

1 **AVAILABILITY OF GOVERNMENT INFORMATION**

2 2013 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Craig Hall

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to the availability of government information.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires certain public bodies to post minutes and audio recordings of meetings on
13 the Utah Public Notice Website;

14 ▶ modifies provisions regarding the manner and time of making minutes public;

15 ▶ modifies a provision relating to the Utah Public Notice Website to make
16 conforming changes; and

17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **52-4-203**, as last amended by Laws of Utah 2009, Chapter 137

25 **63F-1-701**, as last amended by Laws of Utah 2010, Chapter 138

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

28 Section 1. Section **52-4-203** is amended to read:

29 **52-4-203. Written minutes of open meetings -- Public records -- Recording of**

30 meetings.

31 (1) Except as provided under Subsection (7), written minutes and a recording shall be
32 kept of all open meetings.

33 (2) Written minutes of an open meeting shall include:

34 (a) the date, time, and place of the meeting;

35 (b) the names of members present and absent;

36 (c) the substance of all matters proposed, discussed, or decided by the public body
37 which may include a summary of comments made by members of the public body;

38 (d) a record, by individual member, of each vote taken by the public body;

39 (e) the name of each person who:

40 (i) is not a member of the public body; and

41 (ii) after being recognized by the presiding member of the public body, provided
42 testimony or comments to the public body;

43 (f) the substance, in brief, of the testimony or comments provided by the public under
44 Subsection (2)(e); and

45 (g) any other information that is a record of the proceedings of the meeting that any
46 member requests be entered in the minutes or recording.

47 (3) A recording of an open meeting shall:

48 (a) be a complete and unedited record of all open portions of the meeting from the
49 commencement of the meeting through adjournment of the meeting; and

50 (b) be properly labeled or identified with the date, time, and place of the meeting.

51 ~~[(4) The written minutes and recording of an open meeting are public records under
52 Title 63G, Chapter 2, Government Records Access and Management Act, as follows:]~~

53 ~~[(a) Written minutes that have been prepared in a form awaiting only formal approval
54 by the public body are a public record.]~~

55 ~~[(b) Written minutes shall be available to the public within a reasonable time after the
56 end of the meeting.]~~

57 ~~[(c) Written minutes that are made available to the public before approval by the public~~

58 ~~body under Subsection (4)(d) shall be clearly identified as "awaiting formal approval" or~~
59 ~~"unapproved" or with some other appropriate notice that the written minutes are subject to~~
60 ~~change until formally approved.]~~

61 (4) (a) As used in this Subsection (4):

62 (i) "Approved minutes" means written minutes:

63 (A) of an open meeting; and

64 (B) that have been approved by the public body that held the open meeting.

65 (ii) "Pending minutes" means written minutes:

66 (A) of an open meeting; and

67 (B) that have been prepared in draft form and are subject to change before being
68 approved by the public body that held the open meeting.

69 (iii) "Specified local public body" means a legislative body of a county, city, or town.

70 (iv) "State public body" means a public body that is an administrative, advisory,
71 executive, or legislative body of the state.

72 (v) "Website" means the Utah Public Notice Website created under Section 63F-1-701.

73 (b) Pending minutes, approved minutes, and a recording of a public meeting are public
74 records under Title 63G, Chapter 2, Government Records Access and Management Act.

75 (c) Pending minutes shall contain a clear indication that the public body has not yet
76 approved the minutes or that the minutes are subject to change until the public body approves
77 them.

78 (d) A state public body shall:

79 (i) make pending minutes available to the public within 30 days after holding the open
80 meeting that is the subject of the pending minutes;

81 (ii) within three business days after approving written minutes of an open meeting, post
82 to the website and make available to the public at the public body's primary office a copy of the
83 approved minutes and any public materials distributed at the meeting; and

84 (iii) within three business days after holding an open meeting, post on the website an
85 audio recording of the open meeting, or a link to the recording.

86 (e) (i) A specified local public body shall:

87 (A) make pending minutes available to the public within 30 days after holding the open
88 meeting that is the subject of the pending minutes;

89 (B) subject to Subsection (4)(e)(ii), within three business days after approving written
90 minutes of an open meeting, post to the website and make available to the public at the public
91 body's primary office a copy of the approved minutes and any public materials distributed at
92 the meeting; and

93 (C) within three business days after holding an open meeting, make an audio recording
94 of the open meeting available to the public for listening.

95 (ii) A specified local public body of a city of the fifth class or town is encouraged to
96 comply with Subsection (4)(e)(i)(B) but is not required to comply until January 1, 2015.

97 (f) A public body that is not a state public body or a specified local public body shall:

98 (i) make pending minutes available to the public within a reasonable time after holding
99 the open meeting that is the subject of the pending minutes;

100 (ii) within three business days after approving written minutes, make the approved
101 minutes available to the public; and

102 (iii) within three business days after holding an open meeting, make an audio recording
103 of the open meeting available to the public for listening.

104 ~~[(d)]~~ (g) A public body shall establish and implement procedures for the public body's
105 approval of the written minutes of each meeting.

106 ~~[(e) Written]~~ (h) Approved minutes of an open meeting are the official record of
107 ~~[action taken at]~~ the meeting.

108 ~~[(f) A recording of an open meeting shall be available to the public for listening within~~
109 ~~three business days after the end of the meeting.]~~

110 (5) All or any part of an open meeting may be independently recorded by any person in
111 attendance if the recording does not interfere with the conduct of the meeting.

112 (6) The written minutes or recording of an open meeting that are required to be
113 retained permanently shall be maintained in or converted to a format that meets long-term

114 records storage requirements.

115 (7) Notwithstanding Subsection (1), a recording is not required to be kept of:

116 (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken
117 by the public body; or

118 (b) an open meeting of a local district under Title 17B, Limited Purpose Local
119 Government Entities - Local Districts, or special service district under Title 17D, Chapter 1,
120 Special Service District Act, if the district's annual budgeted expenditures for all funds,
121 excluding capital expenditures and debt service, are \$50,000 or less.

122 Section 2. Section **63F-1-701** is amended to read:

123 **63F-1-701. Utah Public Notice Website -- Establishment and administration.**

124 (1) As used in this part:

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

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

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

131 [(e)] (d) "Website" means the Utah Public Notice Website created under this section.

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

134 (3) The website shall consist of an Internet website provided to assist the public to find
135 posted public [~~notices of a public body of the state and its political subdivisions as required
136 under Title 52, Chapter 4, Open and Public Meetings Act, and under other state statutes or state
137 agency rules]~~ information.

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

140 (a) allow a public body, or other certified entity, to easily post any public [~~notice~~]
141 information [~~that the public body or other entity is required to post under statute~~];

- 142 (b) allow the public to search the public [~~notices~~] information by:
- 143 (i) public body name;
- 144 (ii) date of posting of the notice;
- 145 (iii) date of any meeting or deadline included as part of the public [~~notice~~] information;
- 146 and
- 147 (iv) any other criteria approved by the division;
- 148 (c) allow the public to search and view past, archived public [~~notices~~] information;
- 149 (d) allow a person to subscribe to receive updates and notices associated with a public
- 150 body or a particular type of [~~notice~~] public information;
- 151 (e) be easily accessible by the public from the State of Utah home page;
- 152 (f) have a unique and simplified website address;
- 153 (g) be directly accessible via a link from the main page of the official state website; and
- 154 (h) include other links, features, or functionality that will assist the public in obtaining
- 155 and reviewing public information [~~in relation to public notices~~] posted on the website, as may
- 156 be approved by the division.
- 157 (5) The division shall be responsible for:
- 158 (a) establishing and maintaining the website, including the provision of equipment,
- 159 resources, and personnel as is necessary;
- 160 (b) providing a mechanism for public bodies or other certified entities to have access to
- 161 the website for the purpose of posting and modifying [~~notices~~] public information; and
- 162 (c) maintaining an archive of all [~~notices~~] public information posted to the website.
- 163 (6) The timing for posting and the content of the public [~~notices~~] information posted to
- 164 the website shall be the responsibility of the public body or other entity posting the [~~notice~~]
- 165 public information.
- 166 [~~(7) Until December 31, 2012 and notwithstanding any other provision of statute~~
- 167 ~~requiring the publishing or posting of a notice to the website, a public body of a municipality~~
- 168 ~~under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local~~
- 169 ~~Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,~~

170 ~~Special Service District Act, with an annual budget of less than \$1,000,000 is encouraged but~~
171 ~~not required to publish or post a notice to the website.]~~