



Local Governmental Auditing and Accounting

Newsletter



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LOCAL GOVERNMENT DIVISION

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Questions or Concerns?

If you have any questions or concerns regarding budgeting, financial reporting, or compliance with state law or policy, please feel free to call any of the individuals listed above. If we don't have the answer, we can research the question or refer you to the office or individual that can help you! Outside the Salt Lake City area, feel free to use our toll-free telephone number: 1-800-622-1243. You can also e-mail us at the addresses shown above.

March 2007

Changes to the Open and Public Meeting Act

During the 2007 General Session of the Utah State Legislature, four bills (H.B. 10, H.B. 204, H.B. 222, and H.B. 257) passed that will have an impact on the Open and Public Meetings Act. Each bill is effective on April 30, 2007, unless vetoed by the Governor.

The following is a summary of 11 key changes to the Open and Public Meetings Act as summarized by the Office of Legislative Research & General Counsel.

- **Authorizes the creation of the Utah Public Notice Website** to assist the public to find, search and subscribe to posted public notices of any public body in the state. The website will be administered by the Division of Archives and Records Services. (H.B. 222)
- The Division of Archives and Records Services is required to **notify all public bodies of the Utah Public Notice Website** and provide periodic **training** to public bodies on its use. (H.B. 222)
- Beginning April 1, 2008, a notice of a **public meeting must be posted on the Utah Public Notice Website**, with some exceptions for municipalities and service districts that have an annual budget of less than \$1,000,000. (H.B. 222)
- A public body **complies with providing notice** of a meeting to a newspaper or local media correspondent if the notice is provided by the subscription to **the Utah Public Notice Website**. (H.B. 222)
- Prohibits a court from voiding a final action of a public body for **failure to post the notice on the Utah Public Notice Website** due to unforeseen technology failure. (H.B. 222)
- The **name of any person who** is recognized by the presiding member of the public body that **provided testimony or comments must be in the minutes** and the substance in brief of the public's testimony or comments. (H.B. 10)
- **Notice of an emergency meeting** shall include the time, place, and topics to be considered. (H.B. 204)
- Clarifies that, at the discretion of the presiding member of the public body, **topics raised by the public** may be discussed at a meeting even if the topics have not been placed on the agenda. No final action can be taken on the topic raised at the meeting. (H.B. 204)
- All special districts including dependent special districts with annual budget expenditures of \$50,000 or less **shall keep either written minutes or a recording** of their open meetings. (H.B. 257)

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Selected Legislation Affecting Local Governments - 2007

HB 10 Open and Public Meetings Act Amendments – W. Harper

This bill clarifies that the definition of public body includes a public body created by the Utah Constitution as well as by statute, rule, ordinance, or resolution. It also changes content requirements for written minutes and recordings of open meetings.

HB 38 Tourism, Recreation, Cultural, and Convention Facilities Tax Amendments – M. Newbold

This bill addresses the expenditure or pledging of certain revenues collected from a local option sales and use tax on accommodations and services under the Transient Room Tax part by requiring a percentage of those revenues to be deposited into the Transient Room Tax Fund. It also clarifies that only a county of the first class may impose a tax on certain accommodations and services.

HB 65 Special and Local District Amendments – B. Dee

This bill substantially rewrites, reorganizes, and renumbers provisions related to independent special districts and dependent special districts known as county improvement districts and municipal improvement districts. It consolidates and standardizes provisions relating to district authority, including taxing, bonding, and eminent domain authority, district boards of trustees, actions contesting a district resolution or other action, local district validation proceedings, and other matters. It changes terminology applicable to entities previously known as independent special districts, except special service districts, so that they will be known as local districts; etc.

HB 204 Modifications to Open and Public Meetings – S. Wyatt

This bill clarifies that public bodies created by the Utah Constitution are subject to the requirements of the act. It clarifies that notice of an emergency meeting shall in-

clude notice of the time, place, and topics of the meeting. It also provides that, at the discretion of the presiding member of the public body, topics raised by the public may be discussed at a meeting even if they have not been placed on the agenda, provided that no final action is taken at the meeting.

HB 222 Open and Public Meetings – Electronic Notice – J. Dougall

This bill modifies notice requirements in the Interlocal Cooperation Act to ensure compliance with notice provisions of the Open and Public Meetings Act. It requires a public body to provide public notice of its meetings on the Utah Public Notice Website, and it provides exceptions for posting notice on the Utah Public Notice Website by a municipality or a district that has a budget of less than \$1 million. It also prohibits a court from voiding a final action of a public body due to a technology failure affecting posting public notice on the Internet under certain circumstances. The Division of Archives and Records Service is authorized to establish and maintain the Utah Public Notice Website. However, the responsibility for the content of notices posted and the timing of notices posted is the responsibility of the public body posting the notice.

HB 257 Open and Public Meetings Act Amendments – G. Donnelson

This bill provides that all special districts under Title 17A with annual budgeted expenditures of \$50,000 or less may keep either written minutes or a recording of their open meetings.

HB 335 Local Government – Charitable Contributions – B. Dee

This bill clarifies that a county may use its own funds or funds the county receives from the state or any other source in providing monetary assistance to a nonprofit

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Selected Legislation Affecting Local Governments—2007 (continued)

entity.

and provides a sales and use tax exemption for sales of publications by a governmental entity.

HB 337 Local Government Post-Employment Benefit Trust Funds Amendments – K. Grover

This bill requires all local government “other post-employment benefits” trust fund monies in the custody of a public treasurer to be established in a separate trust fund. It requires monies in a local government OPEB trust fund to be deposited or invested in certain types of assets that meet certain criteria. The state treasurer may develop and offer a variety of asset allocation options for monies in an OPEB trust fund and review the options for efficiency as needed.

SB 64 Tourism, Recreation, Cultural, and Convention Facilities Tax – Imposition, Distribution, and Expenditure of revenues – Waddoups

This bill requires an advisory board to be established to advise *a county of the first class* on the expenditure of revenues collected from the Tourism, Recreation, Cultural, and Convention Facilities Tax.

HB 349 Accounting Audit Standards – K. Grover

This bill clarifies that financial reporting by local governments must be done in conformity with generally accepted accounting principles.

SB 69 Local Transportation Corridor Preservation Fund Amendments – Killpack

This bill provides rules for how the Local Transportation Corridor Preservation Fund shall be used to preserve highway corridors.

HB 365 Eminent Domain Authority of Community Development and Renewal Agencies – S. Urquhart

This bill authorizes community development and renewal agencies to acquire property by eminent domain in an urban renewal project area under certain circumstances.

SB 170 Distribution of Local Sales and Use Tax Revenues – Davis

This bill modifies the calculation of the minimum tax revenue distribution certain counties, cities, and towns receive.

HB 393 Truth in Bonding – G. Hughes

This bill requires that the ballot proposition for bond elections include information about property tax increases required to service the bonds.

SB 191 Governmental Immunity Limits Amendments – Stephenson

This bill amends the judgment limitation amounts to reflect amounts currently in effect as adjusted by the state risk manager based on changes in the Consumer Price Index and clarifies that the judgment limitation amounts specified in the statute are periodically adjusted. (\$583,900 per person for personal injury, \$233,600 for property damage, and \$2,000,000 per occurrence.)

SB 22 Sales and Use Tax Exemptions for Certain Governmental Entities and Entities within the State Systems of Public and Higher Education – H. Stephenson

This bill provides an exemption for sales of photocopies by a governmental entity or an entity within the state system of public edu-

SB 218 Community Development and Renewal Agency Amendments – Bramble

This bill modifies the definition of urban renewal and modifies other requirements related to tax increment and findings of blight.

Utah State Auditor's Office Presents
Regional Training Seminars for 2007
For All Local Governments Entities

The Local Government Division of the Utah State Auditor's Office sponsors annual training every Spring for local government officials and the independent auditors of local governments. Below is a description of the seminars. We invite everyone to attend.

The Regional Training Seminars will be held at eight different locations spread throughout the State. The seminars are intended for municipalities, counties, special districts, school districts and private non-profits working with governments. We invite mayors, council members, clerks, recorders, treasurers, board members, commissioners, county auditors, school business officials and independent auditors who work with local governments to attend. This year, as in the past, we will be discussing current financial issues that affect budgeting and accounting officials from local governments. We will discuss fund balance limitations, ethics, nepotism, internal control and fraud, and other applicable topics. We will also have an update on the effects of the 2007 legislative session on local governmental entities, a presentation on current issues from the Utah State Tax Commission and information on other critical issues. We will also hold a budget training session for new budget officers.

The following is a list of times and locations. The seminar will last 3 hours and for those who choose to attend the hands-on budget training it will take another 45 minutes or until you have your questions answered. We hope to see you there!

It's FREE but please call our office to register so that we can plan ahead.

Call Marian at (801) 538-1362

Tuesday, March 20, 2007, 9:00 a.m.
South Ogden Municipal Center
3950 Adams Ave.
Parking in the rear.
(Council Room)

Wednesday, March 21, 2007, 9:00 a.m.
Logan – Bridgerland ATC
1301 N. 600 W.
Rm 171E – Enter South Doors

Thursday, March 29, 2007, 9:00 a.m.
Orem City Offices
Rm 102- Council Chambers
56 No. State St.
Park on E. side

Monday, April 2, 2007, 1:00 p.m.
Richfield – Snow College
800 West 200 South

Monday, April 9, 2007, 1:00 p.m.
Vernal
147 East Main Street
(So. Conference Room)

Wednesday, April 11, 2007, 9:00 a.m.
Price
185 East Main
(Room 207- 2nd Floor)

Tuesday, April 24, 2007, 1:00 p.m.
St. George
197 East Tabernacle
(Co. Commission Chambers)

Thursday, April 26, 2007, 9:00 a.m.
Salt Lake City – Auditorium
1st Floor, State Office Building
State Capitol Complex

Statement on Auditing Standard No. 112 , “Communicating Internal Control Related Matters Identified in an Audit”

The Auditing Standards Board has recently issued Statement on Auditing Standard (SAS) No. 112. This Statement is effective for audits of financial statements for periods ending on or after December 15, 2006.

This standard defines the terms *significant deficiency* and *material weakness* and provides guidance as to when these terms would ordinarily be used to describe audit findings and recommendations. The standard eliminates the term reportable condition which has previously been used to describe certain findings.

While this standard provides guidance as to when to identify audit findings as significant deficiencies or material weaknesses, the AICPA has identified a common misunderstanding. The following is an excerpt of an article by Charles E. Landes, CPA that provides further clarification of this matter.

During this summer and fall, the Audit & Attest Team has become aware that some practitioners may be misunderstanding certain concepts that are important to SAS No. 112. The most common misunderstanding is the belief that the auditor’s drafting of the client’s financial statements automatically results in a material weakness. Asking the auditor to draft the financial statements does not cause a control deficiency; however, it may be the result of a control deficiency. A control deficiency exists if the client does not have controls over the preparation of the financial statements, including the footnote disclosures, which would prevent or detect a misstatement in the financial statements. This misunderstanding and others are debunked in the Audit Risk Alert.

The following are some key underlying concepts that will help in successfully implementing SAS No. 112:

- *The auditor cannot be part of a client’s internal control. Becoming part of a client’s internal control impairs the auditor’s independence.*
- *What the auditor does is independent of the client’s internal control over financial reporting. Therefore, the auditor cannot be a compensating control for the client.*
- *The client’s designation of an individual who possesses suitable skill, knowledge, and/or experience to oversee a service performed by the CPA (Ethics Interpretation 101-3 Performance of Nonattest Services) is not a control. Therefore, having such a designated person does not mean that the client does not have a control deficiency.*
- *SAS No. 112 does not require the auditor to search for control deficiencies, but rather to evaluate them if they have been identified.*
- *A system of internal control over financial reporting does not stop at the general ledger; rather it includes controls over the preparation of the financial statements.*
- *To properly apply SAS No. 112 the auditor has to have a working knowledge of the COSO [Committee of Sponsoring Organizations of the Treadway Commission] framework. COSO’s Internal Control-Integrated Framework describes the elements of internal control over financial reporting. SAS No. 112 directs the auditor to evaluate control deficiencies when identified, and communicate certain deficiencies to management and those charged with governance.*

Keeping these simple but important underlying concepts in mind will help auditors successfully implement the new Standard.

Changes to the Open and Public Meeting Act (continued)

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- A public body includes a **body created by the Utah Constitution**. (H.B. 10 & 204)
- **Meeting recordings are required to be labeled** with date, time, and place of the meeting. (H.B. 10)

The Utah State Auditor’s Office recommends that all local governments review all the changes to the Open and Public Meetings Act to ensure complete compliance with the law. Additional information about the Utah Public Notice Website can be obtained by contacting the State Division of Archives and Records Services.

Update on Impact Fee Reporting

Having gone through the first cycle of reporting on impact fees collected, we are happy to report that all went very smoothly the first year. As you may remember, the 2006 Utah State Legislature passed legislation requiring local governments to provide additional reporting in their financial statements when they collect impact fees. Within 180 days after the close of year-end, each county, municipality, and special district is required to prepare an annual financial report. "Each annual report shall identify impact fee funds by the year in which they were received, the project for which the funds were collected, the capital projects for which the funds are budgeted, and the projected schedule for expenditure."

The required information must be presented as a

schedule in the "supplementary information" section of the government's financial statements. I should point out that although this schedule is required by State law, it should NOT be included as part of "Required Supplementary Information." GASB is very specific about what is RSI and what is not. The impact fee reporting is supplementary information and that is all.

If you would like to see the impact fee schedules submitted this year, we have scanned all the reports and they can be viewed on our website at www.sao.utah.gov. For more information on the impact fee schedule, see related article in our October 2006 newsletter.