

1 LOCAL GOVERNMENT AND LIMITED PURPOSE ENTITY

2 REGISTRY AMENDMENTS

3 2020 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: Stephen G. Handy

6 Senate Sponsor: _____

7

8 LONG TITLE

9 Committee Note:

10 The Political Subdivisions Interim Committee recommended this bill.

11 Legislative Vote: 11 voting for 0 voting against 5 absent

12 General Description:

13 This bill amends provisions governing the local government and limited purpose entity
14 registry.

15 Highlighted Provisions:

16 This bill:

- 17 ▶ requires the municipal recorder to register on behalf of the municipality;
- 18 ▶ requires the county clerk to register on behalf of the county;
- 19 ▶ requires certain nonprofit corporations to register within six months of the end of

20 the nonprofit corporation's fiscal year;

- 21 ▶ enacts registration requirements for an operating charter school with affiliated
- 22 satellite charter schools;

23 ▶ clarifies the time frame in which a local government entity or limited purpose entity
24 is required to send notification of a change;

25 ▶ requires a local government entity or limited purpose entity to register certain
26 contact information and term information for each governing board or commission
27 member;



- 28 ▶ enacts language relevant to the registration of an entity that dissolves; and
- 29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **10-1-204**, as enacted by Laws of Utah 2018, Chapter 256

37 **17-15-31**, as enacted by Laws of Utah 2018, Chapter 256

38 **51-2a-201.5**, as last amended by Laws of Utah 2018, Chapters 256 and 415

39 **53G-5-404**, as last amended by Laws of Utah 2019, Chapters 83 and 293

40 **67-1a-15**, as last amended by Laws of Utah 2019, Chapter 416



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

43 Section 1. Section **10-1-204** is amended to read:

44 **10-1-204. Registration as a local government entity.**

45 (1) (a) Each municipality shall register and maintain the municipality's registration as a
46 local government entity, in accordance with Section **67-1a-15**.

47 (b) The municipal recorder shall register and maintain the registration on behalf of the
48 municipality.

49 (2) A municipality that fails to comply with Subsection (1) or Section **67-1a-15** is
50 subject to enforcement by the state auditor, in accordance with Section **67-3-1**.

51 Section 2. Section **17-15-31** is amended to read:

52 **17-15-31. Registration as a local government entity.**

53 (1) (a) Each county shall register and maintain the county's registration as a local
54 government entity, in accordance with Section **67-1a-15**.

55 (b) The county clerk shall register and maintain the county's registration.

56 (2) A county that fails to comply with Subsection (1) or Section **67-1a-15** is subject to
57 enforcement by the state auditor, in accordance with Section **67-3-1**.

58 Section 3. Section **51-2a-201.5** is amended to read:

59 **51-2a-201.5. Accounting reports required -- Reporting to state auditor --**
60 **Registration as a limited purpose entity.**

61 (1) As used in this section:

62 (a) (i) "Federal pass through money" means federal money received by a nonprofit
63 corporation through a subaward or contract from the state or a political subdivision.

64 (ii) "Federal pass through money" does not include federal money received by a
65 nonprofit corporation as payment for goods or services purchased by the state or political
66 subdivision from the nonprofit corporation.

67 (b) (i) "Local money" means money that is owned, held, or administered by a political
68 subdivision of the state that is derived from fee or tax revenues.

69 (ii) "Local money" does not include:

70 (A) money received by a nonprofit corporation as payment for goods or services
71 purchased from the nonprofit corporation; or

72 (B) contributions or donations received by the political subdivision.

73 (c) (i) "State money" means money that is owned, held, or administered by a state
74 agency and derived from state fee or tax revenues.

75 (ii) "State money" does not include:

76 (A) money received by a nonprofit corporation as payment for goods or services
77 purchased from the nonprofit corporation; or

78 (B) contributions or donations received by the state agency.

79 (2) (a) The governing board of a nonprofit corporation whose revenues or expenditures
80 of federal pass through money, state money, and local money is \$1,000,000 or more shall cause
81 an audit to be made of its accounts by an independent certified public accountant.

82 (b) The governing board of a nonprofit corporation whose revenues or expenditures of
83 federal pass through money, state money, and local money is at least \$350,000 but less than
84 \$1,000,000 shall cause a review to be made of its accounts by an independent certified public
85 accountant.

86 (c) The governing board of a nonprofit corporation whose revenues or expenditures of
87 federal pass through money, state money, and local money is at least \$100,000 but less than
88 \$350,000 shall cause a compilation to be made of its accounts by an independent certified
89 public accountant.

90 (d) The governing board of a nonprofit corporation whose revenues or expenditures of
91 federal pass through money, state money, and local money is less than \$100,000 but greater
92 than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

93 (3) A nonprofit corporation described in Section 51-2a-102 shall provide the state
94 auditor a copy of an accounting report prepared under this section within six months of the end
95 of the nonprofit corporation's fiscal year.

96 (4) (a) A state agency that disburses federal pass through money or state money to a
97 nonprofit corporation shall enter into a written agreement with the nonprofit corporation that
98 requires the nonprofit corporation to annually disclose whether:

99 (i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection
100 (2) in the previous fiscal year of the nonprofit corporation; or

101 (ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed
102 in Subsection (2) in the fiscal year the money is disbursed.

103 (b) If the nonprofit corporation discloses to the state agency that the nonprofit
104 corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state
105 agency shall notify the state auditor.

106 (5) This section does not apply to a nonprofit corporation that is a charter school
107 created under Title 53G, Chapter 5, Charter Schools. A charter school is subject to the
108 requirements of Section 53G-5-404.

109 (6) A nonprofit corporation is exempt from Section 51-2a-201.

110 (7) (a) Each nonprofit corporation that receives an amount of money requiring an
111 accounting report under this section shall register in accordance with Section 67-1a-15 within
112 six months of the end of the nonprofit corporation's fiscal year and maintain the nonprofit
113 corporation's registration as a limited purpose entity~~[, in accordance with Section 67-1a-15]~~
114 each year that the nonprofit corporation is required to prepare an account report under this
115 section.

116 (b) A nonprofit corporation described in Subsection (7)(a) that fails to comply with
117 Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in
118 accordance with Section 67-3-1.

119 Section 4. Section 53G-5-404 is amended to read:

120 **53G-5-404. Requirements for charter schools.**

- 121 (1) A charter school shall be nonsectarian in its programs, admission policies,
122 employment practices, and operations.
- 123 (2) A charter school may not charge tuition or fees, except those fees normally charged
124 by other public schools.
- 125 (3) A charter school shall meet all applicable federal, state, and local health, safety, and
126 civil rights requirements.
- 127 (4) (a) A charter school shall:
- 128 (i) make the same annual reports required of other public schools under this public
129 education code, including an annual financial audit report; and
- 130 (ii) ensure that the charter school meets the data and reporting standards described in
131 Section [53E-3-501](#).
- 132 (b) A charter school shall file the charter school's annual financial audit report with the
133 Office of the State Auditor within six months of the end of the fiscal year.
- 134 (5) (a) A charter school shall be accountable to the charter school's authorizer for
135 performance as provided in the school's charter agreement.
- 136 (b) To measure the performance of a charter school, an authorizer may use data
137 contained in:
- 138 (i) the charter school's annual financial audit report;
- 139 (ii) a report submitted by the charter school as required by statute; or
- 140 (iii) a report submitted by the charter school as required by its charter agreement.
- 141 (c) A charter school authorizer may not impose performance standards, except as
142 permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully
143 accomplish the purposes of charter schools as provided in Section [53G-5-104](#) or as otherwise
144 provided in law.
- 145 (6) A charter school may not advocate unlawful behavior.
- 146 (7) Except as provided in Section [53G-5-305](#), a charter school shall be organized and
147 managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its
148 authorization.
- 149 (8) A charter school shall provide adequate liability and other appropriate insurance.
- 150 (9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase
151 agreement, or other contract or agreement relating to the charter school's facilities or financing

152 of the charter school's facilities to the school's authorizer and an attorney for review and advice
153 prior to the charter school entering into the lease, agreement, or contract.

154 (10) A charter school may not employ an educator whose license has been suspended
155 or revoked by the state board under Section 53E-6-604.

156 (11) (a) Each charter school shall register and maintain the charter school's registration
157 as a limited purpose entity, in accordance with Section 67-1a-15.

158 (b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is
159 subject to enforcement by the state auditor, in accordance with Section 67-3-1.

160 (c) If a charter school is an operating charter school with affiliated satellite charter
161 schools, as defined in Section 53G-5-303:

162 (i) the operating charter school shall register as a limited purpose entity as defined in
163 Section 67-1a-15;

164 (ii) each affiliated satellite charter school is not required to register separately from the
165 operating charter school; and

166 (iii) the operating charter school shall:

167 (A) register on behalf of each affiliated satellite charter school; and

168 (B) when submitting entity registry information under Section 67-1a-15 on behalf of
169 each affiliated satellite charter school, identify and distinguish registry information for each
170 affiliated satellite, including the address of each affiliated satellite charter school and the name
171 and contact information of a primary contact for each affiliated satellite charter school.

172 Section 5. Section 67-1a-15 is amended to read:

173 **67-1a-15. Local government and limited purpose entity registry.**

174 (1) As used in this section:

175 (a) "Entity" means a limited purpose entity or a local government entity.

176 (b) (i) "Limited purpose entity" means a legal entity that:

177 (A) performs a single governmental function or limited governmental functions; and

178 (B) is not a state executive branch agency, a state legislative office, or within the
179 judicial branch.

180 (ii) "Limited purpose entity" includes:

181 (A) area agencies, area agencies on aging, and area agencies on high risk adults, as
182 those terms are defined in Section 62A-3-101;

- 183 (B) charter schools created under Title 53G, Chapter 5, Charter Schools;
- 184 (C) community reinvestment agencies, as that term is defined in Section 17C-1-102;
- 185 (D) conservation districts, as that term is defined in Section 17D-3-102;
- 186 (E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;
- 187 (F) housing authorities, as that term is defined in Section 35A-8-401;
- 188 (G) independent entities and independent state agencies, as those terms are defined in
- 189 Section 63E-1-102;
- 190 (H) interlocal entities, as that term is defined in Section 11-13-103;
- 191 (I) local building authorities, as that term is defined in Section 17D-2-102;
- 192 (J) local districts, as that term is defined in Section 17B-1-102;
- 193 (K) local health departments, as that term is defined in Section 26A-1-102;
- 194 (L) local mental health authorities, as that term is defined in Section 62A-15-102;
- 195 (M) nonprofit corporations that receive an amount of money requiring an accounting
- 196 report under Section 51-2a-201.5;
- 197 (N) school districts under Title 53G, Chapter 3, School District Creation and Change;
- 198 (O) special service districts, as that term is defined in Section 17D-1-102; and
- 199 (P) substance abuse authorities, as that term is defined in Section 62A-15-102.
- 200 (c) "Local government and limited purpose entity registry" or "registry" means the
- 201 registry of local government entities and limited purpose entities created under this section.
- 202 (d) "Local government entity" means:
- 203 (i) a county, as that term is defined in Section 17-50-101; and
- 204 (ii) a municipality, as that term is defined in Section 10-1-104.
- 205 (e) "Notice of failure to register" means the notice the lieutenant governor sends, in
- 206 accordance with Subsection (7)(a), to an entity that does not register.
- 207 (f) "Notice of failure to renew" means the notice the lieutenant governor sends to a
- 208 registered entity, in accordance with Subsection (7)(b).
- 209 (g) "Notice of noncompliance" means the notice the lieutenant governor sends to a
- 210 registered entity, in accordance with Subsection (6)(c).
- 211 (h) "Notice of non-registration" means the notice the lieutenant governor sends to an
- 212 entity and the state auditor, in accordance with Subsection (9).
- 213 (i) "Notice of registration or renewal" means the notice the lieutenant governor sends,

214 in accordance with Subsection (6)(b)(i).

215 (j) "Registered entity" means an entity with a valid registration as described in
216 Subsection (8).

217 (2) The lieutenant governor shall:

218 (a) create a registry of each local government entity and limited purpose entity within
219 the state that:

220 (i) contains the information described in Subsection (4); and

221 (ii) is accessible on the lieutenant governor's website or otherwise publicly available;

222 and

223 (b) establish fees for registration and renewal, in accordance with Section 63J-1-504,
224 based on and to directly offset the cost of creating, administering, and maintaining the registry.

225 (3) Each local government entity and limited purpose entity shall:

226 (a) on or before July 1, 2019, register with the lieutenant governor as described in
227 Subsection (4);

228 (b) on or before one year after the day on which the lieutenant governor issues the
229 notice of registration or renewal, annually renew the entity's registration in accordance with
230 Subsection (5); and

231 (c) [~~within~~] on or before 30 days after the day on which any of the information
232 described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

233 (4) Each entity shall include the following information in the entity's registration
234 submission:

235 (a) the resolution or other legal or formal document creating the entity or, if the
236 resolution or other legal or formal document creating the entity cannot be located, conclusive
237 proof of the entity's lawful creation;

238 (b) if the entity has geographic boundaries, a map or plat [~~establishing~~] identifying the
239 current geographic boundaries of the entity, or if it is impossible or unreasonably expensive to
240 create a map or plat, a metes and bounds description, or another legal description that identifies
241 the current boundaries of the entity[~~, reasonable proof of the entity's geographic boundaries~~];

242 (c) the entity's name;

243 (d) the entity's type of local government entity or limited purpose entity;

244 (e) the entity's governmental function;

245 (f) the entity's website, physical address, and phone number, including the name and
246 contact information of an individual whom the entity designates as the primary contact for the
247 entity;

248 (g) (i) names, email addresses, and phone numbers of the members of the entity's
249 governing board or commission, managing officers, or other similar managers and the method
250 by which the members or officers are appointed, elected, or otherwise designated;

251 (ii) the date of the most recent appointment or election of each entity governing board
252 or commission member; and

253 (iii) the date of the anticipated end of each entity governing board or commission
254 member's term;

255 (h) the entity's sources of revenue; and

256 (i) if the entity has created an assessment area, as that term is defined in Section
257 [11-42-102](#), information regarding the creation, purpose, and boundaries of the assessment area.

258 (5) Each entity shall include the following information in the entity's renewal
259 submission:

260 (a) identify and update any incorrect or outdated information the entity previously
261 submitted during registration under Subsection (4); or

262 (b) certify that the information the entity previously submitted during registration under
263 Subsection (4) is correct without change.

264 (6) Within 30 days of receiving an entity's registration or renewal submission, the
265 lieutenant governor shall:

266 (a) review the submission to determine compliance with Subsection (4) or (5);

267 (b) if the lieutenant governor determines that the entity's submission complies with
268 Subsection (4) or (5):

269 (i) send a notice of registration or renewal that includes the information that the entity
270 submitted under Subsection (4) or (5) to:

271 (A) the registering or renewing entity;

272 (B) each county in which the entity operates, either in whole or in part, or where the
273 entity's geographic boundaries overlap or are contained within the boundaries of the county;

274 (C) the Division of Archives and Records Service; and

275 (D) the Office of the Utah State Auditor; and

276 (ii) publish the information from the submission on the registry unless the information
277 is an entity governing board or commission member's email or phone number required under
278 Subsection (4)(g) and is not used by the member for purposes of conducting public business on
279 behalf of the entity; and

280 (c) if the lieutenant governor determines that the entity's submission does not comply
281 with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of
282 noncompliance to the registering or renewing entity that:

283 (i) identifies each deficiency in the entity's submission with the corresponding statutory
284 requirement;

285 (ii) establishes a deadline to cure the entity's noncompliance that is the first business
286 day that is at least 30 calendar days after the day on which the lieutenant governor sends the
287 notice of noncompliance; and

288 (iii) states that failure to comply by the deadline the lieutenant governor establishes
289 under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of
290 non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

291 (7) (a) If the lieutenant governor identifies an entity that does not make a registration
292 submission in accordance with Subsection (4) by the deadline described in Subsection (3), the
293 lieutenant governor shall send a notice of failure to register to the registered entity that:

294 (i) identifies the statutorily required registration deadline described in Subsection (3)
295 that the entity did not meet;

296 (ii) establishes a deadline to cure the entity's failure to register that is the first business
297 day that is at least 10 calendar days after the day on which the lieutenant governor sends the
298 notice of failure to register; and

299 (iii) states that failure to comply by the deadline the lieutenant governor establishes
300 under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of
301 non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

302 (b) If a registered entity does not make a renewal submission in accordance with
303 Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a
304 notice of failure to renew to the registered entity that:

305 (i) identifies the renewal deadline described in Subsection (3) that the entity did not
306 meet;

307 (ii) establishes a deadline to cure the entity's failure to renew that is the first business
308 day that is at least 30 calendar days after the day on which the lieutenant governor sends the
309 notice of failure to renew; and

310 (iii) states that failure to comply by the deadline the lieutenant governor establishes
311 under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of
312 non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

313 (8) An entity's registration is valid:

314 (a) if the entity makes a registration or renewal submission in accordance with the
315 deadlines described in Subsection (3);

316 (b) during the period the lieutenant governor establishes in the notice of
317 noncompliance or notice of failure to renew during which the entity may cure the identified
318 registration deficiencies; and

319 (c) for one year beginning on the day the lieutenant governor issues the notice of
320 registration or renewal.

321 (9) (a) The lieutenant governor shall send a notice of non-registration to the Office of
322 the Utah State Auditor if an entity fails to:

323 (i) cure the entity's noncompliance by the deadline the lieutenant governor establishes
324 in the notice of noncompliance;

325 (ii) register by the deadline the lieutenant governor establishes in the notice of failure
326 to register; or

327 (iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes
328 in the notice of failure to renew.

329 (b) The lieutenant governor shall ensure that the notice of non-registration:

330 (i) includes a copy of the notice of noncompliance, the notice of failure to register, or
331 the notice of failure to renew; and

332 (ii) requests that the state auditor withhold state allocated funds or the disbursement of
333 property taxes and prohibit the entity from accessing money held by the state or money held in
334 an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and
335 67-3-1(10).

336 (10) The lieutenant governor may extend a deadline under this section if an entity
337 notifies the lieutenant governor, before the deadline to be extended, of the existence of an

338 extenuating circumstance that is outside the control of the entity.

339 (11) (a) An entity is not required to renew submission of a registration under this
340 section if an entity provides a record of dissolution.

341 (b) The lieutenant governor shall include in the registry an entity's record of dissolution
342 and indicate on the registry that the entity is dissolved.