

1 **GOVERNMENT TRANSPARENCY REVISIONS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: John Knotwell

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the Utah Public Finance Website.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that certain independent entities, housing authorities, and entities entering
13 into interlocal agreements are subject to the reporting requirements of the Utah
14 Public Finance Website; and

15 ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **4-22-4.5**, as last amended by Laws of Utah 2008, Chapter 382

23 **53D-1-103**, as enacted by Laws of Utah 2014, Chapter 426

24 **63A-3-401**, as last amended by Laws of Utah 2016, Chapters 233 and 382

25 **63E-2-109**, as last amended by Laws of Utah 2012, Chapter 347

26 **63H-4-108**, as last amended by Laws of Utah 2013, Chapter 220

27 **63H-5-108**, as last amended by Laws of Utah 2012, Chapter 347

28 **63H-6-103**, as last amended by Laws of Utah 2016, Chapter 301

29 **63H-7a-803**, as last amended by Laws of Utah 2016, Chapter 123

30 **63H-8-204**, as renumbered and amended by Laws of Utah 2015, Chapter 226



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

33 Section 1. Section **4-22-4.5** is amended to read:

34 **4-22-4.5. Exemption from certain operational requirements.**

35 (1) The commission is exempt from:

36 ~~[(1)]~~ (a) Title 51, Chapter 5, Funds Consolidation Act;

37 ~~[(2)]~~ (b) Title 51, Chapter 7, State Money Management Act;

38 ~~[(3)]~~ (c) except as provided in Subsection (2), Title 63A, Utah Administrative Services
39 Code;

40 ~~[(4)]~~ (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

41 ~~[(5)]~~ (e) Title 67, Chapter 19, Utah State Personnel Management Act.

42 (2) The commission is subject to Title 63A, Chapter 3, Part 4, Utah Public Finance
43 Website.

44 Section 2. Section **53D-1-103** is amended to read:

45 **53D-1-103. Application of other law.**

46 (1) The office, board, and nominating committee are subject to:

47 (a) Title 52, Chapter 4, Open and Public Meetings Act~~[-];~~ and

48 (b) Title 63A, Chapter 3, Part 4, Utah Public Finance Website.

49 (2) Subject to Subsection **63E-1-304(2)**, the office may participate in coverage under
50 the Risk Management Fund, created in Section **63A-4-201**.

51 (3) The office and board are subject to Title 63G, Chapter 2, Government Records
52 Access and Management Act.

53 (4) (a) In making rules under this chapter, the director is subject to and shall comply
54 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in
55 Subsection (4)(b).

56 (b) Subsections **63G-3-301(6)** and (7) and Section **63G-3-601** do not apply to the
57 director's making of rules under this chapter.

58 (5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board
59 member to the same extent as it applies to an employee, as defined in Section 63G-7-102.

60 (6) (a) A board member, the director, and an office employee or agent are subject to:

61 (i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

62 (ii) other requirements that the board establishes.

63 (b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a
64 board member, the director, and an office employee or agent may not directly or indirectly
65 acquire an interest in the trust fund or receive any direct benefit from any transaction dealing
66 with trust fund money.

67 (7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title 67,
68 Chapter 19, Utah State Personnel Management Act.

69 (b) (i) Upon a recommendation from the director after the director's consultation with
70 the executive director of the Department of Human Resource Management, the board may
71 provide that specified positions in the office are exempt from Section 67-19-12 and the career
72 service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided
73 in Subsection 67-19-15(1), if the board determines that exemption is required for the office to
74 fulfill efficiently its responsibilities under this chapter.

75 (ii) The director position is exempt from Section 67-19-12 and the career service
76 provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in
77 Subsection 67-19-15(1).

78 (iii) (A) After consultation with the executive director of the Department of Human
79 Resource Management, the director shall set salaries for positions that are exempted under
80 Subsection (7)(b)(i), within ranges that the board approves.

81 (B) In approving salary ranges for positions that are exempted under Subsection
82 (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other
83 public employment.

84 (8) The office is subject to legislative appropriation, to executive branch budgetary
85 review and recommendation, and to legislative and executive branch review.

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

87 **63A-3-401. Definitions.**

88 As used in this part:

89 (1) "Board" means the Utah Transparency Advisory Board created under Section
90 [63A-3-403](#).

91 (2) "Division" means the Division of Finance of the Department of Administrative
92 Services.

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

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

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

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

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

102 (4) "Participating local entity" means each of the following local entities:

103 (a) a county;

104 (b) a municipality;

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

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

108 (e) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

109 [~~(e)~~] (f) a school district;

110 [~~(f)~~] (g) a charter school;

111 [~~(g)~~] (h) except for a taxed interlocal entity as defined in Section [11-13-602](#)[-];

112 (i) an interlocal entity as defined in Section [11-13-103](#); [and]

113 (ii) a joint or cooperative undertaking as defined in Section [11-13-103](#); and

114 (iii) any project, program, or undertaking entered into by interlocal agreement in
 115 accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and

116 ~~[(h)]~~ (i) except for a taxed interlocal entity as defined in Section 11-13-602, an entity
 117 that is part of an entity described in Subsections (4)(a) through ~~[(g)]~~ (h), if the entity is
 118 considered a component unit of the entity described in Subsections (4)(a) through ~~[(g)]~~ (h)
 119 under the governmental accounting standards issued by the Governmental Accounting
 120 Standards Board.

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

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

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

132 Section 4. Section 63E-2-109 is amended to read:

133 **63E-2-109. State statutes.**

134 (1) Except as specifically modified in its authorizing statute, each independent
 135 corporation shall be exempt from the statutes governing state agencies, including:

136 (a) Title 51, Chapter 5, Funds Consolidation Act;

137 (b) Title 51, Chapter 7, State Money Management Act;

138 (c) except as provided in Subsection (2), Title 63A, Utah Administrative Services
 139 Code;

140 (d) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

141 (e) Title 63G, Chapter 4, Administrative Procedures Act;

- 142 (f) Title 63G, Chapter 6a, Utah Procurement Code;
- 143 (g) Title 63J, Chapter 1, Budgetary Procedures Act;
- 144 (h) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
- 145 (i) Title 67, Chapter 19, Utah State Personnel Management Act.
- 146 (2) Except as specifically modified in its authorizing statute, each independent
- 147 corporation shall be subject to:
- 148 (a) Title 52, Chapter 4, Open and Public Meetings Act; [~~and~~]
- 149 (b) Title 63A, Chapter 3, Part 4, Utah Public Finance Website; and
- 150 ~~[(b)]~~ (c) Title 63G, Chapter 2, Government Records Access and Management Act.
- 151 (3) Each independent corporation board may adopt its own policies and procedures
- 152 governing its:
- 153 (a) funds management;
- 154 (b) audits; and
- 155 (c) personnel.

Section 5. Section **63H-4-108** is amended to read:

63H-4-108. Relation to certain acts -- Participation in Risk Management Fund.

- 158 (1) The authority is exempt from:
- 159 (a) Title 51, Chapter 5, Funds Consolidation Act;
- 160 (b) except as provided in Subsection (2), Title 63A, Utah Administrative Services
- 161 Code;
- 162 (c) Title 63G, Chapter 6a, Utah Procurement Code;
- 163 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 164 (e) Title 67, Chapter 19, Utah State Personnel Management Act.
- 165 (2) The authority is subject to Title 63A, Chapter 3, Part 4, Utah Public Finance
- 166 Website.
- 167 ~~[(2)]~~ (3) The authority is subject to audit by the state auditor pursuant to Title 67,
- 168 Chapter 3, Auditor, and by the legislative auditor general pursuant to Section **36-12-15**.
- 169 ~~[(3)]~~ (4) Subject to the requirements of Subsection **63E-1-304(2)**, the authority may

170 participate in coverage under the Risk Management Fund created by Section 63A-4-201.

171 Section 6. Section 63H-5-108 is amended to read:

172 **63H-5-108. Relation to certain acts.**

173 (1) The authority is exempt from:

174 (a) Title 51, Chapter 5, Funds Consolidation Act;

175 (b) except as provided in Subsection (2), Title 63A, [~~Chapter 1, Department of~~ Utah
176 Administrative Services Code;

177 (c) Title 63G, Chapter 6a, Utah Procurement Code;

178 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

179 (e) Title 67, Chapter 19, Utah State Personnel Management Act.

180 (2) The authority is subject to:

181 (a) Title 63A, Chapter 3, Part 4, Utah Public Finance Website; and

182 (b) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the
183 legislative auditor general pursuant to Section 36-12-15.

184 Section 7. Section 63H-6-103 is amended to read:

185 **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

186 (1) There is created an independent public nonprofit corporation known as the "Utah
187 State Fair Corporation."

188 (2) The board shall file articles of incorporation for the corporation with the Division
189 of Corporations and Commercial Code.

190 (3) The corporation, subject to this chapter, has all powers and authority permitted
191 nonprofit corporations by law.

192 (4) The corporation shall:

193 (a) manage, supervise, and control:

194 (i) all activities relating to the annual exhibition described in Subsection (4)(j); and

195 (ii) except as otherwise provided by statute, all state expositions, including setting the
196 time, place, and purpose of any state exposition;

197 (b) for public entertainment, displays, and exhibits or similar events:

- 198 (i) provide, sponsor, or arrange the events;
- 199 (ii) publicize and promote the events; and
- 200 (iii) secure funds to cover the cost of the exhibits from:
 - 201 (A) private contributions;
 - 202 (B) public appropriations;
 - 203 (C) admission charges; and
 - 204 (D) other lawful means;
- 205 (c) acquire and designate exposition sites;
- 206 (d) use generally accepted accounting principles in accounting for the corporation's
- 207 assets, liabilities, and operations;
- 208 (e) seek corporate sponsorships for the state fair park or for individual buildings or
- 209 facilities within the fair park;
- 210 (f) work with county and municipal governments, the Salt Lake Convention and
- 211 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote
- 212 expositions and the use of the state fair park;
- 213 (g) develop and maintain a marketing program to promote expositions and the use of
- 214 the state fair park;
- 215 (h) in accordance with provisions of this part, operate and maintain the state fair park,
- 216 including the physical appearance and structural integrity of the state fair park and the
- 217 buildings located at the state fair park;
- 218 (i) prepare an economic development plan for the state fair park;
- 219 (j) hold an annual exhibition that:
 - 220 (i) is called the state fair or a similar name;
 - 221 (ii) promotes and highlights agriculture throughout the state;
 - 222 (iii) includes expositions of livestock, poultry, agricultural, domestic science,
 - 223 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic
 - 224 animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and
 - 225 educational pursuits and the sharing of talents among the people of Utah;

226 (iv) includes the award of premiums for the best specimens of the exhibited articles
227 and animals;

228 (v) permits competition by livestock exhibited by citizens of other states and territories
229 of the United States; and

230 (vi) is arranged according to plans approved by the board;

231 (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j);
232 and

233 (l) publish a list of premiums that will be awarded at the annual exhibition described in
234 Subsection (4)(j) for the best specimens of exhibited articles and animals.

235 (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation
236 may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,
237 floricultural, mineral and industrial products, manufactured articles, and domestic animals that,
238 in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational
239 pursuits and the sharing of talents among the people of Utah.

240 (6) The corporation may:

241 (a) employ advisers, consultants, and agents, including financial experts and
242 independent legal counsel, and fix their compensation;

243 (b) (i) participate in the state's Risk Management Fund created under Section
244 [63A-4-201](#); or

245 (ii) procure insurance against any loss in connection with the corporation's property
246 and other assets, including mortgage loans;

247 (c) receive and accept aid or contributions of money, property, labor, or other things of
248 value from any source, including any grants or appropriations from any department, agency, or
249 instrumentality of the United States or Utah;

250 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
251 purposes of the corporation, subject to the conditions, if any, upon which the aid and
252 contributions were made;

253 (e) enter into management agreements with any person or entity for the performance of

254 the corporation's functions or powers;

255 (f) establish whatever accounts and procedures as necessary to budget, receive, and
256 disburse, account for, and audit all funds received, appropriated, or generated;

257 (g) subject to Subsection (8), lease any of the facilities at the state fair park;

258 (h) sponsor events as approved by the board; and

259 (i) enter into one or more agreements to develop the state fair park.

260 (7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the
261 corporation is exempt from:

262 (i) Title 51, Chapter 5, Funds Consolidation Act;

263 (ii) Title 51, Chapter 7, State Money Management Act;

264 (iii) Title 63A, Utah Administrative Services Code;

265 (iv) Title 63G, Chapter 6a, Utah Procurement Code;

266 (v) Title 63J, Chapter 1, Budgetary Procedures Act; and

267 (vi) Title 67, Chapter 19, Utah State Personnel Management Act.

268 (b) The board shall adopt policies parallel to and consistent with:

269 (i) Title 51, Chapter 5, Funds Consolidation Act;

270 (ii) Title 51, Chapter 7, State Money Management Act;

271 (iii) Title 63A, Utah Administrative Services Code;

272 (iv) Title 63G, Chapter 6a, Utah Procurement Code; and

273 (v) Title 63J, Chapter 1, Budgetary Procedures Act.

274 (c) The corporation shall comply with:

275 (i) the provisions of Title 63A, Chapter 3, Part 4, Utah Public Finance Website; and

276 (ii) the legislative approval requirements for new facilities established in Subsection
277 63A-5-104(3).

278 (8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a
279 term of 10 or more years, the corporation shall:

280 (i) submit the proposed lease to the State Building Board for the State Building Board's
281 approval or rejection; and

282 (ii) if the State Building Board approves the proposed lease, submit the proposed lease
283 to the Executive Appropriations Committee for the Executive Appropriation Committee's
284 review and recommendation in accordance with Subsection (8)(b).

285 (b) The Executive Appropriations Committee shall review a proposed lease submitted
286 in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

287 (i) execute the proposed sublease; or

288 (ii) reject the proposed sublease.

289 Section 8. Section **63H-7a-803** is amended to read:

290 **63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.**

291 (1) The Utah Communications Authority is exempt from:

292 (a) except as provided in Subsection (3), Title 63A, Utah Administrative Services
293 Code, ~~except as provided in Section 63A-4-205.5~~;

294 (b) Title 63G, Chapter 4, Administrative Procedures Act;

295 (c) Title 63J, Chapter 1, Budgetary Procedures Act; and

296 (d) Title 67, Chapter 19, Utah State Personnel Management Act.

297 (2) (a) The board shall adopt budgetary procedures, accounting, and personnel and
298 human resource policies substantially similar to those from which they have been exempted in
299 Subsection (1).

300 (b) The authority, the board, and the committee members are subject to Title 67,
301 Chapter 16, Utah Public Officers' and Employees' Ethics Act.

302 (c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

303 (3) (a) Subject to the requirements of Subsection 63E-1-304(2), the administration may
304 participate in coverage under the Risk Management Fund created by Section 63A-4-201.

305 (b) The authority is subject to Title 63A, Chapter 3, Part 4, Utah Public Finance
306 Website.

307 Section 9. Section **63H-8-204** is amended to read:

308 **63H-8-204. Relation to certain acts.**

309 (1) The corporation is exempt from:

- 310 (a) Title 51, Chapter 5, Funds Consolidation Act;
- 311 (b) Title 51, Chapter 7, State Money Management Act;
- 312 (c) except as provided in Subsection (2), Title 63A, Utah Administrative Services
- 313 Code;
- 314 (d) Title 63G, Chapter 6a, Utah Procurement Code;
- 315 (e) Title 63J, Chapter 1, Budgetary Procedures Act;
- 316 (f) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
- 317 (g) Title 67, Chapter 19, Utah State Personnel Management Act.
- 318 (2) The corporation shall comply with:
- 319 (a) Title 52, Chapter 4, Open and Public Meetings Act; [~~and~~]
- 320 (b) Title 63A, Chapter 3, Part 4, Utah Public Finance Website; and
- 321 [~~(b)~~] (c) Title 63G, Chapter 2, Government Records Access and Management Act.