

**STATE AND LOCAL PUBLIC SAFETY 800**

**MEGAHERTZ PROJECT**

1997 GENERAL SESSION

STATE OF UTAH

**Sponsor: Blake D. Chard**

Wayne A. Harper

AN ACT RELATING TO STATE INSTITUTIONS; ESTABLISHING AN INDEPENDENT STATE AGENCY CALLED THE UTAH COMMUNICATIONS AGENCY NETWORK TO PROVIDE FOR GOVERNMENTAL PUBLIC SAFETY COMMUNICATIONS SERVICES AND FACILITIES; ALLOWING PARTICIPATION IN THE RISK MANAGEMENT FUND; SPECIFYING THE POWERS AND PURPOSES OF THE NETWORK; PROVIDING DEFINITIONS; ESTABLISHING THE BOARD AND EXECUTIVE COMMITTEE AND ENACTING PROVISIONS FOR THEIR GOVERNANCE; PROVIDING FOR AN EXECUTIVE DIRECTOR; OUTLINING THE DUTIES AND POWERS OF THE EXECUTIVE DIRECTOR; PERMITTING THE CONVEYANCE OR ACQUISITION OF PROPERTY BY THE NETWORK; RECOGNIZING THE PROPERTY AND FUNDS OF THE NETWORK TO BE PUBLIC PROPERTY AND EXEMPT FROM TAXES; PROVIDING FOR THE DISSOLUTION OF THE NETWORK, AND THE REMOVAL OF A MEMBER; AUTHORIZING BONDING; ENACTING PROVISIONS RELATED TO BONDING; PROVIDING FOR INVESTMENT OF NETWORK FUNDS; EXEMPTING THE NETWORK FROM CERTAIN ACTS; PROVIDING FOR CERTAIN REPORTING; PROVIDING THAT THE LEGISLATURE MAY PROVIDE AN APPROPRIATION FOR THE RESERVE FUNDS FOR DEBT SERVICE; ENACTING PROVISIONS RELATING TO DEBT SERVICE; AND REQUIRING THE GOVERNOR TO INCLUDE THE STATE'S PORTION OF THE NETWORK'S BUDGET IN HIS BUDGET.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**63-38-2**, as last amended by Chapter 136, Laws of Utah 1996

ENACTS:

appropriations of the budget, clearly itemized and classified.

(b) The budget message shall include a projection of estimated revenues and expenditures for the next fiscal year.

(2) At least 34 days before the submission of any budget, the governor shall deliver a confidential draft copy of his proposed budget recommendations to the Office of the Legislative Fiscal Analyst.

(3) (a) The budget shall contain a complete plan of proposed expenditures and estimated revenues for the next fiscal year based upon the current fiscal year state tax laws and rates.

(b) The budget may be accompanied by a separate document showing proposed expenditures and estimated revenues based on changes in state tax laws or rates.

(4) The budget shall be accompanied by a statement showing:

(a) the revenues and expenditures for the last fiscal year;

(b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and funds of the state;

(c) an estimate of the state's financial condition as of the beginning and the end of the period covered by the budget;

(d) a complete analysis of lease with an option to purchase arrangements entered into by state agencies;

(e) the recommendations for each state agency for new full-time employees for the next fiscal year; which recommendation should be provided also to the State Building Board under Subsection 63A-5-103(2);

(f) any explanation the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(g) the information detailing certain regulatory fee increases required by Section 63-38-3.2.

(5) The budget shall include an itemized estimate of the appropriations for:

(a) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) These guidelines may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(b) The estimate for the Legislative Department as certified by the presiding officers of both houses shall be included in the budget without revision by the governor. Before preparing the estimates for the Legislative Department, the Legislature shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:

- (i) the Legislature's implementation of information technology goals;
- (ii) any coordination of information technology with other departments of state and local government;
- (iii) any efforts to develop public/private partnerships to accomplish information technology goals; and
- (iv) any performance measures used by the entity for implementing information technology goals.

(c) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on it. Before preparing the estimates for the Judicial Department, the state court administrator shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:

- (i) the Judicial Department's information technology goals;
- (ii) coordination of information technology statewide between all courts;
- (iii) any efforts to develop public/private partnerships to accomplish information technology goals; and
- (iv) any performance measures used by the entity for implementing information technology goals.

(d) Before preparing the estimates for the State Office of Education, the state superintendent

exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(9) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

(10) (a) In submitting the budget for the Departments of Health and Human Services, the governor shall consider a separate recommendation in his budget for funds to be contracted to:

(i) local mental health authorities under Section 17A-3-606;

(ii) local substance abuse authorities under Section 62A-8-110.5;

(iii) area agencies on aging under Section 62A-3-104.2;

(iv) programs administered directly by and for operation of the Divisions of Mental Health, Substance Abuse, and Aging and Adult Services; and

(v) local health departments under Title 26A, Chapter 1, Local Health Departments.

(b) In his budget recommendations under Subsections (a)(i), (ii), and (iii), the governor shall consider an amount sufficient to grant local health departments, local mental health authorities, local substance abuse authorities, and area agencies on aging the same percentage increase for wages and benefits that he includes in his budget for persons employed by the state.

(c) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (b), he shall include a message to the Legislature regarding his reason for not including that amount.

(11) (a) In submitting the budget for the Division of Services for People with Disabilities within the Department of Human Services, the governor shall consider an amount sufficient to grant employees of private nonprofit corporations that contract with that division, the same percentage increase for cost-of-living that he includes in his budget for persons employed by the state.

(b) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (a), he shall include a message to the Legislature regarding his reason for not including that amount.

(12) The governor shall include the projected revenues and expenditures for collecting the uniform fee and other motor vehicle fees under Section 59-2-406 in the 1996-97 fiscal year budget.

(13) (a) The Families, Agencies, and Communities Together Council may propose to the

63C-7-201.

(2) "Bonds" means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing issued or incurred by the Utah Communications Agency Network pursuant to this chapter.

(3) "Communications network" means a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities.

(4) "Effective date" means the first date after which the Utah Communications Agency Network is officially created and shall be the first date after which:

(a) at least ten public agencies have submitted to the Utah Communications Agency Network office the membership resolutions required to become a member; and

(b) the governor has appointed the four state representatives to the executive committee.

(5) "Executive Committee" means the administrative body of the Utah Communications Agency Network created in Section 63C-7-205.

(6) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.

(7) "Member" means a public agency which:

(a) adopts a membership resolution to be included within the Utah Communications Agency Network; and

(b) submits an originally executed copy of an authorizing resolution to the Utah Communications Agency Network office.

(8) "Member representative" means a person or that person's designee appointed by the governing body of each member.

(9) "Public agency" means any political subdivision of the state, including cities, towns, counties, school districts, and special districts dispatched by a public safety answering point.

(10) "Public safety answering point" means an organization, entity, or combination of entities which have joined together to form a central answering point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency

(1) sue and be sued in its own name;  
(2) have an official seal and power to alter that seal at will;  
(3) make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, including contracts with private companies licensed under Title 26, Chapter 8, Emergency Medical Services System Act;

(4) own, acquire, construct, operate, maintain, and repair a communications network, and dispose of any portion of it;

(5) borrow money and incur indebtedness;

(6) issue bonds as provided in this chapter;

(7) enter into agreements with public agencies, the state, and federal government to provide communications network services on terms and conditions it considers to be in the best interest of its members;

(8) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a communications network and all related facilities and rights-of-way which it owns, operates, and maintains;

(9) contract with other public agencies, the state, or federal government to provide public safety communications services in excess of those required to meet the needs or requirements of its members and the state and federal government if:

(a) it is determined by the executive committee to be necessary to accomplish the purposes and realize the benefits of this chapter; and

(b) any excess is sold to other public agencies, the state, or federal government and is sold on terms that assure that the cost of providing the excess service will be received by the Utah Communications Agency Network; and

(10) perform all other duties authorized by this chapter.

Section 8. Section 63C-7-203 is enacted to read:

**63C-7-203. Establishment of the Utah Communications Agency Network Board --  
Terms -- Vacancies.**

(3) (a) Five of the initial member representatives of the executive committee elected by the board shall serve for two years and five shall serve for four years. Successor member representatives of the executive committee shall each serve for a term of four years, so that the term of office of five member representatives expires every two years.

(b) The member representatives of the executive committee shall be removable, with or without cause, by a majority vote of the board. A vacancy on the executive committee for a member representative shall be filled for the unexpired term by a majority of the remaining member representatives of the executive committee.

(4) The executive committee shall elect annually one of its members as chair.

(5) The executive committee shall meet on an as-needed basis and as provided in the bylaws.

(6) The executive committee shall also elect a vice chair, secretary, and treasurer to perform those functions provided in the bylaws.

(a) The vice chair shall be a member of the executive committee.

(b) The secretary and treasurer need not be members of the executive committee, but shall not have voting powers if they are not members of the executive committee.

(c) The offices of chair, vice chair, secretary, and treasurer shall be held by separate individuals.

(7) Each member representative and state representative shall have one vote, including the chair, at all meetings of the executive committee.

(8) Nine members of the executive committee constitute a quorum. A vote of a majority of the quorum at any meeting of the executive committee is necessary to take action on behalf of the executive committee.

Section 11. Section **63C-7-206** is enacted to read:

**63C-7-206. Executive committee -- Powers and duties.**

The executive committee shall:

(1) manage the affairs and business of the Utah Communications Agency Network consistent with this chapter;

(2) appoint an executive director to administer the Utah Communications Agency Network;

(4) recommend to the executive committee any changes in the statutes affecting the Utah Communications Agency Network;

(5) recommend to the executive committee an annual administrative budget covering administration, management, and operations of the communications network and, upon approval of the executive committee, direct and control the subsequent expenditures of the budget; and

(6) within the limitations of the budget, employ staff personnel, consultants, and legal counsel to provide professional services and advice regarding the administration of the Utah Communications Agency Network.

Section 13. Section 63C-7-208 is enacted to read:

**63C-7-208. Property and funds of the Utah Communications Agency Network declared public property -- Exemption from taxes -- Alternative agreement with public body.**

(1) The property and funds of the Utah Communications Agency Network are declared to be public property used for essential public and governmental purposes.

(2) The property and the Utah Communications Agency Network are exempt from all taxes and special assessments of any public body. This tax exemption does not apply to any portion of a project used for a profit-making enterprise.

Section 14. Section 63C-7-209 is enacted to read:

**63C-7-209. Term of the Utah Communications Agency Network -- Dissolution -- Withdrawal.**

(1) (a) The Utah Communications Agency Network may be dissolved by a vote of 3/4 of all the members of the board or by an act of the Legislature.

(b) Title to all assets of the Utah Communications Agency Network upon its dissolution shall revert to the members and the state pro rata, based upon the total amount of moneys paid to the Utah Communications Agency Network by each member or the state for services provided to each by the communications network.

(c) The board is authorized to:

(i) take any necessary action to dissolve the Utah Communications Agency Network; and

(ii) dispose of the property of the Utah Communications Agency Network upon its

Legislature. Each report shall set forth a complete operating and financial statement of the agency during the fiscal year it covers.

(2) The state auditor shall at least once in each year audit the books and accounts of the Utah Communications Agency Network or shall contract with an independent certified public accountant for this audit. The audit shall include a review of the procedures adopted under the requirements of Subsection 67C-7-210(2) and a determination as to whether the board has complied with the requirements of Subsection 67C-7-210(2).

(3) The Utah Communications Agency Network shall reimburse the state auditor from available moneys of the Utah Communications Agency Network for the actual and necessary costs of that audit.

Section 17. Section 63C-7-301 is enacted to read:

**Part 3. Bonding**

**63C-7-301. Bond authorized -- Payment -- Security -- Liability -- Purpose -- Exemption from certain taxes.**

(1) The Utah Communications Agency Network may:

(a) issue bonds from time to time for any of its corporate purposes provided in Section 63C-7-102;

(b) issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;

(c) issue bonds on which the principal and interest are payable:

(i) exclusively from the income, purchase or lease payments, and revenues of all or a portion of the communications network; or

(ii) from its revenues generally.

(2) Any bonds issued by the Utah Communications Agency Network may be additionally secured by a pledge of any loan, lease, grant, agreement, or contribution, in whole or in part, from the federal government or other source, or a pledge of any income or revenue of the Utah Communications Agency Network.

(3) The officers of the Utah Communications Agency Network and any person executing

without the necessity of this being restated in the bonds, between the bondholders, including all transferees of the bonds, and the Utah Communications Agency Network and the state.

Section 18. Section 63C-7-302 is enacted to read:

**63C-7-302. Bonds to be authorized by resolution -- Form -- Sale -- Negotiability --**

**Validity presumed.**

(1) Bonds of the Utah Communications Agency Network shall:

(a) be authorized by resolution of the executive committee and may be issued in one or more series;

(b) bear dates, mature, bear interest rates, be in denominations, be either coupon or registered, carry conversion or registration privileges, have rank or priority, be executed, and be payable; and

(c) be subject to terms of redemption, with or without premium, as the resolution or its trust indenture provides.

(2) The bonds may bear interest at a fixed or variable interest rate as the resolution provides. The resolution may establish a method, formula, or index pursuant to which the interest rate on the bonds may be determined from time to time.

(3) In connection with the bonds, and on behalf of the Utah Communications Agency Network, the executive committee may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for letters of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing agreements, indexing agreements, tender agent agreements, and other agreements to secure the bonds, to enhance the marketability and creditworthiness of the bonds, to determine a fixed or variable interest rate on the bonds, and to pay from any legally available source, including the proceeds of the bonds, of fees, charges, and other amounts coming due with respect to any such agreements.

(4) The bonds may be sold at public or private sale in a manner and at prices, either at, in excess of, or below par value as provided by resolution of the executive committee.

(5) If members or officers of the Utah Communications Agency Network whose signatures appear on bonds or coupons cease to be members or officers before the delivery of the bonds, their

(12) exercise all or any part or combination of the powers granted in this chapter;

(13) perform any acts necessary, convenient, or desirable to secure its bonds; and

(14) make any covenants or perform any acts calculated to make the bonds more marketable.

Section 20. Section **63C-7-304** is enacted to read:

**63C-7-304. Reserve funds for debt service.**

(1) To assure the continued operation and solvency of the Utah Communications Agency Network for the carrying out of its purpose, the Utah Communications Agency Network may establish reserve funds necessary to secure the payment of debt service on its bonds.

(2) The resolution authorizing the issuance of the bonds shall specify the minimum amount that is required to be on deposit in the reserve funds.

(3) The chair shall annually, on or before December 1, certify to the governor, the director of finance, and to each member the amount, if any, required to restore the funds to their required funding levels.

(4) (a) The governor may request from the Legislature an appropriation of the amount certified in Subsection (3) to restore the reserve funds to their required funding levels or to meet any projected principal or interest payment deficiency. Any amount appropriated shall be repaid to the General Fund of the state in excess of the amounts which the executive committee determines will keep it self-supporting.

(b) The executive committee shall adjust the fees of the members so that the state is repaid for the amount appropriated in Subsection (4)(a) within 18 months after the state has paid the deficit.

(5) The members are jointly responsible for 1/2 the amount certified in Subsection (3) to restore the reserve funds to their required funding levels. The executive committee may request from each member monies proportionate to their participation in the network to restore the funding level. Any amount paid by the members shall be proportionally repaid to them from 1/2 of any monies in excess of the amounts which the executive committee determines will keep it self-supporting.

Section 21. Section **63C-7-305** is enacted to read:

**63C-7-305. Investment of the Utah Communications Agency Network funds.**

The state treasurer shall invest all moneys held on deposit by or on behalf of the Utah

Communications Agency Network. The executive committee may provide advice to the state treasurer concerning investment of the moneys of the Utah Communications Agency Network.

Section 22. Section 63C-7-306 is enacted to read:

**63C-7-306. Publication of notice, resolution, or other proceeding -- Contest.**

(1) The executive committee of the Utah Communications Agency Network may provide for the publication of any resolution or other proceedings adopted under this chapter in a newspaper of general circulation within the state.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the executive committee may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the type of bonds and the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear, if any;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and

(g) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at the principal office of the Utah Communications Agency Network during regular business hours and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest may contest the legality of the resolution or proceeding, any bonds which may be authorized by the resolution or proceeding, or any provision made for the security and payment of the bonds by filing a pleading with the district court for the city in which the Utah Communications Network maintains its principal office.