

UTAH TRANSPARENCY ADVISORY BOARD AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Transparency Advisory Board.

Highlighted Provisions:

This bill:

- ▶ modifies the appointment term for a member of the Utah Transparency Advisory Board;
- ▶ modifies the frequency for electing a chair and a vice chair of the Utah Transparency Advisory Board; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-3-403, as last amended by Laws of Utah 2016, Chapters 47 and 233

63I-2-263, as last amended by Laws of Utah 2017, First Special Session, Chapter 1

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

Section 1. Section **63A-3-403** is amended to read:



28 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**
29 **Duties.**

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

33 (2) The board consists of:

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

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

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

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

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

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

44 (g) the director of the Division of Archives and Records Service created in Section
45 [63A-12-101](#) or the director's designee;

46 (h) an individual who is a member of the State Records Committee created in Section
47 [63G-2-501](#), appointed by the governor;

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

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

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

51 (l) an individual representing the State Board of Education, appointed by the State
52 Board of Education; and

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

56 (3) The board shall:

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

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

61 (c) determine what public financial information shall be provided by a participating
62 state entity, independent entity, and participating local entity, if the public financial
63 information:

64 (i) only includes records that:

65 (A) are classified as public under Title 63G, Chapter 2, Government Records Access
66 and Management Act, or, subject to any specific limitations and requirements regarding the
67 provision of financial information from the entity described in Section 63A-3-402, if an entity
68 is exempt from Title 63G, Chapter 2, Government Records Access and Management Act,
69 records that would normally be classified as public if the entity were not exempt from Title
70 63G, Chapter 2, Government Records Access and Management Act;

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

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

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

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

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

79 (C) privacy and security considerations;

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

82 (e) require participating local entities to provide public financial information in
83 accordance with the requirements of this part, with a specified content, reporting frequency,
84 and form;

85 (f) require an independent entity's website or a participating local entity's website to be
86 accessible by link or other direct route from the Utah Public Finance Website if the
87 independent entity or participating local entity does not use the Utah Public Finance Website;

88 (g) determine the search methods and the search criteria that shall be made available to
89 the public as part of a website used by an independent entity or a participating local entity

90 under the requirements of this part, which criteria may include:

- 91 (i) fiscal year;
- 92 (ii) expenditure type;
- 93 (iii) name of the agency;
- 94 (iv) payee;
- 95 (v) date; and
- 96 (vi) amount; and
- 97 (h) analyze ways to improve the information on the Utah Public Finance Website so

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

- 99 (i) infographics that provide more context to the data; and
- 100 (ii) geolocation services, if possible.

101 (4) ~~[The]~~ Every two years, the board shall ~~[annually]~~ elect a chair and a vice chair from
102 its members.

103 ~~[(5) (a) Each member shall serve a two-year term.]~~

104 (5) (a) (i) The term of a member appointed for an unexpired two-year term before May
105 8, 2018, shall be extended by two years from the date of the original appointment.

106 (ii) Each member appointed on or after May 8, 2018, shall serve a four-year term.

107 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
108 appointed for ~~Ŝ~~ **→ [the remainder of the unexpired term] a four-year term ←Ŝ** .

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

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

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

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

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

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

116 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and
117 [63A-3-107](#).

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

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

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

123 (ii) "Public information" means records of state government, local government, or an
124 independent entity that are classified as public under Title 63G, Chapter 2, Government
125 Records Access and Management Act, or, subject to any specific limitations and requirements
126 regarding the provision of financial information from the entity described in Section
127 [63A-3-402](#), if an entity is exempt from Title 63G, Chapter 2, Government Records Access and
128 Management Act, records that would normally be classified as public if the entity were not
129 exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

130 (b) The board shall:

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

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

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

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

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

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

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

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

146 (D) balancing factors in favor of excluding public information from an information
147 website against the public interest in having the information accessible on an information
148 website;

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

150 (B) the publication of bulk public information;

151 (iii) the implementation of well-designed public information systems that ensure data

152 quality, create a public, comprehensive list or index of public information, and define a process
153 for continuous publication of and updates to public information;

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

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

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

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

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

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

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

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

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

170 (i) school districts;

171 (ii) charter schools;

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

174 (iv) counties; and

175 (v) municipalities;

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

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

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

181 (d) except as provided in Subsection (12)(a), provide link capabilities to other existing
182 repositories of public information, including maps, photograph collections, legislatively

183 required reports, election data, statute, rules, regulations, and local ordinances that exist on
 184 other agency and political subdivision websites;

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

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

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

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

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

198 Section 2. Section **63I-2-263** is amended to read:

199 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

200 (1) On July 1, 2020:

201 (a) Subsection 63A-3-403(5)(a)(i) is repealed; and

202 (b) in Subsection 63A-3-403(5)(a)(ii), the language that states "appointed on or after
 203 May 8, 2018," is repealed.

204 ~~[(1)]~~ (2) Section 63A-5-227 is repealed on January 1, 2018.

205 ~~[(2)]~~ (3) Section 63H-7a-303 is repealed on July 1, 2022.

206 ~~[(3)]~~ (4) On July 1, 2019:

207 (a) in Subsection 63J-1-206(3)(c)(i), the language that states "(i) Except as provided in
 208 Subsection (3)(c)(ii)" is repealed; and

209 (b) Subsection 63J-1-206(3)(c)(ii) is repealed.

210 ~~[(4)]~~ (5) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

211 ~~[(5)]~~ (6) Section 63N-3-110 is repealed July 1, 2020.

Legislative Review Note
Office of Legislative Research and General Counsel