

1 **INDEPENDENT ENTITIES FINANCIAL TRANSPARENCY**

2 **DISCLOSURE**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Deidre M. Henderson**

6 House Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill modifies requirements for the Utah Public Finance Website by requiring
10 independent entities to report financial information for inclusion on the website.
11

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines "independent entity";
- 15 ▶ requires an independent entity, except the Workers' Compensation Fund, to report
16 financial information on the Utah Public Finance Website or via a link to its own
17 website through the Utah Public Finance Website;
- 18 ▶ provides specific reporting exclusions for certain independent entities; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **63A-3-401**, as last amended by Laws of Utah 2012, Chapter 94

27 **63A-3-402**, as last amended by Laws of Utah 2011, Chapters 46 and 417



28 [63A-3-403](#), as last amended by Laws of Utah 2013, Chapters 84 and 310

29 [63A-3-404](#), as last amended by Laws of Utah 2009, Chapter 310



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

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

33 **Part 4. Utah Public Finance Website**

34 **63A-3-401. Definitions.**

35 As used in this part:

36 (1) "Board" means the Utah Transparency Advisory Board created under Section
37 [63A-3-403](#).

38 (2) "Division" means the Division of Finance of the Department of Administrative
39 Services.

40 (3) (a) "Independent entity," except as provided in Subsection (3)(b), is as defined in
41 Section [63E-1-102](#).

42 (b) "Independent entity" does not include the Workers' Compensation Fund created in
43 Section [31A-33-102](#).

44 ~~[(3)]~~ (4) "Participating local entity" means each of the following local entities, if the
45 entity meets the size or budget thresholds established by the ~~[rules authorized]~~ board under
46 Subsection ~~[[63A-3-404\(2\)\(a\)](#)] [63A-3-403\(3\)\(e\)](#):~~

47 (a) a county;

48 (b) a municipality;

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

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

52 (e) a school district;

53 (f) a charter school; and

54 (g) an interlocal entity as defined in Section [11-13-103](#).

55 ~~[(4)]~~ (5) "Participating state entity" means the state of Utah, including its executive,
56 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,
57 councils, committees, and institutions.

58 ~~[(5)]~~ (6) "Public financial information" means records that are required to be made

59 available on the Utah Public Finance Website [~~or~~], a participating local entity's website, or an
 60 independent entity's website as required by this part and as the term "public financial
 61 information" is defined by rule under Section [63A-3-404](#).

62 Section 2. Section **63A-3-402** is amended to read:

63 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**
 64 **Records disclosure.**

65 (1) There is created the Utah Public Finance Website to be administered by the
 66 Division of Finance with the technical assistance of the Department of Technology Services.

67 (2) The Utah Public Finance Website shall:

68 (a) permit Utah taxpayers to:

69 (i) view, understand, and track the use of taxpayer dollars by making public financial
 70 information available on the Internet for participating state [~~entities' and~~] entities, independent
 71 entities, and participating local entities, using the Utah Public Finance Website; and

72 (ii) link to websites administered by participating local entities or independent entities
 73 that do not use the Utah Public Finance Website for the purpose of providing participating
 74 local entities' or independent entities' public financial information as required by this part and
 75 by rule under Section [63A-3-404](#);

76 (b) allow a person who has Internet access to use the website without paying a fee;

77 (c) allow the public to search public financial information on the Utah Public Finance
 78 Website using [~~those~~] criteria established by the board;

79 (d) provide access to financial reports, financial audits, budgets, or other financial
 80 documents that are used to allocate, appropriate, spend, and account for [~~the~~] government
 81 funds, as may be established by rule under Section [63A-3-404](#);

82 (e) have a unique and simplified website address;

83 (f) be directly accessible via a link from the main page of the official state website;

84 (g) include other links, features, or functionality that will assist the public in obtaining
 85 and reviewing public financial information, as may be established by rule under Section
 86 [63A-3-404](#); and

87 (h) include a link to school report cards published on the State Board of Education's
 88 website pursuant to Section [53A-1-1112](#).

89 (3) The division shall:

90 (a) establish and maintain the website, including the provision of equipment, resources,
91 and personnel as [is] necessary;

92 (b) maintain an archive of all information posted to the website;

93 (c) coordinate and process the receipt and posting of public financial information from
94 participating state entities;

95 (d) coordinate and regulate the posting of public financial information by participating
96 local entities and independent entities; and

97 (e) provide staff support for the advisory committee.

98 (4) (a) A participating state entity and each independent entity shall permit the public
99 to view the [~~participating~~] entity's public financial information via the website, beginning with
100 information that is generated not later than the fiscal year that begins July 1, 2008, except that
101 public financial information for an:

102 (i) institution of higher education shall be provided beginning with information
103 generated for the fiscal year beginning July 1, 2009[~~;~~]; and

104 (ii) independent entity shall be provided beginning with information generated for the
105 entity's fiscal year beginning in 2014.

106 (b) [~~Not~~] No later than May 15, 2009, the website shall:

107 (i) be operational; and

108 (ii) permit public access to participating state entities' public financial information,
109 except as provided in [~~Subsection~~] Subsections (4)(c) and (d).

110 (c) An institution of higher education that is a participating state entity shall submit the
111 entity's public financial information at a time allowing for inclusion on the website no later
112 than May 15, 2010.

113 (d) No later than July 1, 2014, an independent entity shall submit the entity's public
114 financial information for inclusion on the Utah Public Finance Website or via a link to its own
115 website on the Utah Public Finance Website.

116 (5) (a) The Utah Educational Savings Plan, created in Section [53B-8a-103](#), shall
117 provide the following financial information to the division for posting on the Utah Public
118 Finance Website:

119 (i) administrative fund expense transactions from its general ledger accounting system;
120 and

- 121 (ii) employee compensation information.
- 122 (b) The plan is not required to submit other financial information to the division,
- 123 including:
- 124 (i) revenue transactions;
- 125 (ii) account owner transactions; and
- 126 (iii) fiduciary or commercial information, as defined in Section [53B-12-102](#).
- 127 (6) (a) The Utah State Retirement Office, created in Section [49-11-201](#), shall provide
- 128 the following financial information to the division for posting on the Utah Public Finance
- 129 Website or via a link to a website administered by the Utah State Retirement Office:
- 130 (i) administrative expense transactions from its general ledger accounting system; and
- 131 (ii) employee compensation information.
- 132 (b) For purposes of this part, the office is not required to submit to the division or
- 133 provide a link to other financial information, including:
- 134 (i) revenue transactions of the:
- 135 (A) Utah State Retirement Investment Fund created in Section [49-11-301](#); and
- 136 (B) Public Employees' Trust Fund created in Section [49-20-104](#);
- 137 (ii) member account balances and transactions;
- 138 (iii) fiduciary or commercial information related to any subject if the disclosure of the
- 139 information:
- 140 (A) would conflict with fiduciary obligations; or
- 141 (B) is prohibited by insider trading provisions; and
- 142 (iv) information of a commercial nature, including information related to:
- 143 (A) account owners, borrowers, and dependents;
- 144 (B) demographic data;
- 145 (C) contracts and related payments;
- 146 (D) negotiations;
- 147 (E) proposals or bids;
- 148 (F) investments;
- 149 (G) the investment and management of funds;
- 150 (H) fees and charges;
- 151 (I) plan and program design;

- 152 (J) investment options and underlying investments offered to account owners;
- 153 (K) marketing and outreach efforts;
- 154 (L) lending criteria;
- 155 (M) the structure and terms of bonding; and
- 156 (N) financial plans or strategies.
- 157 (7) (a) The Utah Capital Investment Corporation, created in Section [63M-1-1207](#), shall
- 158 provide the following financial information to the division for posting on the Utah Public
- 159 Finance Website or via a link to a website administered by the Utah Capital Investment
- 160 Corporation:
- 161 (i) administrative expense transactions from its general ledger accounting system; and
- 162 (ii) employee compensation information.
- 163 (b) For purposes of this part, the office is not required to submit to the division or
- 164 provide a link to other financial information, including:
- 165 (i) revenue transactions of the Utah fund of funds described in Section [63M-1-1213](#);
- 166 (ii) fiduciary or commercial information related to any subject if the disclosure of the
- 167 information:
- 168 (A) would conflict with fiduciary obligations; or
- 169 (B) is prohibited by insider trading provisions; and
- 170 (iii) information of a commercial nature, including information related to:
- 171 (A) account owners, borrowers, and dependents;
- 172 (B) demographic data;
- 173 (C) contracts and related payments;
- 174 (D) negotiations;
- 175 (E) proposals or bids;
- 176 (F) investments;
- 177 (G) the investment and management of funds;
- 178 (H) fees and charges;
- 179 (I) plan and program design;
- 180 (J) investment options and underlying investments offered to account owners;
- 181 (K) marketing and outreach efforts;
- 182 (L) lending criteria;

183 (M) the structure and terms of bonding; and

184 (N) financial plans or strategies.

185 ~~[(6)]~~ (8) A person who negligently discloses a record that is classified as private,
186 protected, or controlled by Title 63G, Chapter 2, Government Records Access and
187 Management Act, is not criminally or civilly liable for an improper disclosure of the record if
188 the record is disclosed solely as a result of the preparation or publication of the Utah Public
189 Finance Website.

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

191 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**
192 **Duties.**

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

196 (2) The board consists of:

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

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

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

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

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

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

207 (g) the director of the Division of Archives created in Section [63A-12-101](#) or the
208 director's designee;

209 (h) an individual who is a member of the State Records Committee created in Section
210 [63G-2-501](#), appointed by the governor;

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

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

213 (k) two individuals who are members of the public and who have knowledge,

214 expertise, or experience in matters relating to the board's duties under Subsection (10),
215 appointed by the board members identified in Subsections (2)(a) through (j).

216 (3) The board shall:

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

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

221 (c) determine what public financial information shall be provided by a participating
222 state [~~and local entities~~] entity, independent entity, and participating local entity, if the public
223 financial information:

224 (i) only includes records that:

225 (A) are classified as public under Title 63G, Chapter 2, Government Records Access
226 and Management Act, or, subject to any specific limitations and requirements regarding the
227 provision of financial information from the entity described in Section 63A-3-402, if an entity
228 is exempt from Title 63G, Chapter 2, Government Records Access and Management Act,
229 records that would normally be classified as public if the entity were not exempt from Title
230 63G, Chapter 2, Government Records Access and Management Act;

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

233 (C) are owned, held, or administered by the participating state [~~or~~] entity, independent
234 entity, or participating local entity that is required to provide the record; and

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

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

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

239 (C) privacy and security considerations;

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

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

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

248 (g) require an independent entity's website or a participating local entity's website to be
249 accessible by link or other direct route from the Utah Public Finance Website if the
250 independent entity or participating local entity does not use the Utah Public Finance Website;
251 and

252 (h) determine the search methods and the search criteria that shall be made available to
253 the public as part of a website used by an independent entity or a participating local entity
254 under the requirements of this part, which criteria may include:

- 255 (i) fiscal year;
- 256 (ii) expenditure type;
- 257 (iii) name of the agency;
- 258 (iv) payee;
- 259 (v) date; and
- 260 (vi) amount.

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

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

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

265 (6) To accomplish its duties, the board[~~:(a) may meet as many as eight times during~~
266 ~~2013; and (b) shall, after 2013;~~] shall meet as it determines necessary.

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

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

269 (9) A member may not receive compensation or benefits for the member's service, but
270 may receive per diem and travel expenses in accordance with:

- 271 (a) Section [63A-3-106](#);
- 272 (b) Section [63A-3-107](#); and
- 273 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
274 [63A-3-107](#).

275 (10) (a) As used in this Subsection (10):

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

278 (ii) "Public information" means records of state ~~[or] government,~~ local government, or
279 an independent entity that are classified as public under Title 63G, Chapter 2, Government
280 Records Access and Management Act, or, subject to any specific limitations and requirements
281 regarding the provision of financial information from the entity described in Section
282 63A-3-402, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and
283 Management Act, records that would normally be classified as public if the entity were not
284 exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

285 (b) The board shall:

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

288 (ii) develop recommendations about how to make public information more readily
289 available to the public through the information website; and

290 (iii) develop standards to make uniform the format and accessibility of public
291 information posted to the information website~~[-and]~~.

292 ~~[(iv) no later than November 30, 2013, report the board's recommendations and~~
293 ~~standards developed under Subsections (10)(b)(i) through (iii) to the executive director and the~~
294 ~~Legislative Management Committee.]~~

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

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

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

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

302 (D) balancing factors in favor of excluding public information from an information
303 website against the public interest in having the information accessible on an information
304 website;

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

306 (B) the publication of bulk public information;

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

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

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

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

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

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

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

320 Section 4. Section **63A-3-404** is amended to read:

321 **63A-3-404. Rulemaking authority.**

322 (1) After consultation with the board, and in accordance with Title 63G, Chapter 3,
323 Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

324 (a) require participating state entities to provide public financial information for
325 inclusion on the Utah Public Finance Website;

326 (b) define, either uniformly for all participating state entities, or on an entity by entity
327 basis, the term "public financial information" using the standards provided in Subsection
328 [63A-3-403](#)~~(2)~~(3)(c); and

329 (c) establish procedures for obtaining, submitting, reporting, storing, and providing
330 public financial information on the Utah Public Finance Website, which may include a
331 specified reporting frequency and form.

332 (2) After consultation with the board, and in accordance with Title 63G, Chapter 3,
333 Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

334 (a) require a participating state or local entity to list certain expenditures made by a
335 person under a contract with the entity; and

336 (b) if a list is required under Subsection (2)(a), require the following information to be
337 included:

- 338 (i) the name of the participating state or local entity making the expenditure;
- 339 (ii) the name of the person receiving the expenditure;
- 340 (iii) the date of the expenditure;
- 341 (iv) the amount of the expenditure;
- 342 (v) the purpose of the expenditure;
- 343 (vi) the name of each party to the contract;
- 344 (vii) an electronic copy of the contract; or
- 345 (viii) any other criteria designated by rule.

Legislative Review Note
as of **2-5-14 9:36 AM**

Office of Legislative Research and General Counsel