

# SB 43 Overview

# SB 43 Summary

- Senate Bill 43 creates a new classification system for virtually all types of public notice issued by governments in Utah.
- The purpose is to provide a common and comprehensive set of requirements summarized in a new section of code, § 63G-28-101, starting on line 9396 of the first substitute.
- Three categories of notice are created: class A, B, and C notice
- The specific type of notice required is then referenced in a corresponding section of existing code that is applicable to local government.
- The resulting bill is massive: 329 pages and 10,185 lines amending over 170 sections of existing code.

# Class A Notice

Requires a public body or elected official that is required to provide public notice to do each of the following:

- a) Publish the notice on the Utah Public Notice Website (**no issue**)
- b) Publish the notice on the entity's website (**no issue**)
- c) Physically post the public notice in connection with an “affected area” . . . in a “public location” . . . in a within the affected area that is reasonably likely to be seen by residents of the affected area”  
**(feasible, but creates possible enforcement and verification issues)**

“Affected area” = the area designated in Utah law or County ordinance as the area for which notice must be provided.

“Public location” = a location that is open to the general public, whether public or private, *or* a location that is not open to the general public, but where the notice is clearly visible and easily read while an individual is present in the location.

# Class A Notice, Cont.

- d) And also requires the public body to provide any one of the following:
1. Publish the public notice or a summary in a newspaper of general circulation within the affected area (**not feasible unless the notice can be given well in advance; expensive; subject to the continued availability of printed newspapers**).
  2. Physically post 9 more postings of the same notice required in c) (**feasible but time consuming and expensive; creates possible enforcement and verification issues**).
  3. Include the public notice or a summary with a “newsletter, periodical, utility bill, other material regularly distributed by the public body to residents of the affected area” (**not feasible for Salt Lake County**).
  4. Mail or deliver a copy of the public notice or summary to each residence within the affected area (**not feasible for Salt Lake County**).
  5. If the affected area is a geographic jurisdiction, transmit the public notice or summary by email or text to each resident of the affected area for which the public body has an email address or cell number (**not feasible for Salt Lake County**).
  6. If the affected area is a geographic jurisdiction of a public body that “communicates with residents of the affected area through a social media platform”, publish the public notice or a summary on the social media platform (**feasible, but creates possible enforcement and verification issues; ‘social media platform’ is not defined**).

# Types of Activities Requiring Class A Notice

- All public meetings under the Utah Open and Public Meetings Act
- County budget hearings – adoption and amendments
- County weed control board notice
- Various forms of municipal notice provided to unincorporated residents
- Various forms of notice related to municipal annexations and incorporations
- Budget hearings for interlocal entities
- Bond notices
- Land use matters, including: general plan and amendment hearings; land use regulation hearings; planning commission hearings
- Eminent domain hearings
- Public/private partnership hearings
- Local districts notices
- CRA notices
- Election administration matters, including: notice of midterm vacancies; results of election canvass; public hearings for initiative petitions
- Tax administration matters, including: truth in taxation hearings; county option tax notices
- Notice related to county roads
- Announcements of Justice Court vacancies

# Class B Notice

Requires a public body or elected official that is required to provide public notice to do each of the following:

- a) Publish the same notice required by a), b), and c) of Class A notice
- b) Comply with one of the following:
  - 1. Publish the public notice or a summary in a newspaper of general circulation within the affected area
  - 2. Physically post 9 more postings of public notice in the affected area
- c) Also comply with one of the following:
  - 1. Include the public notice or a summary with a “newsletter, periodical, utility bill, other material regularly distributed by the public body to residents of the affected area”
  - 2. Mail or deliver a copy of the public notice or summary to each residence within the affected area
  - 3. If the affected area is a geographic jurisdiction, transmit the public notice or summary by email or text to each resident of the affected area for which the public body has an email address or cell number
  - 4. If the affected area is a geographic jurisdiction of a public body that “communicates with residents of the affected area through a social media platform”, publish the public notice or a summary on the social media platform

# Types of Activities Requiring Class B Notice

- Notices related to the creation of new municipalities, including: municipal consolidation elections; incorporation elections; notice of elections for the officers of future municipalities
- Notices of debt issuance
- Election administration matters, including: notices of cancellation of races; notices for the testing election equipment; notices of elections; notices related to ballot drop boxes; notice of sample ballots; notices of voter information pamphlets; declarations of candidacy

# Class C Notice

Requires a public body or elected official that is required to provide public notice to do each of the following:

- a) Everything that is required of Class A notice;
- b) If a statute or county ordinance requires that notice be provided for a designated geographic area, mail or otherwise deliver the public notice or a summary to each residence within, and to each owner of real property located within, the designated geographic area
- c) If a statute or county ordinance requires that notice be provided to one or more designated persons or properties, mail or otherwise deliver the public notice or a summary to each designated person and property

Notice under this section is to be provided to the current residential or business address of an owner of real property, or the last known address that can be obtained from “a reasonable inquiry into public records.” If the address cannot be obtained, notice should be posted on the real property.

# Types of Activities Requiring Class C Notice

- Certain notices related to annexation petitions, incorporation efforts, and the creation or dissolution of municipalities.
- Certain notices related to Convention and Tourism Business Assessment Areas
- Certain land use matters, including: ordinance changes; easement hearings; changes to planning advisory areas; creation of protection areas
- Creation of local districts and boundary adjustments for local districts
- Certain notice related to utilities and highways

While most of these sections already require some form of mailed notice, SB 43 may result in expanding the number of persons and properties receiving notice, as well as the imposition of the new Class A notice requirements

# Policy Issues and Solutions

- What problem is this legislation trying to solve?
- Cost and compliance issues
- Anachronisms and impossibilities for a jurisdiction of 1.3 million residents
- Work with sponsors to treat the County's public meetings like the states?
- Identify more specific issues with the effect of land use, election, and tax and budget notices