Except as provided in Subsections (1)(b) and (c), the term of each member of a
36 board of trustees shall begin at noon on the January 1 following the member's election or
37 appointment.

38 (b) The term of each member of the initial board of trustees of a newly created local
39 district shall begin:

40 (i) upon appointment, for an appointed member; and

41 (ii) upon the member taking the oath of office after the canvass of the election at which
42 the member is elected, for an elected member.

43 (c) The term of each water conservancy district board member appointed by the
44 governor as provided in Subsection 17B-2a-1005(2)(c) shall:

45 (i) begin on the later of the following:

46 (A) the date on which the Senate consents to the appointment; or

47 (B) the expiration date of the prior term; and

48 (ii) end on the February 1 that is approximately four years after the date described in
49 Subsection (1)(c)(i)(A) or (B).

50 (2) (a) (i) Except as provided in Subsection (8), and subject to Subsection (2)(a)(ii), the
51 term of each member of a board of trustees shall be four years, except that approximately half
52 the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that
53 the term of approximately half the board members expires every two years.

54 (ii) (A) If the terms of members of the initial board of trustees of a newly created local
55 district do not begin on January 1 because of application of Subsection (1)(b), the terms of
56 those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in

57 the terms of their successors complying with:

58 (I) the requirement under Subsection (1)(a) for a term to begin on January 1 following
59 a member's election or appointment; and

60 (II) the requirement under Subsection (2)(a)(i) that terms be four years.

61 (B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or
62 subtract more than a year from a member's term.

63 (b) Each board of trustees member shall serve until a successor is duly elected or
64 appointed and qualified, unless the member earlier is removed from office or resigns or
65 otherwise leaves office.

66 (c) If a member of a board of trustees no longer meets the qualifications of Subsection
67 17B-1-302(1), or if the member's term expires without a duly elected or appointed successor:

68 (i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

69 (ii) the member may continue to serve until a successor is duly elected or appointed
70 and qualified.

71 (3) (a) (i) Before entering upon the duties of office, each member of a board of trustees
72 shall take the oath of office specified in Utah Constitution Article IV, Section 10.

73 (ii) An oath of office may be administered by a judge, county clerk, notary public, or
74 the local district clerk.

75 (b) Each oath of office shall be filed with the clerk of the local district.

76 (c) The failure of a board of trustees member to take the oath required by Subsection
77 (3)(a) does not invalidate any official act of that member.

78 (4) A board of trustees member is not limited in the number of terms the member may
79 serve.

80 (5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees
81 position shall be filled as provided in Section 20A-1-512.

82 (6) (a) For purposes of this Subsection (6):

83 (i) "Appointed official" means a person who:

84 (A) is appointed as a member of a local district board of trustees by a county or
85 municipality entitled to appoint a member to the board; and

86 (B) holds an elected position with the appointing county or municipality.

87 (ii) "Appointing entity" means the county or municipality that appointed the appointed

88 official to the board of trustees.

89 (b) The board of trustees shall declare a midterm vacancy for the board position held
90 by an appointed official if:

91 (i) during the appointed official's term on the board of trustees, the appointed official
92 ceases to hold the elected position with the appointing entity; and

93 (ii) the appointing entity submits a written request to the board to declare the vacancy.

94 (c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the
95 appointing entity shall appoint another person to fill the remaining unexpired term on the board
96 of trustees.

97 (7) (a) Each member of a board of trustees shall give a bond for the faithful
98 performance of the member's duties, in the amount and with the sureties prescribed by the
99 board of trustees.

100 (b) The local district shall pay the cost of each bond required under Subsection (7)(a).

101 (8) The lieutenant governor may extend the term of an elected district board member
102 by one year in order to compensate for a change in the election year under Subsection
103 17B-1-306(13).

104 (9) (a) A local district shall:

105 (i) post on the Utah Public Notice Website created in Section 63F-1-701 the name,
106 phone number, and email address of each member of the local district's board of trustees;

107 (ii) update the information described in Subsection (9)(a)(i) when:

108 (A) the membership of the board of trustees changes; or

109 (B) a member of the board of trustees' phone number or email address changes; and

110 (iii) post any update required under Subsection (9)(a)(ii) within 30 days after the day
111 on which the change requiring the update occurs.

112 (b) This Subsection (9) applies regardless of whether the county or municipal
113 legislative body also serves as the board of trustees of the local district.

114 Section 2. Section 17D-1-106 is amended to read:

115 **17D-1-106. Special service districts subject to other provisions.**

116 (1) A special service district is, to the same extent as if it were a local district, subject
117 to and governed by:

118 (a) (i) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-111, 17B-1-112,

119 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, 17B-1-121, 17B-1-304,
120 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314; and

121 (ii) Sections 17B-1-305 and 17B-1-306, to the extent that a county legislative body or a
122 municipal legislative body, as applicable, has delegated authority to an administrative control
123 board with elected members, under Section 17D-1-301.

124 (b) Subsections:

125 (i) 17B-1-301(3) and (4); and

126 (ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), [and] (7), and (9);

127 (c) Section 20A-1-512;

128 (d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

129 (e) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

130 (f) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

131 (g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

132 (2) For purposes of applying the provisions listed in Subsection (1) to a special service
133 district, each reference in those provisions to the local district board of trustees means the
134 governing body.

135 Section 3. Section 63A-3-401 is amended to read:

136 **63A-3-401. Definitions.**

137 As used in this part:

138 (1) "Board" means the Utah Transparency Advisory Board created under Section
139 63A-3-403.

140 (2) "Division" means the Division of Finance of the Department of Administrative
141 Services.

142 (3) (a) "Independent entity," except as provided in Subsection (3)(c), means the same
143 as that term is defined in Section 63E-1-102.

144 (b) "Independent entity" includes an entity that is part of an independent entity
145 described in this Subsection (3), if the entity is considered a component unit of the independent
146 entity under the governmental accounting standards issued by the Governmental Accounting
147 Standards Board.

148 (c) "Independent entity" does not include:

149 (i) the Workers' Compensation Fund created in Section 31A-33-102; or

150 (ii) the Utah State Retirement Office created in Section 49-11-201.

151 (4) "Participating local entity" means each of the following local entities~~[, if the entity~~
152 ~~meets the size or budget thresholds established by the board under Subsection~~

153 ~~63A-3-403(3)(c)]~~:

154 (a) a county;

155 (b) a municipality;

156 (c) a local district under Title 17B, Limited Purpose Local Government Entities - Local
157 Districts;

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

159 (e) a school district;

160 (f) a charter school;

161 (g) except for a taxed interlocal entity described in Section 11-13-315, an interlocal
162 entity as defined in Section 11-13-103; and

163 (h) except for a taxed interlocal entity described in Section 11-13-315, an entity that is
164 part of an entity described in Subsections (4)(a) through (g), if the entity is considered a
165 component unit of the entity described in Subsections (4)(a) through (g) under the
166 governmental accounting standards issued by the Governmental Accounting Standards Board.

167 (5) (a) "Participating state entity" means the state of Utah, including its executive,
168 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,
169 councils, committees, and institutions.

170 (b) "Participating state entity" includes an entity that is part of an entity described in
171 Subsection (5)(a), if the entity is considered a component unit of the entity described in
172 Subsection (5)(a) under the governmental accounting standards issued by the Governmental
173 Accounting Standards Board.

174 (6) "Public financial information" means records that are required to be made available
175 on the Utah Public Finance Website, a participating local entity's website, or an independent
176 entity's website as required by this part, and as the term "public financial information" is
177 defined by rule under Section 63A-3-404.

178 Section 4. Section 63A-3-403 is amended to read:

179 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**
180 **Duties.**

181 (1) There is created within the department the Utah Transparency Advisory Board
182 comprised of members knowledgeable about public finance or providing public access to
183 public information.

184 (2) The board consists of:

185 (a) an individual appointed by the director of the Division of Finance;

186 (b) an individual appointed by the executive director of the Governor's Office of
187 Management and Budget;

188 (c) an individual appointed by the governor on advice from the Legislative Fiscal
189 Analyst;

190 (d) one member of the Senate, appointed by the governor on advice from the president
191 of the Senate;

192 (e) one member of the House of Representatives, appointed by the governor on advice
193 from the speaker of the House of Representatives;

194 (f) an individual appointed by the director of the Department of Technology Services;

195 (g) the director of the Division of Archives and Records Service created in Section
196 63A-12-101 or the director's designee;

197 (h) an individual who is a member of the State Records Committee created in Section
198 63G-2-501, appointed by the governor;

199 (i) an individual representing counties, appointed by the governor;

200 (j) an individual representing municipalities, appointed by the governor;

201 (k) an individual representing special districts, appointed by the governor; and

202 (l) two individuals who are members of the public and who have knowledge, expertise,
203 or experience in matters relating to the board's duties under Subsection (10), appointed by the
204 board members identified in Subsections (2)(a) through (k).

205 (3) The board shall:

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

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

210 (c) determine what public financial information shall be provided by a participating
211 state entity, independent entity, and participating local entity, if the public financial

212 information:

213 (i) only includes records that:

214 (A) are classified as public under Title 63G, Chapter 2, Government Records Access
215 and Management Act, or, subject to any specific limitations and requirements regarding the
216 provision of financial information from the entity described in Section 63A-3-402, if an entity
217 is exempt from Title 63G, Chapter 2, Government Records Access and Management Act,
218 records that would normally be classified as public if the entity were not exempt from Title
219 63G, Chapter 2, Government Records Access and Management Act;

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

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

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

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

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

228 (C) privacy and security considerations;

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

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

234 ~~[(f)] (e) require participating local entities to provide public financial information in~~
235 ~~accordance with the requirements of this part, with a specified content, reporting frequency,~~
236 ~~and form;~~

237 ~~[(g)] (f) require an independent entity's website or a participating local entity's website~~
238 ~~to be accessible by link or other direct route from the Utah Public Finance Website if the~~
239 ~~independent entity or participating local entity does not use the Utah Public Finance Website;~~

240 ~~[(h)] (g) determine the search methods and the search criteria that shall be made~~
241 ~~available to the public as part of a website used by an independent entity or a participating local~~
242 ~~entity under the requirements of this part, which criteria may include:~~

- 243 (i) fiscal year;
- 244 (ii) expenditure type;
- 245 (iii) name of the agency;
- 246 (iv) payee;
- 247 (v) date; and
- 248 (vi) amount; and
- 249 ~~[(f)]~~ (h) analyze ways to improve the information on the Utah Public Finance Website
- 250 so the information is more relevant to citizens, including through the use of:
- 251 (i) infographics that provide more context to the data; and
- 252 (ii) geolocation services, if possible.
- 253 (4) The board shall annually elect a chair and a vice chair from its members.
- 254 (5) (a) Each member shall serve a two-year term.
- 255 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
- 256 appointed for the remainder of the unexpired term.
- 257 (6) To accomplish its duties, the board shall meet as it determines necessary.
- 258 (7) Reasonable notice shall be given to each member of the board before any meeting.
- 259 (8) A majority of the board constitutes a quorum for the transaction of business.
- 260 (9) (a) A member who is not a legislator may not receive compensation or benefits for
- 261 the member's service, but may receive per diem and travel expenses as allowed in:
- 262 (i) Section [63A-3-106](#);
- 263 (ii) Section [63A-3-107](#); and
- 264 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and
- 265 [63A-3-107](#).
- 266 (b) Compensation and expenses of a member who is a legislator are governed by
- 267 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- 268 (10) (a) As used in Subsections (10) and (11):
- 269 (i) "Information website" means a single Internet website containing public information
- 270 or links to public information.
- 271 (ii) "Public information" means records of state government, local government, or an
- 272 independent entity that are classified as public under Title 63G, Chapter 2, Government
- 273 Records Access and Management Act, or, subject to any specific limitations and requirements

274 regarding the provision of financial information from the entity described in Section
275 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and
276 Management Act, records that would normally be classified as public if the entity were not
277 exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

278 (b) The board shall:

279 (i) study the establishment of an information website and develop recommendations for
280 its establishment;

281 (ii) develop recommendations about how to make public information more readily
282 available to the public through the information website;

283 (iii) develop standards to make uniform the format and accessibility of public
284 information posted to the information website; and

285 (iv) identify and prioritize public information in the possession of a state agency or
286 political subdivision that may be appropriate for publication on the information website.

287 (c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by
288 principles that encourage:

289 (i) (A) the establishment of a standardized format of public information that makes the
290 information more easily accessible by the public;

291 (B) the removal of restrictions on the reuse of public information;

292 (C) minimizing limitations on the disclosure of public information while appropriately
293 safeguarding sensitive information; and

294 (D) balancing factors in favor of excluding public information from an information
295 website against the public interest in having the information accessible on an information
296 website;

297 (ii) (A) permanent, lasting, open access to public information; and

298 (B) the publication of bulk public information;

299 (iii) the implementation of well-designed public information systems that ensure data
300 quality, create a public, comprehensive list or index of public information, and define a process
301 for continuous publication of and updates to public information;

302 (iv) the identification of public information not currently made available online and the
303 implementation of a process, including a timeline and benchmarks, for making that public
304 information available online; and

305 (v) accountability on the part of those who create, maintain, manage, or store public
306 information or post it to an information website.

307 (d) The department shall implement the board's recommendations, including the
308 establishment of an information website, to the extent that implementation:

- 309 (i) is approved by the Legislative Management Committee;
- 310 (ii) does not require further legislative appropriation; and
- 311 (iii) is within the department's existing statutory authority.

312 (11) The department shall, in consultation with the board and as funding allows,
313 modify the information website described in Subsection (10) to:

314 (a) by January 1, 2015, serve as a point of access for Government Records Access and
315 Management requests for executive agencies;

316 (b) by January 1, 2016, serve as a point of access for Government Records Access and
317 Management requests for:

- 318 (i) school districts;
- 319 (ii) charter schools;
- 320 (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit

321 District Act;

322 (iv) counties; and

323 (v) municipalities;

324 (c) by January 1, 2017, serve as a point of access for Government Records Access and
325 Management requests for:

326 (i) local districts under Title 17B, Limited Purpose Local Government Entities - Local
327 Districts; and

328 (ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

329 (d) except as provided in Subsection (12)(a), provide link capabilities to other existing
330 repositories of public information, including maps, photograph collections, legislatively
331 required reports, election data, statute, rules, regulations, and local ordinances that exist on
332 other agency and political subdivision websites;

333 (e) provide multiple download options in different formats, including nonproprietary,
334 open formats where possible;

335 (f) provide any other public information that the board, under Subsection (10),

336 identifies as appropriate for publication on the information website; and

337 (g) incorporate technical elements the board identifies as useful to a citizen using the
338 information website.

339 (12) (a) The department, in consultation with the board, shall establish by rule any
340 restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on
341 the website described in Subsection (10) if the inclusion would pose a potential security
342 concern.

343 (b) The website described in Subsection (10) may not publish any record that is
344 classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records
345 Access and Management Act.

346 Section 5. Section **63A-3-405** is amended to read:

347 **63A-3-405. Participation by local entities.**

348 (1) (a) Not later than May 15, 2010, the following participating local entities, in
349 conformity with the rules established under Section [63A-3-404](#), shall provide public financial
350 information through the Utah Public Finance Website or their own website and provide a link
351 to their website through the Utah Public Finance Website:

352 (i) school districts;

353 (ii) charter schools; and

354 (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit
355 District Act.

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

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

363 (i) counties;

364 (ii) municipalities;

365 (iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local
366 Districts, that are not already required to report; and

367 (iv) special service districts under Title 17D, Chapter 1, Special Service District Act.
 368 (b) Participating local entities subject to this Subsection (2) shall permit information
 369 that is generated not later than the fiscal year that begins July 1, 2010, to be accessible via the
 370 website.

371 (3) (a) On or before May 15, 2013, an interlocal entity that is a participating local entity
 372 in conformity with the rules established under Section 63A-3-404, shall, subject to Subsection
 373 (3)(b), provide public financial information through the Utah Public Finance Website or the
 374 interlocal entity's own website and provide a link to their website through the Utah Public
 375 Finance Website.

376 (b) A participating local entity subject to this Subsection (3) shall provide public
 377 financial information that is generated on or after the fiscal year that begins July 1, 2012, to be
 378 accessible via the website.

379 (4) A participating local entity that makes public financial information accessible via
 380 the Utah Public Finance Website ~~in 2016~~ **on or after May 10, 2016,** and that was
 380a not previously required to make
 381 financial information accessible via the website shall permit information that is generated on or
 382 after the first day of the participating local entity's fiscal year that includes ~~May 10, 2016~~
 382a **January 1, 2017**, to be
 383 accessible via the website.

383a ~~in 2016~~ **(5) (a) Except as provided in Subsection (5)(b), a participating local entity described in**
 383b **Subsection (4) shall comply with the provisions of this part on or before January 1, 2017.**

383c **(b) A participating local entity described in Subsection (4) that has an annual budget of**
 383d **\$100,000 or less shall comply with the provisions of this part on or before July 1, 2017.** ~~in 2016~~

384 Section 6. Section 63F-1-701 is amended to read:

385 **63F-1-701. Utah Public Notice Website -- Establishment and administration.**

386 (1) As used in this part:

387 (a) "Division" means the Division of Archives and Records Service of the Department
 388 of Administrative Services.

389 (b) "Public body" has the same meaning as provided under Section 52-4-103.

390 (c) "Public information" means a public body's public notices, minutes, audio
 391 recordings, and other materials that are required to be posted to the website under Title 52,
 392 Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.

393 (d) "Website" means the Utah Public Notice Website created under this section.

394 (2) There is created the Utah Public Notice Website to be administered by the Division

395 of Archives and Records Service.

396 (3) The website shall consist of an Internet website provided to assist the public to find

397 posted public information.

398 (4) The division, with the technical assistance of the Department of Technology
399 Services, shall create the website which shall:

400 (a) allow a public body, or other certified entity, to easily post any public information,
401 including the contact information required under Subsections 17B-1-303(9) and
402 17D-1-106(1)(b)(ii);

403 (b) allow the public to search the public information by:

404 (i) public body name;

405 (ii) date of posting of the notice;

406 (iii) date of any meeting or deadline included as part of the public information; and

407 (iv) any other criteria approved by the division;

408 (c) allow the public to search and view past, archived public information;

409 (d) allow a person to subscribe to receive updates and notices associated with a public
410 body or a particular type of public information;

411 (e) be easily accessible by the public from the State of Utah home page;

412 (f) have a unique and simplified website address;

413 (g) be directly accessible via a link from the main page of the official state website; and

414 (h) include other links, features, or functionality that will assist the public in obtaining
415 and reviewing public information posted on the website, as may be approved by the division.

416 (5) The division shall be responsible for:

417 (a) establishing and maintaining the website, including the provision of equipment,
418 resources, and personnel as is necessary;

419 (b) providing a mechanism for public bodies or other certified entities to have access to
420 the website for the purpose of posting and modifying public information; and

421 (c) maintaining an archive of all public information posted to the website.

422 (6) The timing for posting and the content of the public information posted to the
423 website shall be the responsibility of the public body or other entity posting the public
424 information.