

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

63C-7-101. Title.

This chapter is known as the "Utah Communications Agency Network Act."

63C-7-102. Purpose.

The purpose of this chapter is to establish an independent state agency and a board and executive committee to administer the creation, administration, and maintenance of the Utah Communications Agency Network to provide public safety communications services and facilities on a regional or statewide basis for the benefit and use of public agencies and state and federal agencies.

63C-7-103. Definitions.

As used in this chapter:

(1) "Board" means the Utah Communications Agency Network Board created in Section **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

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency communications, including 911 calls, police, fire, emergency medical, transportation, parks, wildlife, corrections, and any other governmental communications.

(11) "State" means the state of Utah.

(12) "State representative" means:

(a) the four appointees of the governor or their designees; and

(b) the Utah State Treasurer or his designee.

63C-7-201. Establishment of the Utah Communications Agency Network.

(1) There is established the Utah Communications Agency Network, formerly the Utah Wireless Interagency Network, created by executive order of the governor on June 6, 1996. The Utah Communications Agency Network shall assume the operations of the Utah Wireless Interagency Network on May 4, 1997, and shall perform the functions as provided in this chapter.

(2) The Utah Communications Agency Network is an independent state agency and not a division within any other department of the state.

(3) The initial offices of the Utah Communications Agency Network shall be in Salt Lake City, but branches of the office may be established in other areas of the state upon approval of the board.

(4) (a) As soon after the effective date as possible, the state representatives shall schedule an organizational meeting date and shall give written notice of the time and location of the organizational meeting to the governing bodies of known prospective members.

(b) At the organizational meeting:

(i) the board shall be organized as provided in Section **63C-7-203**;

(ii) bylaws shall be adopted; and

(iii) the executive committee shall be established as provided in Section

63C-7-205.

63C-7-202. Powers of the Utah Communications Agency Network.

The Utah Communications Agency Network shall have the power to:

(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 8a, Utah 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

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

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.

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

(1) There is created the Utah Communications Agency Network Board.

(2) The board is comprised of one member representative selected by each member, and the state representatives selected as provided in Subsection **63C-7-205(2)**. Each member representative shall serve until removed for any reason and replaced by the governing body of the member.

(3) The chair and secretary of the executive committee shall also serve as the chair and secretary of the board.

63C-7-204. Powers of the board.

The board shall:

(1) adopt bylaws by a majority vote of its members which vote of both member representatives and state representatives may be made by proxy as prescribed in the bylaws;

(2) elect ten member representatives to the executive committee, except that the state representatives are not permitted to vote in that election;

(3) recommend to the executive committee broad policies for the long-term construction and operation of the communications network; and

(4) dissolve the Utah Communications Agency Network as provided in Section **63C-7-209**.

63C-7-205. Executive committee established -- Terms -- Vacancies.

(1) The executive committee shall consist of the following 15 individuals:

(a) ten member representatives elected by the board at its annual meetings; and

(b) five state representatives.

(2) (a) Four of the state representatives shall be appointed by the governor, with two appointed initially for two years and two for four years. Successor state representatives shall each serve for four years.

(b) The fifth state representative shall be the Utah State Treasurer, who shall serve ex officio, or his designee.

(c) A vacancy on the executive committee for a state representative shall be filled for the unexpired term by appointment by the governor.

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

(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.

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;

(3) receive and act upon reports covering the operations of the communications network and funds administered by the Utah Communications Agency Network;

(4) ensure that the communications network and funds are administered according to law;

(5) examine and approve an annual operating budget for the Utah Communications Agency Network;

(6) receive and act upon recommendations of the chair;

(7) recommend to the governor and Legislature any necessary or desirable changes in the statutes governing the communications network;

(8) develop broad policies for the long-term operation of the Utah Communications Agency Network for the performance of its functions;

(9) make and execute contracts and other instruments on behalf of the Utah Communications Agency Network, including agreements with members and other entities;

(10) authorize the borrowing of money, the incurring of indebtedness, and the issuance of bonds as provided in this chapter;

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

(11) adopt rules consistent with this chapter for the management of the communications network in order to carry out the purposes of this chapter, and perform all other acts necessary for the administration of the communications network;

(12) exercise the powers and perform the duties conferred on it by this chapter; and

(13) provide for audits of the Utah Communications Agency Network

63C-7-207. Executive director -- Powers and duties.

The executive director shall:

(1) act as the executive officer of the Utah Communications Agency Network;

(2) administer the various acts, systems, plans, programs, and functions assigned to the office;

(3) with the approval of the executive committee, develop and promulgate administrative rules which are within the authority granted by this title for the administration of 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.

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

(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.

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 dissolution as provided in Subsection (1)(b).

(2) (a) Each member may, at any time, withdraw as a member of the Utah

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

Communications Agency Network by delivering to the executive committee a written notice of withdrawal which has been approved by the governing body of the member, except that a member may not withdraw from the Utah Communications Agency Network at any time during which it has an outstanding payment obligation to the Utah Communications Agency Network as a result of having entered into a service contract, lease, or other financial obligation.

(b) Except as provided in Subsection (2)(a), the executive committee shall delete the petitioning member from the membership of the Utah Communications Agency Network as of the date of the executive committee's receipt of the member's notice of withdrawal. The executive committee may not include a member who has given notice of withdrawal in any future obligation of the Utah Communications Agency Network.

63C-7-210. Exemption from certain acts.

(1) The Utah Communications Agency Network is exempt from:

(a) Title 63, Chapter 38, Budgetary Procedures Act;

(b) Title 63A, Utah Administrative Services Code, except as provided in Section **63A-4-205.5**;

(c) Title 63, Chapter 56, Utah Procurement Code;

(d) Title 63, Chapter 46b, Administrative Procedures Act; and

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

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

63C-7-211. Annual report to governor and Legislature -- Contents -- Audit by state auditor -- Reimbursement for costs.

(1) The Utah Communications Agency Network shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the 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 **63C-7-210(2)** and a determination as to whether the board has complied with the requirements of Subsection **63C-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.

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

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

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 the bonds are not liable personally on the bonds.

(4) (a) The bonds and other obligations of the Utah Communications Agency Network are not a debt of any member or state representative of the Utah Communications Agency Network, and do not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.

(b) The face of the bonds and other obligations shall state the provisions of Subsection (4)(a).

(5) Any bonds of the Utah Communications Agency Network shall be revenue obligations, payable solely from the proceeds, revenues, or purchase and lease payments received by the Utah Communications Agency Network for the communications network.

(6) The full faith and credit of any member or state representative may not be pledged directly or indirectly for the payment of the bonds.

(7) A member or state representative may not incur any pecuniary liability under this chapter until it enters into a service contract, lease, or other financing obligation with the Utah Communications Agency Network. Once a member enters into a service contract, lease, or other financing obligation with the Utah Communications Agency Network, the member shall be obligated to the Utah Communications Agency Network as provided in that contract, lease, or financing obligation.

(8) A bond or obligation may not be made payable out of any funds or properties other than those of the Utah Communications Agency Network.

(9) Bonds of the Utah Communications Agency Network are:

(a) declared to be issued for an essential public and governmental purpose by public instrumentalities; and

(b) together with interest and income, exempt from all taxes, except the corporate franchise tax.

(10) The provisions of this chapter exempting the properties of the Utah Communications Agency Network and its bonds and interest and income on them from taxation shall be considered part of the contract for the security of bonds and have the force of contract, by virtue of this part and 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.

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

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 signatures are valid and sufficient for all purposes.

(6) Any bonds issued under this part are fully negotiable.

(7) In any suit, action, or proceeding involving the validity or enforceability of any bond of the Utah Communications Agency Network or the security for it, any bond reciting in substance that it has been issued by the Utah Communications Agency Network to aid in financing the communications network shall be conclusively considered to have been issued for such purposes, and the communications network shall be conclusively considered to have been planned, located, and carried out in accordance with this part.

63C-7-303. Bonds and other obligations -- Additional powers of the Utah Communications Agency Network.

In connection with the issuance of bonds or the incurring of obligations under leases, and in order to secure the payment of bonds or obligations, the Utah Communications Agency Network, in addition to its other powers, may:

(1) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may accrue in the future;

(2) mortgage all or any part of its real or personal property owned or acquired in the future;

(3) covenant against:

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

- (a) pledging all or any part of its rents, fees, and revenues;
 - (b) mortgaging all or any part of its real or personal property to which its right or title then exists or accrues in the future;
 - (c) permitting any lien on its revenues or property;
 - (d) extending the time for the payment of its bonds or interest on them;
 - (e) the use and disposition of the moneys held in the funds in Subsection (7); and
 - (f) the use, maintenance, and replacement of any or all of its real or personal property;
- (4) covenant as to:
- (a) bonds to be issued;
 - (b) the issuance of bonds in escrow or otherwise;
 - (c) the use and disposition of the bond proceeds;
 - (d) the insurance to be carried on the property in Subsection (3)(f) and the use and disposition of insurance moneys; and
 - (e) the rights, liabilities, powers, and duties arising upon its breach of any covenant, condition, or obligation;
- (5) provide for the replacement of lost, destroyed, or mutilated bonds;
- (6) covenant for the redemption of the bonds and provide the terms and conditions for their redemption;
- (7) create or authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes; and
- (8) prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the number of bondholders of outstanding bonds which must consent to the action, and the manner in which consent shall be given;
- (9) covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;
- (10) vest in any obligee of the Utah Communications Agency Network or any specified proportion of them the right:
- (a) to enforce the payment of bonds or any covenants securing or relating to the bonds;
 - (b) after default by the Utah Communications Agency Network to:
 - (i) take possession of and use, operate, and manage any facilities or any part of it or any funds connected with the facilities and funds, and collect the revenues arising from them; and
 - (ii) dispose of the facilities and funds in accordance with the agreement with the Utah Communications Agency Network;
- (11) provide the:
-
- (a) powers and duties of an obligee and limit the obligee's liabilities; and
 - (b) terms and conditions upon which the obligees may enforce any covenant or rights securing or relating to the bonds;
- (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.

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

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.

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.

63C-7-306. Publication of notice, resolution, or other proceeding -- Period for contesting.

(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

Utah Code -- Title 63C -- Chapter 07 -- Utah Communications Agency Network Act

(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.

Enacted by Chapter 136, 1997 General Session