

**LEGAL NOTICE AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends legal notice requirements.

**Highlighted Provisions:**

This bill:

▶ clarifies publication requirements for a notice subject to legal notice publication and the Open and Public Meetings Act;

▶ modifies county and municipal provisions relating to notice on the adoption or modification of land use ordinances;

▶ modifies an advertisement for bids publication requirement applicable to the Department of Transportation; and

▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-205**, as last amended by Laws of Utah 2009, Chapter 388

**11-14-202**, as last amended by Laws of Utah 2009, Chapter 388

**17-27a-205**, as last amended by Laws of Utah 2009, Chapter 388



- 28           **17C-1-601**, as last amended by Laws of Utah 2009, Chapters 387 and 388
- 29           **17C-2-403**, as last amended by Laws of Utah 2009, Chapter 388
- 30           **45-1-101**, as last amended by Laws of Utah 2009, First Special Session, Chapter 5
- 31           **63H-2-204**, as enacted by Laws of Utah 2009, Chapter 378
- 32           **72-6-107**, as last amended by Laws of Utah 2009, Chapter 217

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

35           Section 1. Section **10-9a-205** is amended to read:

36           **10-9a-205. Notice of public hearings and public meetings on adoption or**  
37 **modification of land use ordinance.**

38           (1) Each municipality shall give:

39           (a) notice of the date, time, and place of the first public hearing to consider the  
40 adoption or any modification of a land use ordinance; and

41           (b) notice of each public meeting on the subject.

42           (2) Each notice of a public hearing under Subsection (1)(a) shall be:

43           (a) mailed to each affected entity at least 10 calendar days before the public hearing;

44           (b) posted:

45           (i) in at least three public locations within the municipality; or

46           (ii) on the municipality's official website; and

47           (c) (i) (A) published in a newspaper of general circulation in the area at least 10  
48 calendar days before the public hearing; and

49           (B) published [~~in accordance with Section 45-1-101~~] on the Utah Public Notice  
50 Website created under Section 63F-1-701, at least 10 calendar days before the public hearing;

51 or

52           (ii) mailed at least three days before the public hearing to:

53           (A) each property owner whose land is directly affected by the land use ordinance  
54 change; and

55           (B) each adjacent property owner within the parameters specified by municipal  
56 ordinance.

57           (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours  
58 before the meeting and shall be posted:

- 59 (a) in at least three public locations within the municipality; or
- 60 (b) on the municipality's official website.

61 Section 2. Section **11-14-202** is amended to read:

62 **11-14-202. Notice of election -- Contents -- Publication -- Mailing.**

63 (1) The governing body shall ensure that notice of the election is published:

64 (a) (i) [~~(A)~~] once per week during three consecutive weeks in a newspaper designated  
65 in accordance with Section 11-14-316; and

66 [~~(B)~~] (ii) the first publication described in Subsection (1)(a)(i)[~~(A)~~] occurs not less than  
67 21 nor more than 35 days before the election; and

68 [~~(C)~~ in a newspaper having general circulation in the local political subdivision; and]

69 (b) in accordance with Section 45-1-101 for three weeks.

70 (2) When the debt service on the bonds to be issued will increase the property tax  
71 imposed upon the average value of a residence by an amount that is greater than or equal to \$15  
72 per year, the governing body shall, at least seven days but not more than 30 days before the  
73 bond election, if the bond election is not held on the date of a regular primary election, a  
74 municipal primary election, a regular general election, or a municipal general election, either  
75 mail:

76 (a) written notice of the bond election on a minimum three inch by five inch postcard  
77 to every household containing a registered voter who is eligible to vote on the bonds; or

78 (b) a voter information pamphlet prepared by the governing body, if one is prepared,  
79 that includes the information required by Subsection (4).

80 (3) (a) Except as provided in Subsection (3)(b), notice of the bond election need not be  
81 posted.

82 (b) (i) In a local political subdivision where there is no newspaper of general  
83 circulation, the legislative body may require that notice of a bond election be given by posting  
84 in lieu of the publication requirements of Subsection (1)(a)(i).

85 (ii) When the governing body imposes a posting requirement, the governing body shall  
86 ensure that notice of the bond election is posted in at least five public places in the local  
87 political subdivision at least 21 days before the election.

88 (4) Any notice required by this section shall include:

89 (a) the date and place of the election;

- 90 (b) the hours during which the polls will be open; and
- 91 (c) the title and text of the ballot proposition.
- 92 (5) The governing body shall pay the costs associated with the notice required by this
- 93 section.

94 Section 3. Section **17-27a-205** is amended to read:

95 **17-27a-205. Notice of public hearings and public meetings on adoption or**  
96 **modification of land use ordinance.**

97 (1) Each county shall give:

98 (a) notice of the date, time, and place of the first public hearing to consider the  
99 adoption or modification of a land use ordinance; and

100 (b) notice of each public meeting on the subject.

101 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

102 (a) mailed to each affected entity at least 10 calendar days before the public hearing;

103 (b) posted:

104 (i) in at least three public locations within the county; or

105 (ii) on the county's official website; and

106 (c) (i) published:

107 (A) in a newspaper of general circulation in the area at least 10 calendar days before  
108 the public hearing; and

109 (B) ~~[in accordance with Section 45-1-101]~~ on the Utah Public Notice Website created  
110 in Section 63F-1-701, at least 10 calendar days before the public hearing; or

111 (ii) mailed at least three days before the public hearing to:

112 (A) each property owner whose land is directly affected by the land use ordinance  
113 change; and

114 (B) each adjacent property owner within the parameters specified by county ordinance.

115 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours  
116 before the hearing and shall be posted:

117 (a) in at least three public locations within the county; or

118 (b) on the county's official website.

119 Section 4. Section **17C-1-601** is amended to read:

120 **17C-1-601. Annual agency budget -- Fiscal year -- Public hearing required --**

121 **Auditor forms -- Requirement to file form.**

122 (1) Each agency shall prepare and its board adopt an annual budget of revenues and  
123 expenditures for the agency for each fiscal year.

124 (2) Each annual agency budget shall be adopted:

125 (a) for an agency created by a city or town, before June 22; or

126 (b) for an agency created by a county, before December 15.

127 (3) The agency's fiscal year shall be the same as the fiscal year of the community that  
128 created the agency.

129 (4) (a) Before adopting an annual budget, each agency board shall hold a public hearing  
130 on the annual budget.

131 (b) Each agency shall provide notice of the public hearing on the annual budget by[  
132 (†)] publishing:

133 [~~(A)~~(†)] (i) (A) at least one notice in a newspaper of general circulation within the  
134 agency boundaries, one week before the public hearing; or

135 [~~(B)~~] (B) if there is no newspaper of general circulation within the agency boundaries,  
136 posting a notice of the public hearing in at least three public places within the agency  
137 boundaries; and

138 [~~(B)~~] (ii) in accordance with Section 45-1-101, at least one week before the public  
139 hearing.

140 (c) Each agency shall make the annual budget available for public inspection at least  
141 three days before the date of the public hearing.

142 (5) The state auditor shall prescribe the budget forms and the categories to be contained  
143 in each agency budget, including:

144 (a) revenues and expenditures for the budget year;

145 (b) legal fees; and

146 (c) administrative costs, including rent, supplies, and other materials, and salaries of  
147 agency personnel.

148 (6) (a) Within 90 days after adopting an annual budget, each agency board shall file a  
149 copy of the annual budget with the auditor of the county in which the agency is located, the  
150 State Tax Commission, the state auditor, the State Board of Education, and each taxing entity  
151 that levies a tax on property from which the agency collects tax increment.

152 (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the  
153 state as a taxing entity is met if the agency files a copy with the State Tax Commission and the  
154 state auditor.

155 Section 5. Section **17C-2-403** is amended to read:

156 **17C-2-403. Notice required for continued hearing.**

157 The board shall give notice of a hearing continued under Section 17C-2-402 by  
158 announcing at the hearing:

159 (1) the date, time, and place the hearing will be resumed; or

160 (2) that ~~[it]~~ the hearing is being continued to a later time and causing a notice of the  
161 continued hearing to be~~[-(a)]~~ published:

162 ~~(a)~~ (i) ~~[(A)]~~ once in a newspaper of general circulation within the agency boundaries at  
163 least seven days before the hearing is scheduled to resume; or

164 ~~[(B)]~~ (ii) if there is no newspaper of general circulation, posted in at least three  
165 conspicuous places within the boundaries of the agency in which the project area or proposed  
166 project area is located; and

167 ~~[(ii)]~~ (b) in accordance with Section 45-1-101, at least seven days before the hearing is  
168 schedule to resume.

169 Section 6. Section **45-1-101** is amended to read:

170 **45-1-101. Legal notice publication requirements.**

171 (1) As used in this section:

172 (a) (i) "Legal notice" means:

173 (A) a communication required to be made public by a state statute or state agency rule;

174 or

175 (B) a notice required for judicial proceedings or by judicial decision.

176 (ii) "Legal notice" does not include a public notice published by a public body in  
177 accordance with the provisions of Sections 52-4-202 and 63F-1-701.

178 (b) "Person" is as defined in Section 68-3-12.

179 (2) ~~(a)~~ Notwithstanding any other legal notice provision established in this Utah Code,  
180 a person required to publish legal notice:

181 ~~[(a)]~~ (i) until January 1, 2010, shall publish as required by the ~~[state]~~ statute  
182 establishing the legal notice requirement; and

183           ~~[(b)]~~ (ii) beginning on January 1, 2010, shall publish legal notice:  
 184           ~~[(i)]~~ (A) as required by the statute establishing the legal notice requirement; and  
 185           ~~[(ii)]~~ (B) on a website established by the collective efforts of Utah's newspapers.

186           (b) Compliance with the requirements of this section does not release a person from  
 187 complying with the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

188           (3) Beginning on January 1, 2012, notwithstanding any provision of law requiring  
 189 publication of legal notice in a newspaper, a person who publishes legal notice that is required  
 190 to be given in a county of the first or second class:

191           (a) is not required to comply with the requirement to publish legal notice in a  
 192 newspaper;

193           (b) is required to publish legal notice on the website described in Subsection  
 194 ~~[(2)(b)(ii)]~~ (2)(a)(ii)(B); and

195           (c) may, in addition to complying with Subsection (3)(b), publish legal notice in a  
 196 newspaper.

197           (4) The website described in Subsection ~~[(2)(b)(ii)]~~ (2)(a)(ii)(B) may not:

- 198           (a) charge a fee to publish a legal notice on the website before January 1, 2012; and
- 199           (b) charge more than \$10 to publish a legal notice on the website on or after January 1,
- 200 2012.

201           Section 7. Section **63H-2-204** is amended to read:

202           **63H-2-204. Dissolution of authority.**

203           (1) Subject to the other provisions of this section, the board may dissolve the authority:

- 204           (a) if the board determines that the authority can no longer comply with the
- 205 requirements of this chapter; and
- 206           (b) by a vote of at least five members of the board.

207           (2) The authority may not be dissolved if the authority has any of the following:

- 208           (a) an outstanding bonded indebtedness;
- 209           (b) an unpaid loan, indebtedness, or advance; or
- 210           (c) a legally binding contractual obligation with a person other than the state.

211           (3) Upon the dissolution of the authority:

- 212           (a) the Governor's Office of Economic Development shall publish a notice of
- 213 dissolution;

214 (i) in a newspaper of general circulation in each county in which a qualifying  
 215 transmission project is located; and  
 216 (ii) electronically, in accordance with Section 45-1-101;  
 217 (b) the authority shall deposit its records with the state auditor, to be retained for the  
 218 time period determined by the state auditor; and  
 219 (c) the assets of the authority shall revert to the state.

220 (4) The authority shall pay the expenses of dissolution and winding up the affairs of the  
 221 authority.

222 (5) If a dissolution under this section is part of a privatization of the authority, the  
 223 dissolution is subject to Title 63E, Chapter 1, Part 4, Privatization of Independent Entities.

224 Section 8. Section 72-6-107 is amended to read:

225 **72-6-107. Construction or improvement of highway -- Contracts -- Retainage --**  
 226 **Certain indemnification provisions forbidden.**

227 (1) As used in this section, "design professional" means:

- 228 (a) an architect, licensed under Title 58, Chapter 3a, Architects Licensing Act;
- 229 (b) a landscape architect, licensed under Title 58, Chapter 53, Landscape Architects  
 230 Licensing Act; and
- 231 (c) a professional engineer or professional land surveyor, licensed under Title 58,

232 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

233 (2) (a) The department shall make plans, specifications, and estimates prior to the  
 234 construction or improvement of any state highway.

235 (b) Except as provided in Section 63G-6-502 and except for construction or  
 236 improvements performed with state prison labor, a construction or improvement project with  
 237 an estimated cost exceeding the bid limit as defined in Section 72-6-109 for labor and materials  
 238 shall be performed under contract awarded to the lowest responsible bidder.

239 ~~[(c) The advertisement for bids shall be published]~~

240 (c) (i) The department:

241 (A) shall publish an advertisement for bids in accordance with Section 45-1-101, for a  
 242 period of two weeks ending no more than 10 days before bids are opened; and

243 (B) may publish an advertisement for bids in a newspaper of general circulation in the  
 244 county in which the work is to be performed[;].



245           (ii) If the department publishes an advertisement for bids in a newspaper under  
246 Subsection (2)(c)(i)(B), the department shall publish the advertisement at least once a week for  
247 two consecutive weeks, with the last publication at least 10 days before bids are opened.

248           (d) The department shall receive sealed bids and open the bids at the time and place  
249 designated in the advertisement. The department may then award the contract but may reject  
250 any and all bids.

251           (e) If the department's estimates are substantially lower than any responsible bid  
252 received, the department may perform any work by force account.

253           (3) If any payment on a contract with a private contractor for construction or  
254 improvement of a state highway is retained or withheld, the payment shall be retained or  
255 withheld and released as provided in Section 13-8-5.

256           (4) If the department performs a construction or improvement project by force account,  
257 the department shall:

258           (a) provide an accounting of the costs and expenditures of the improvement including  
259 material and labor;

260           (b) disclose the costs and expenditures to any person upon request and allow the person  
261 to make a copy and pay for the actual cost of the copy; and

262           (c) perform the work using the same specifications and standards that would apply to a  
263 private contractor.

264           (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
265 department shall establish procedures for:

266           (a) hearing evidence that a region within the department violated this section; and

267           (b) administering sanctions against the region if the region is found in violation.

268           (6) (a) Beginning May 12, 2009, a contract, including an amendment to an existing  
269 contract, entered into under authority of this chapter may not require that a design professional  
270 indemnify another from liability claims that arise out of the design professional's services,  
271 unless the liability claim arises from the design professional's negligent act, wrongful act, error  
272 or omission, or other liability imposed by law.

273           (b) Subsection (6)(a) may not be waived by contract.

274           (c) Notwithstanding Subsections (6)(a) and (b), a design professional may be required  
275 to indemnify a person for whom the design professional has direct or indirect control or

276 responsibility.

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**Legislative Review Note**  
**as of 1-14-10 9:26 AM**

**Office of Legislative Research and General Counsel**

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**S.B. 89 - Legal Notice Amendments**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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