

HB0539S01 compared with HB0539

~~text~~ shows text that was in HB0539 but was deleted in HB0539S01.

text shows text that was not in HB0539 but was inserted into HB0539S01.

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Representative Brady Brammer proposes the following substitute bill:

STATE LEGAL DISPUTE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to state legal actions.

Highlighted Provisions:

This bill:

- ▶ modifies the Government Records Access and Management Act to address information regarding ~~anticipated~~imminent or pending litigation shared among certain state entities;
- ▶ amends the state settlement approval process by:
 - directing the attorney general to share with the approving person any information relevant to a recommended settlement; and
 - clarifying that the cost to implement an action settlement agreement includes the cost of monetary and non-monetary terms;

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- ▶ provides the attorney general's authority to take certain enforcement action against charter schools;
- ▶ addresses the sharing of information between the attorney general and the Legislature ~~(related)~~ relating to state settlements and anticipated or pending state litigation; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

63G-2-103, as last amended by Laws of Utah 2023, Chapters 16, 173, 231, and 516

63G-10-301, as last amended by Laws of Utah 2023, Chapter 535

63G-10-302, as last amended by Laws of Utah 2023, Chapter 535

63G-10-303, as last amended by Laws of Utah 2023, Chapter 535

63G-10-501, as last amended by Laws of Utah 2021, Chapters 33, 344

63G-10-503, as last amended by Laws of Utah 2023, Chapter 535

63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530

67-5-17, as enacted by Laws of Utah 2000, Chapter 212

ENACTS:

63G-31-401.1, Utah Code Annotated 1953

REPEALS AND REENACTS:

63G-10-103, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section **63G-2-103** is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records

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for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

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(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

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(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

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(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

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(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(24) "Reasonable search" means a search that is:

- (a) reasonable in scope and intensity; and
- (b) not unreasonably burdensome for the government entity.

(25) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the

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originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child sexual abuse material, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; [or]

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or

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[~~58-61-702.~~] 58-61-702; or

(xix) any ~~document or information related to an anticipated or pending legal claim and~~ item described in Subsection (25)(a) that is:

(A) described in Subsection 63G-2-305(17), (18), or (23)(b); and

(B) shared between any of the following entities:

~~(A)~~ I the Division of Risk Management;

~~(B)~~ II the Office of the Attorney General;

~~(C)~~ III the governor's office; or

~~(D)~~ IV the ~~legislative department~~ Legislature.

(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

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(31) "State archivist" means the director of the state archives.

(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(33) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 2. Section **63G-10-103** is repealed and reenacted to read:

63G-10-103. Notice of voidableness of settlement agreements.

(1) Each action settlement agreement and each financial settlement agreement executed in violation of this chapter is voidable by the governor or the Legislature as provided in this chapter.

(2) (a) When seeking approval of an action settlement agreement or a financial settlement agreement under this chapter, upon request the attorney general shall provide to the approving person any documents or information relevant to the recommended settlement.

(b) Information and documents shared under this section are governed by Subsection 67-5-17(6).

Section 3. Section **63G-10-301** is amended to read:

63G-10-301. Cost evaluation of action settlement agreements.

(1) Before legally binding the state to an action settlement agreement that might cost the state a total of \$250,000 or more to implement, inclusive of the cost of the required action and any required monetary payment, an agency shall estimate the cost of implementing the action settlement agreement and submit that cost estimate to the governor and the Legislative Management Committee.

(2) The Legislative Management Committee may:

(a) direct its staff to make an independent cost estimate of the cost of implementing the action settlement agreement; and

(b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Section 4. Section **63G-10-302** is amended to read:

63G-10-302. Governor to approve action settlement agreements.

(1) Before legally binding the state by executing an action settlement agreement that

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might cost government entities more than \$250,000 to implement, inclusive of the cost of the required action and any required monetary payment, an agency shall submit the proposed settlement agreement, including all terms material to the settlement, to the governor for the governor's approval or rejection.

(2) The governor shall approve or reject each action settlement agreement.

(3) (a) If the governor approves the action settlement agreement, the agency may execute the agreement.

(b) If the governor rejects the action settlement agreement, the agency may not execute the agreement.

(4) If an agency executes an action settlement agreement without obtaining the governor's approval under this section, the governor may issue an executive order declaring the settlement agreement void.

(5) An agency executing an agreement under this section shall give notice of the settlement to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 5. Section **63G-10-303** is amended to read:

63G-10-303. Legislative review and approval of action settlement agreements.

(1) (a) Before legally binding the state by executing an action settlement agreement that might cost government entities more than \$1,000,000 to implement, inclusive of the cost of the required action and any required monetary payment, an agency shall:

(i) submit the proposed action settlement agreement, including all terms that are material to the settlement, to the governor for the governor's approval or rejection as required by Section 63G-10-302; and

(ii) if the governor approves the action settlement agreement, submit the action settlement agreement to the Legislative Management Committee for its review and recommendations.

(b) The Legislative Management Committee shall review the action settlement agreement and may:

(i) recommend that the agency execute the settlement agreement;

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(ii) recommend that the agency reject the settlement agreement; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the settlement agreement.

(2) (a) Before legally binding the state by executing an action settlement agreement that might cost government entities more than \$2,000,000 to implement, an agency shall:

(i) submit the proposed action settlement agreement, including all terms that are material to the settlement, to the governor for the governor's approval or rejection as required by Section 63G-10-302; and

(ii) if the governor approves the action settlement agreement, submit the action settlement agreement to the Legislature for its approval in an annual general session or a special session.

(b) (i) If the Legislature approves the action settlement agreement, the agency may execute the agreement.

(ii) If the Legislature rejects the action settlement agreement, the agency may not execute the agreement.

(c) If an agency executes an action settlement agreement without obtaining the Legislature's approval under this Subsection (2):

(i) the governor may issue an executive order declaring the action settlement agreement void; or

(ii) the Legislature may pass a joint resolution declaring the action settlement agreement void.

Section 6. Section **63G-10-501** is amended to read:

63G-10-501. Definitions.

As used in this part:

(1) "Executive director" means the individual appointed under Section 63A-1-105 as the executive director of the Department of Government Operations, created in Section 63A-1-104.

(2) "Risk management fund" means the fund created in Section 63A-4-201.

(3) "Risk manager" means the state risk manager appointed under Section 63A-4-101.5.

(4) "Settlement amount" means the total cost to implement:

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(a) an action settlement as defined in Section 63G-10-102, including the cost of the required action and any required monetary payment; or

(b) a financial settlement as defined in Section 63G-10-102.

Section 7. Section **63G-10-503** is amended to read:

63G-10-503. Risk manager's authority to settle a claim -- Additional approvals required.

(1) The risk manager may compromise and settle any claim for which the risk management fund may be liable:

(a) if the settlement amount is \$500,000 or less, on the risk manager's own authority;

(b) if the settlement amount is more than \$500,000 but not more than \$1,000,000, upon the approval of the attorney general, or the attorney general's representative, and the executive director;

(c) if the settlement amount is more than \$1,000,000 but not more than \$1,500,000, upon the governor's approval after receiving approval under Subsection (1)(b);

(d) if the settlement amount is more than \$1,500,000 but not more than \$2,000,000, upon the Legislative Management Committee's approval after receiving approval under Subsections (1)(b) and (c); and

(e) if the settlement amount is more than \$2,000,000, upon the Legislature's approval after receiving approval under Subsections (1)(b), (c), and (d).

(2) When seeking approval from a person under Subsection (1), the risk manager shall provide the person a list of each material term in the proposed settlement agreement.

~~[(2)]~~ (3) (a) The risk manager shall, upon initiation of negotiations that the risk manager reasonably believes to have the potential to lead to a settlement requiring approval under Subsection (1)(d) or (e):

(i) notify the Legislature's general counsel that negotiations have commenced;

(ii) continue to keep the Legislature's general counsel informed of material developments in the negotiation process; and

(iii) permit the Legislature's general counsel to attend negotiations.

(b) The information that the risk manager shall provide to the Legislature's general counsel under Subsection ~~[(2)(a)]~~ (3)(a) includes:

(i) the nature of the claim that is the subject of the settlement negotiations;

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(ii) the known facts that support the claim and the known facts that controvert the claim; and

(iii) the risk manager's assessment of the potential liability under the claim.

(c) A document, paper, electronic data, communication, or other material that the risk manager provides to legislative general counsel in the discharge of the risk manager's responsibility under this Subsection [~~(2)~~] (3) may not be considered to be a record, as defined in Section 63G-2-103.

(d) Information provided by the risk manager to legislative general counsel under Subsection [~~(2)(a)~~] (3)(a) and a communication between the risk manager and legislative general counsel under Subsection [~~(2)(a)~~] (3)(a) shall be considered to be evidence that is subject to Rule 408 of the Utah Rules of Evidence to the fullest extent possible.

(e) Subsections [~~(2)(c)~~] (3)(c) and (d) apply regardless of whether:

(i) the risk manager acts personally under this section or through counsel or another individual acting under the risk manager's direction; or

(ii) other individuals under the direction of legislative general counsel are involved in the process described in this section.

[~~(3)~~] (4) The risk manager shall, for each settlement agreement approved under this section for an amount greater than \$250,000 but less than \$1,500,000, give notice of the settlement to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 8. Section **63G-31-401.1** is enacted to read:

63G-31-401.1. Government entity noncompliance.

(1) The state auditor shall:

(a) establish a process to receive and investigate alleged violations of this chapter by a government entity;

(b) provide notice to the relevant government entity of:

(i) each alleged violation of this chapter by the government entity; and

(ii) each violation that the state auditor determines to be substantiated, including an opportunity to cure the violation not to exceed 30 calendar days; and

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(c) if a government entity fails to cure a violation in accordance with Subsection (1)(b)(ii), report the government entity's failure to:

(i) for a political subdivision as defined in Section 63G-7-102 or a charter school, the attorney general for enforcement under Subsection (2); or

(ii) for a state entity as defined in Section 67-4-2, the Legislative Management Committee.

(2) (a) The attorney general shall:

(i) ~~f~~enforce this chapter against a political subdivision or charter school upon referral by the state auditor under Subsection (1)(c) by imposing a fine of up to \$10,000 per violation per day; and

(ii) deposit fines under Subsection (2)(a) into the General Fund.

(b) A political subdivision or charter school may seek judicial review of a fine that the attorney general imposes under this section to determine whether the fine is clearly erroneous.

(3) A local education agency is not in violation of this chapter for a lawful application of Section 53G-8-211.

Section 9. Section **63I-2-263** is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Section 63A-17-806 is repealed June 30, 2026.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) Section 63G-31-401 is repealed May 1, 2024.

~~[(5)]~~ (6) Section 63H-7a-303 is repealed July 1, 2024.

~~[(6)]~~ (7) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

~~[(7)]~~ (8) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

~~[(8)]~~ (9) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

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~~[(9)]~~ (10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 10. Section **67-5-17** is amended to read:

67-5-17. Attorney-client relationship.

(1) When representing the governor, lieutenant governor, auditor, or treasurer, or when representing an agency under the supervision of any of those officers, the attorney general shall:

(a) keep the officer or the officer's designee reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

(b) explain a matter to the extent reasonably necessary to enable the officer or the officer's designee to make informed decisions regarding the representation;

(c) abide by the officer's or designee's decisions concerning the objectives of the representation and consult with the officer or designee as to the means by which they are to be pursued; and

(d) jointly by agreement, establish protocols with the officer to facilitate communications and working relationships with the officer or agencies under the officer's supervision.

(2) Nothing in Subsection (1) modifies or supercedes any independent legal authority granted specifically by statute to the attorney general.

(3) When the attorney general institutes or maintains a civil enforcement action on behalf of the state of Utah that is not covered under Subsection (1), the attorney general shall:

(a) fully advise the governor, as the officer in whom the executive authority of the state is vested, before instituting the action, entering into a settlement or consent decree, or taking an appeal; and

(b) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

(4) In a civil action not covered under Subsection (1) or (3), the attorney general shall:

(a) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information;

(b) explain the matter to the extent reasonably necessary to enable the governor to make informed decisions regarding the representation; and

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(c) abide by the governor's decisions concerning the objectives of the representation and consult with the governor as to the means by which they are to be pursued.

(5) The governor may appear in any civil legal action involving the state and appoint legal counsel to advise or appear on behalf of the governor. The court shall allow the governor's appearance.

(6) (a) ~~{Anticipated}~~ As used in this section, "cooperative state litigation" means:

(i) an anticipated or pending settlement that may require approval by the Legislature or the Legislative Management Committee in accordance with Title 63G, Chapter 10, State Settlement Agreements Act; or

(ii) anticipated or pending litigation in which ~~{ the attorney general represents a party to the litigation constitutes a matter of common interest between the Office of the Attorney General and the Legislature }~~;

(A) a party challenges the constitutionality of a state law; or

(B) the state challenges a federal law or regulation.

(b) When the Office of the Attorney General discusses or shares with persons within the legislative ~~{department}~~branch documents or information related to ~~{anticipated or pending}~~cooperative state litigation, the sharing is ~~{an exception to the Rules of Professional Conduct, Rule 1.6:~~

~~——~~ (c) The attorney general may not invoke the Rules of Professional Conduct, Rule 1.6 or attorney-client privilege as grounds to withhold or refuse to provide to the legislative department documents or information related to anticipated or pending litigation} in furtherance of matters of common interest between the represented parties.

Section 11. **Effective date.**

This bill takes effect on May 1, 2024.

Section 12. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace in any provision of Utah Code "63G-31-401" with "63G-31-401.1."