

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-1-301, as last amended by Laws of Utah 2015, Chapter 437



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-1-301** is amended to read:

115 **17D-1-301. Governance of a special service district -- Authority to create and**
116 **delegate authority to an administrative control board -- Limitations on authority to**
117 **delegate -- Notice of governing body contact information.**

118 (1) Each special service district shall be governed by the legislative body of the county

119 or municipality that creates the special service district, subject to any delegation under this
120 section of a right, power, or authority to an administrative control board.

121 (2) At the time a special service district is created or at any time thereafter, the
122 legislative body of a county or municipality that creates a special service district may, by
123 resolution or ordinance:

124 (a) create an administrative control board for the special service district;

125 (b) subject to Subsection (3), delegate to the administrative control board the exercise
126 of any right, power, or authority that the legislative body possesses with respect to the
127 governance of the special service district; and

128 (c) specify the members of the initial administrative control board by name or other
129 designation that clearly identifies each member of the initial administrative control board.

130 (3) A county or municipal legislative body may not delegate to an administrative
131 control board of a special service district the power to:

132 (a) annex an area to an existing special service district or add a service within the area
133 of an existing special service district under Part 4, Annexing a New Area and Adding a New
134 Service;

135 (b) designate, under Section 17D-1-107, the classes of special service district contracts
136 that are subject to Title 11, Chapter 39, Building Improvements and Public Works Projects;

137 (c) levy a tax on the taxable property within the special service district;

138 (d) issue special service district bonds payable from taxes;

139 (e) call or hold an election for the authorization of a property tax or the issuance of
140 bonds;

141 (f) levy an assessment;

142 (g) issue interim warrants or bonds payable from an assessment; or

143 (h) appoint a board of equalization under Section 11-42-403.

144 (4) (a) A county or municipal legislative body that has delegated a right, power, or
145 authority under this section to an administrative control board may at any time modify, limit, or
146 revoke any right, power, or authority delegated to the administrative control board.

147 (b) A modification, limitation, or revocation under Subsection (4)(a) does not affect the
148 validity of an action taken by an administrative control board before the modification,
149 limitation, or revocation.

150 (5) A special service district shall:

151 (a) post on the Utah Public Notice Website created in Section 63F-1-701 the name,
152 phone number, and email address of each member of the special service district's governing
153 body;

154 (b) update the information described in Subsection (5)(a) when:

155 (i) the membership of the governing body changes; or

156 (ii) a member of the governing body's phone number or email address changes; and

157 (c) post any update required under Subsection (5)(b) within 30 days after the day on
158 which the change requiring the update occurs.

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

160 **63A-3-401. Definitions.**

161 As used in this part:

162 (1) "Board" means the Utah Transparency Advisory Board created under Section
163 [63A-3-403](#).

164 (2) "Division" means the Division of Finance of the Department of Administrative
165 Services.

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

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

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

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

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

175 (4) "Participating local entity" means each of the following local entities~~[, if the entity~~
176 ~~meets the size or budget thresholds established by the board under Subsection~~
177 ~~[63A-3-403](#)(3)(e)]~~:

178 (a) a county;

179 (b) a municipality;

180 (c) a local district under Title 17B, Limited Purpose Local Government Entities - Local

181 Districts;

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

183 (e) a school district;

184 (f) a charter school;

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

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

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

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

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

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

203 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**
204 **Duties.**

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

208 (2) The board consists of:

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

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

- 212 (c) an individual appointed by the governor on advice from the Legislative Fiscal
213 Analyst;
- 214 (d) one member of the Senate, appointed by the governor on advice from the president
215 of the Senate;
- 216 (e) one member of the House of Representatives, appointed by the governor on advice
217 from the speaker of the House of Representatives;
- 218 (f) an individual appointed by the director of the Department of Technology Services;
- 219 (g) the director of the Division of Archives and Records Service created in Section
220 [63A-12-101](#) or the director's designee;
- 221 (h) an individual who is a member of the State Records Committee created in Section
222 [63G-2-501](#), appointed by the governor;
- 223 (i) an individual representing counties, appointed by the governor;
- 224 (j) an individual representing municipalities, appointed by the governor;
- 225 (k) an individual representing special districts, appointed by the governor; and
- 226 (l) two individuals who are members of the public and who have knowledge, expertise,
227 or experience in matters relating to the board's duties under Subsection (10), appointed by the
228 board members identified in Subsections (2)(a) through (k).
- 229 (3) The board shall:
- 230 (a) advise the division on matters related to the implementation and administration of
231 this part;
- 232 (b) develop plans, make recommendations, and assist in implementing the provisions
233 of this part;
- 234 (c) determine what public financial information shall be provided by a participating
235 state entity, independent entity, and participating local entity, if the public financial
236 information:
- 237 (i) only includes records that:
- 238 (A) are classified as public under Title 63G, Chapter 2, Government Records Access
239 and Management Act, or, subject to any specific limitations and requirements regarding the
240 provision of financial information from the entity described in Section [63A-3-402](#), if an entity
241 is exempt from Title 63G, Chapter 2, Government Records Access and Management Act,
242 records that would normally be classified as public if the entity were not exempt from Title

243 63G, Chapter 2, Government Records Access and Management Act;

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

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

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

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

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

252 (C) privacy and security considerations;

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

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

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

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

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

267 (i) fiscal year;

268 (ii) expenditure type;

269 (iii) name of the agency;

270 (iv) payee;

271 (v) date; and

272 (vi) amount; and

273 ~~[(i)]~~ (h) analyze ways to improve the information on the Utah Public Finance Website

274 so the information is more relevant to citizens, including through the use of:

275 (i) infographics that provide more context to the data; and

276 (ii) geolocation services, if possible.

277 (4) The board shall annually elect a chair and a vice chair from its members.

278 (5) (a) Each member shall serve a two-year term.

279 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
280 appointed for the remainder of the unexpired term.

281 (6) To accomplish its duties, the board shall meet as it determines necessary.

282 (7) Reasonable notice shall be given to each member of the board before any meeting.

283 (8) A majority of the board constitutes a quorum for the transaction of business.

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

286 (i) Section [63A-3-106](#);

287 (ii) Section [63A-3-107](#); and

288 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and
289 [63A-3-107](#).

290 (b) Compensation and expenses of a member who is a legislator are governed by
291 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

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

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

295 (ii) "Public information" means records of state government, local government, or an
296 independent entity that are classified as public under Title 63G, Chapter 2, Government
297 Records Access and Management Act, or, subject to any specific limitations and requirements
298 regarding the provision of financial information from the entity described in Section
299 [63A-3-402](#), if an entity is exempt from Title 63G, Chapter 2, Government Records Access and
300 Management Act, records that would normally be classified as public if the entity were not
301 exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

302 (b) The board shall:

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

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

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

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

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

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

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

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

318 (D) balancing factors in favor of excluding public information from an information
319 website against the public interest in having the information accessible on an information
320 website;

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

322 (B) the publication of bulk public information;

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

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

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

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

333 (i) is approved by the Legislative Management Committee;

334 (ii) does not require further legislative appropriation; and

335 (iii) is within the department's existing statutory authority.

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

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

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

342 (i) school districts;

343 (ii) charter schools;

344 (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit
345 District Act;

346 (iv) counties; and

347 (v) municipalities;

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

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

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

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

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

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

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

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

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

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

371 **63A-3-405. Participation by local entities.**

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

376 (i) school districts;

377 (ii) charter schools; and

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

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

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

387 (i) counties;

388 (ii) municipalities;

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

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

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

395 (3) (a) On or before May 15, 2013, an interlocal entity that is a participating local entity
396 in conformity with the rules established under Section [63A-3-404](#), shall, subject to Subsection
397 (3)(b), provide public financial information through the Utah Public Finance Website or the

398 interlocal entity's own website and provide a link to their website through the Utah Public
399 Finance Website.

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

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

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

409 **63F-1-701. Utah Public Notice Website -- Establishment and administration.**

410 (1) As used in this part:

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

413 (b) "Public body" has the same meaning as provided under Section [52-4-103](#).

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

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

418 (2) There is created the Utah Public Notice Website to be administered by the Division
419 of Archives and Records Service.

420 (3) The website shall consist of an Internet website provided to assist the public to find
421 posted public information.

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

424 (a) allow a public body, or other certified entity, to easily post any public information,
425 including the contact information required under Subsections [17B-1-303\(9\)](#) and [17D-1-301\(5\)](#);

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

427 (i) public body name;

428 (ii) date of posting of the notice;

- 429 (iii) date of any meeting or deadline included as part of the public information; and
- 430 (iv) any other criteria approved by the division;
- 431 (c) allow the public to search and view past, archived public information;
- 432 (d) allow a person to subscribe to receive updates and notices associated with a public
- 433 body or a particular type of public information;
- 434 (e) be easily accessible by the public from the State of Utah home page;
- 435 (f) have a unique and simplified website address;
- 436 (g) be directly accessible via a link from the main page of the official state website; and
- 437 (h) include other links, features, or functionality that will assist the public in obtaining
- 438 and reviewing public information posted on the website, as may be approved by the division.
- 439 (5) The division shall be responsible for:
- 440 (a) establishing and maintaining the website, including the provision of equipment,
- 441 resources, and personnel as is necessary;
- 442 (b) providing a mechanism for public bodies or other certified entities to have access to
- 443 the website for the purpose of posting and modifying public information; and
- 444 (c) maintaining an archive of all public information posted to the website.
- 445 (6) The timing for posting and the content of the public information posted to the
- 446 website shall be the responsibility of the public body or other entity posting the public
- 447 information.