

**FINANCIAL 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 the Utah Public Finance Website.

Highlighted Provisions:

This bill:

- ▶ 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:

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

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

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

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

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



28 **63A-3-401. Definitions.**

29 As used in this part:

30 (1) "Board" means the Utah Transparency Advisory Board created under Section
31 [63A-3-403](#).

32 (2) "Division" means the Division of Finance of the Department of Administrative
33 Services.

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

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

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

41 (i) the Workers' Compensation Fund created in Section [31A-33-102](#); or

42 (ii) the Utah State Retirement Office created in Section [49-11-201](#).

43 (4) "Participating local entity" means each of the following local entities ~~[, if the entity~~
44 ~~meets the size or budget thresholds established by the board under Subsection~~
45 ~~[63A-3-403](#)(3)(e)]~~:

46 (a) a county;

47 (b) a municipality;

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

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

51 (e) a school district;

52 (f) a charter school;

53 (g) except for a taxed interlocal entity described in Section [11-13-315](#), an interlocal
54 entity as defined in Section [11-13-103](#); and

55 (h) except for a taxed interlocal entity described in Section [11-13-315](#), an entity that is
56 part of an entity described in Subsections (4)(a) through (g), if the entity is considered a
57 component unit of the entity described in Subsections (4)(a) through (g) under the
58 governmental accounting standards issued by the Governmental Accounting Standards Board.

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

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

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

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

71 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**
72 **Duties.**

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

76 (2) The board consists of:

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

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

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

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

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

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

87 (g) the director of the Division of Archives and Records Service created in Section
88 [63A-12-101](#) or the director's designee;

89 (h) an individual who is a member of the State Records Committee created in Section

90 63G-2-501, appointed by the governor;

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

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

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

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

97 (3) The board shall:

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

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

102 (c) determine what public financial information shall be provided by a participating
103 state entity, independent entity, and participating local entity, if the public financial
104 information:

105 (i) only includes records that:

106 (A) are classified as public under Title 63G, Chapter 2, Government Records Access
107 and Management Act, or, subject to any specific limitations and requirements regarding the
108 provision of financial information from the entity described in Section 63A-3-402, if an entity
109 is exempt from Title 63G, Chapter 2, Government Records Access and Management Act,
110 records that would normally be classified as public if the entity were not exempt from Title
111 63G, Chapter 2, Government Records Access and Management Act;

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

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

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

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

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

120 (C) privacy and security considerations;

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

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

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

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

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

- 135 (i) fiscal year;
- 136 (ii) expenditure type;
- 137 (iii) name of the agency;
- 138 (iv) payee;
- 139 (v) date; and
- 140 (vi) amount; and

141 [(~~i~~) (h)] analyze ways to improve the information on the Utah Public Finance Website
142 so the information is more relevant to citizens, including through the use of:

- 143 (i) infographics that provide more context to the data; and
 - 144 (ii) geolocation services, if possible.
- 145 (4) The board shall annually elect a chair and a vice chair from its members.
 - 146 (5) (a) Each member shall serve a two-year term.
 - 147 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
148 appointed for the remainder of the unexpired term.
 - 149 (6) To accomplish its duties, the board shall meet as it determines necessary.
 - 150 (7) Reasonable notice shall be given to each member of the board before any meeting.
 - 151 (8) A majority of the board constitutes a quorum for the transaction of business.

152 (9) (a) A member who is not a legislator may not receive compensation or benefits for
153 the member's service, but may receive per diem and travel expenses as allowed in:

154 (i) Section 63A-3-106;

155 (ii) Section 63A-3-107; and

156 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and
157 63A-3-107.

158 (b) Compensation and expenses of a member who is a legislator are governed by
159 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

160 (10) (a) As used in Subsections (10) and (11):

161 (i) "Information website" means a single Internet website containing public information
162 or links to public information.

163 (ii) "Public information" means records of state government, local government, or an
164 independent entity that are classified as public under Title 63G, Chapter 2, Government
165 Records Access and Management Act, or, subject to any specific limitations and requirements
166 regarding the provision of financial information from the entity described in Section
167 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and
168 Management Act, records that would normally be classified as public if the entity were not
169 exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

170 (b) The board shall:

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

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

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

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

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

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

- 183 (B) the removal of restrictions on the reuse of public information;
- 184 (C) minimizing limitations on the disclosure of public information while appropriately
- 185 safeguarding sensitive information; and
- 186 (D) balancing factors in favor of excluding public information from an information
- 187 website against the public interest in having the information accessible on an information
- 188 website;
- 189 (ii) (A) permanent, lasting, open access to public information; and
- 190 (B) the publication of bulk public information;
- 191 (iii) the implementation of well-designed public information systems that ensure data
- 192 quality, create a public, comprehensive list or index of public information, and define a process
- 193 for continuous publication of and updates to public information;
- 194 (iv) the identification of public information not currently made available online and the
- 195 implementation of a process, including a timeline and benchmarks, for making that public
- 196 information available online; and
- 197 (v) accountability on the part of those who create, maintain, manage, or store public
- 198 information or post it to an information website.
- 199 (d) The department shall implement the board's recommendations, including the
- 200 establishment of an information website, to the extent that implementation:
- 201 (i) is approved by the Legislative Management Committee;
- 202 (ii) does not require further legislative appropriation; and
- 203 (iii) is within the department's existing statutory authority.
- 204 (11) The department shall, in consultation with the board and as funding allows,
- 205 modify the information website described in Subsection (10) to:
- 206 (a) by January 1, 2015, serve as a point of access for Government Records Access and
- 207 Management requests for executive agencies;
- 208 (b) by January 1, 2016, serve as a point of access for Government Records Access and
- 209 Management requests for:
- 210 (i) school districts;
- 211 (ii) charter schools;
- 212 (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit
- 213 District Act;

214 (iv) counties; and
215 (v) municipalities;
216 (c) by January 1, 2017, serve as a point of access for Government Records Access and
217 Management requests for:

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

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

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

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

227 (f) provide any other public information that the board, under Subsection (10),
228 identifies as appropriate for publication on the information website; and

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

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

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

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

239 **63A-3-405. Participation by local entities.**

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

244 (i) school districts;

245 (ii) charter schools; and
246 (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit
247 District Act.

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

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

- 255 (i) counties;
- 256 (ii) municipalities;
- 257 (iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local
258 Districts, that are not already required to report; and

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

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

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

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

271 (4) A participating local entity that makes public financial information accessible via
272 the Utah Public Finance Website in 2016 and that was not previously required to make
273 financial information accessible via the website shall permit information that is generated on or
274 after the first day of the participating local entity's fiscal year that includes May 10, 2016, to be
275 accessible via the website.

Legislative Review Note
Office of Legislative Research and General Counsel