IN THE UTAH SUPREME COURT

UNIVERSITY OF UTAH, *Defendant/Appellant,* v. JOHN TULLIS and AMELIA TULLIS, individually and as parents and natural guardians of P.T., a minor child, *Plaintiffs/Appellees.*	**APPELLEES' SUPPLEMENTAL BRIEF** CASE NO.: 20230672-SC CIVIL CASE NO. 190907183 **Honorable Adam T. Mow**

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INTRODUCTION

For thirty-five years, neither the hospital at which a medical procedure is performed nor a medical professional's employer has dictated a victim's ability to recover from medical malpractice. Utahns have not been expected to trace the extent of state involvement in a medical procedure to determine whether they will be financially ruined by costs that flow from catastrophic mistreatment. Nor have they had to worry, for instance, that they will be brought at random by ambulance to a hospital that will not fully compensate victims of its malpractice. Since it was issued, *Condemarin v. University Hospital*, 775 P.2d 348 (Utah 1989), has provided certainty and clarity, upon which patients and healthcare providers have made important, informed decisions.

Here, the Tullises entrusted their child, P.T., to a doctor within the University of Utah Hospital system. Because of that doctor's gross medical malpractice, P.T.'s brain was severely damaged. By the Hospital's count, there are "dozens more" such cases waiting in the wings. Pet. for Permission to Appeal Interlocutory Order 19. Now, having irrevocably and tragically changed the lives of P.T., the Tullises, and so many other victims with pending suits, the Hospital asks this Court to change Utah law, too, forcing its victims to bear not only the physical and emotional costs of the Hospital's malpractice but also the ruinous financial costs. Respect for precedent, the Utah Constitution, and fundamental decency demand more. And basic principles of deterrence teach that if the Hospital can escape even the direct costs of treating the victims of its malpractice in "dozens" of pending cases, the human toll will only rise.

In its amicus brief, the Utah Attorney General ("AG") continues the Hospital's efforts to persuade this Court to disregard precedent. The amicus brief raises arguments the State did not raise below in support of its motion for summary judgment, *the denial of which the State did not even appeal*. *See* Appellant's Br. ii n.1. The AG's arguments were also not raised by the Hospital below or in its opening brief. For good reason—those arguments are in error.

First, the AG asks the Court to disregard *Condemarin* because (1) its holding was supported by separate opinions and (2) the Legislature subsequently amended the Governmental Immunity Act ("GIA") to clarify the process for seeking discretionary relief from the Board of Examiners ("Board") and to adjust the damages cap for inflation. That is not the way to treat *Condemarin* or any other longstanding, important decision of this Court. Utah courts—and litigants—have long recognized that there was a majority holding in *Condemarin* with vitality and effect beyond simply resolving that one case. That is why *Condemarin* has been cited for decades and why the Hospital has carried insurance, and is also self-insured, in excess of the GIA limit and, until recently, has settled cases for fair values well above the GIA limit. Respect for precedent means that *Condemarin* controls unless there is some material change—not a less-than-the-medical-rate-of-inflation adjustment of the cap nor a minor clarification of the procedures for seeking legislative largesse.

Second, the AG contends that the damages cap does not violate the Open Courts or Uniform Operation of Laws Clauses, relying on arguments that fly in the face of this Court's precedents interpreting both provisions.

The AG attempts to both sidestep and gut the Opens Courts Clause. The AG argues it is not even implicated here because, per the AG, the damages cap's application to the Hospital never abrogated a remedy. But it is clear from *Hansen v. Salt Lake County*, 794 P.2d 838 (Utah 1990), along with other precedents and legislative history, that there *was* a full remedy against the Hospital until the Legislature amended the GIA in 1978. The AG then asks the Court to strip the Open Courts Clause of meaningful content, arguing that the Legislature can replace individuals' right to due process in a court of law with a system where claims are paid according to the State's discretionary charity. An expensive and adversarial process by which victims of medical malpractice can petition the State for magnanimity is not a reasonable alternative under the *Berry* test. The suggestion that the Tullises must beg for *ex gratia* relief for the catastrophic injury done to their son—rather than assert a *right* in a court of law—offends not only longstanding Utah law but longstanding basic decency.

The AG likewise contends the Court should bypass its well-established Uniform Operations of Laws test on the sole basis that the Hospital receives a small amount of state funding. But this Court has never exempted laws relating to public entities from constitutional review.

In short, the arguments the AG advances in its amicus brief are in error and should be rejected, particularly given the upside-down way in which the State and the Hospital have chosen to raise them.

ARGUMENT

I. The AG Cannot Fault the Tullises for Not Anticipating New Arguments Not Presented Below or in the Hospital's Opening Brief.

The State—a party to this litigation from the outset—had an opportunity to raise its arguments about *Condemarin* (constitutional or otherwise) in its papers below, and could have appealed the denial of its summary judgment motion and briefed all the arguments now raised in the amicus brief. Instead, the AG seeks to challenge *Condemarin* at the end, rather than the start, of this process, upending ordinary litigation procedures. The Court should reject the AG's and Hospital's arguments on the merits, and not allow them to benefit from sandbagging the district court and the Tullises.

Both the State and the Hospital were denied summary judgment below. R.2681-93; R.4438-69. The Hospital appealed. The State did not. Instead, after seeing what arguments were—and were not—raised by the Hospital, the AG has appeared as an "amicus" pursuant to Utah Rule of Appellate Procedure 25A. While the Tullises stipulated to the AG's appearance as an amicus, the Tullises did not agree that the State could use the amicus brief as a do-over for both its own unsuccessful summary judgment motion below and the Hospital's inadequate opening brief. Worse, the State and Hospital use this sandbagging as a basis for asserting that the *Tullises*—the side opposing a motion and answering an appeal—somehow forfeited their responses by not anticipatorily raising them.

This is not the only occasion in which the defendants have turned forfeiture rules on their head. At the outset, the Hospital refused to respond to discovery relevant to the constitutionality of the damages cap. *See* R.3664-69. The Hospital now blames the Tullises

for the record not being developed below. *See* Reply Br. 19 n.6. Similarly, the Hospital and the State failed to develop a proper challenge to *Condemarin* in their initial summary judgment papers, holding back those arguments until reply. *Compare* R.2690 *with* R.4245-50. Now, they argue that the Tullises somehow waived grounds for affirmance by not pre-butting these contentions. *See* Reply Br. 4-9; AG Br. 19 n.7. Next, neither the Hospital nor the State raised—below or in the opening brief to this Court—the argument that a so-called "excess damages remedy" saved the GIA from an Open Courts Clause challenge. Now, the AG criticizes the *Tullises* for giving "the excess damages remedy … comparatively little attention" in the Tullises' answering brief. *See* AG Br. 8.

In all these instances, the State and the Hospital have tried to duck an issue by not raising it until *after* the Tullises have filed their merits brief. Even now, the State and Hospital have *still* not attempted to apply the established Utah test for overruling precedent. Instead, they offer an ever-changing set of positions, faulting the Tullises for not guessing what card they will play next. The AG's arguments do not hold water; the reason the Tullises did not dispose of them earlier in the litigation is not that the AG is right, but that the State and Hospital never before raised these arguments to be refuted. The rules for when a movant or appellant forfeits an issue are meant to prevent such tactics, not to deprive the responding side of its opportunity to answer arguments on the merits.

II. *Condemarin* Is Not a Dead Letter, and Its Holding Compels Affirmance.

Like the Hospital, the AG has made the deliberate decision to sidestep "the heavy burden of showing that [*Condemarin*] ought to be overruled." *Neese v. Utah Bd. of Pardons & Parole*, 2017 UT 89, ¶ 65, 416 P.3d 663. Instead, the AG asks the Court to treat

Condemarin as a dead letter because each of the three justices in the majority emphasized different aspects of the Utah Constitution in deeming the GIA unconstitutional and disagreed on certain points of analysis. But "[a]bsent a persuasive invitation to overrule [its] precedents, [this Court] give[s] them a full and fair application to the facts before [it]." *Id.* ¶ 59. A full and fair application of *Condemarin* here demonstrates that the AG's arguments are unavailing.

A. *Condemarin* Contains a Binding Majority Holding Based on Shared Rationales.

That the AG is attempting something at odds with Utah law is demonstrated by the fact that the amicus brief relies not on Utah authority regarding *stare decisis*, but a treatise on federal law and a federal district court decision. *See* AG Br. 7-8. The AG offers no response to the Utah cases recognizing the precedential value of holdings supported by separate opinions and *Condemarin* specifically. *See* Appellees' Br. 15-17. The AG also fails to meaningfully engage with *Condemarin* or explain why the majority's holding and the three justices' shared rationales are not binding. The AG's decision not to engage with *Condemarin* or apply Utah law should be enough for the Court to reject the invitation to treat *Condemarin* as a dead letter. But even applying the AG's preferred federal test, *Condemarin* would still have precedential effect.

In the federal system, when there is a "fragmented" outcome in which "no single rationale explaining the result enjoys the assent of [the majority]," the so-called *Marks* test determines which of the separate opinions controls. *Marks v. United States*, 430 U.S. 188, 193 (1977). But the *Condemarin* decision was not "fragmented" in the sense that the

majority reversed without having any common ground. The majority's reason for reversing was explicit: "the recovery limits statutes are unconstitutional as applied to University Hospital." 775 P.2d at 366. And the reasoning for how the majority reached that determination "enjoyed the assent" of all three majority justices: (1) the damages cap interferes with a remedy protected by the Open Courts Clause; (2) the damages cap is accordingly subject to a heightened level of scrutiny; and (3) the Legislature's proffered reasons for the damages cap could not satisfy a heightened level of scrutiny. *See* Appellees' Br. 5-7, 16. That is why, as the answering brief explained, there was a majority opinion in *Condemarin*, not merely separate plurality opinions. *Id.*

But even if *Condemarin* were deemed "fragmented" and the *Marks* test were applied, that would only further establish that *Condemarin* generated a precedential opinion. Fragmentation is the beginning, not the end, of the *Marks* analysis. *See United States v. Guillen*, 995 F.3d 1095, 1119 (10th Cir. 2021) ("[T]he *Marks* rule does not require agreement as to both the result *and* the reasoning of Justices in the majority to produce a determinate holding."). The *Marks* test presumes that "no single rationale explaining the result enjoys the assent of [the majority]," and then seeks the "position taken by those Members who concurred in the judgments on the narrowest grounds." *Marks*, 430 U.S. at 193 (citation omitted). "If the instances in which a concurring opinion would reach the same result as the splintered decision in future cases form a logical subset of the instances in which the other concurring opinion(s) would reach the same result, that opinion

controls." *Guillen*, 995 F.3d at 1114.[1]

If *Condemarin* were truly fragmented, the *Marks* test would render Justice Stewart's opinion precedential "because in every case in which it would [deem a damages cap unconstitutional], the [other] opinion[s] would reach the same result." *Id.* at 1119. Justice Stewart deemed the damages cap unconstitutional as applied to the Hospital as a matter of equal protection. *Condemarin*, 775 P.2d at 369-74 (Stewart, J.). Any damages cap on claims against the Hospital that failed under his less demanding test would necessarily fail under Justice Durham's Uniform Operation of Laws analysis. *Id.* at 352-56 (Durham, J.). And Justice Zimmerman explained that his own due-process analysis "*produce[s] the same results* on essentially the same grounds" as "Justice Stewart's separate opinion." *Id.* at 367 n.1 (Zimmerman, J.) (emphasis added). Because Justice Stewart's opinion would strike down only damage caps that would also fail under Justices Durham's and Zimmerman's opinions, it is the "narrowest" of the three, and would be precedential under *Marks*.

In sum, the AG's effort to shift from Utah *stare decisis* principles to federal ones underscores why *Condemarin* is binding precedent. That is true if Utah *stare decisis* principles are applied; it is true if one simply looks for common ground among the three opinions; and it is true if one applies *Marks*.

[1] For instance, if one justice held that laws passed in even-numbered months must be struck down, another justice held that laws passed in months ending in Y must be struck down, and a third justice held that laws passed on leap days must be struck down, the third opinion controls: any law it would strike down for being passed on February 29 would also be struck down for being passed in an even-numbered month or a month ending in Y.

B. The Legislature Has Not Materially Changed the Damages Cap Following *Condemarin*.

While the GIA has changed since *Condemarin*, those changes are not material to *Condemarin* and do not render it a dead letter. "[R]espect for precedent means we value and implement the text of our past opinions as far as it can logically go," *Rocky Mountain Hosp., LLC v. Mountain Classic Real Est., Inc.*, 2022 UT 44, ¶ 23 523 P.3d 187 (quoting *Pleasant Grove City v. Terry*, 2020 UT 69, ¶ 42, 478 P.3d 1026) (emphasis removed), not that precedent loses effect once any change in circumstances occurs. The changes to the GIA do not permit, let alone compel, a different result under *Condemarin*.

Ignoring the need for legislative changes to be material, the AG argues "[t]his Court should evaluate the expanded statutory remedies on their own merits without deferring to *Condemarin*." *See* AG Br. 7. The AG cites *State v. Goins*, 2017 UT 61, 423 P.3d 1236, to support its position, but misreads the teachings of that decision. In *Goins*, the Court did not hold that a legislative change nullified precedent. Rather, it applied the precedent considering a subsequent constitutional amendment, ultimately concluding that due to the amendment, the rationale supporting the prior decision was no longer correct. 2017 UT 61, ¶¶ 30-46. It is not enough for the AG to show some technical aspect of the damages cap has changed since *Condemarin*. It must show that if today's GIA were before the *Condemarin* Court, the decision would have come out differently. That is clearly not so.

First, the AG directs significant attention to the GIA's excess-damages provision, which permits a claimant with damages exceeding the cap to request relief from the Board and the Legislature. But, as even the AG acknowledges, this type of "relief" is not some

new "expanded statutory remedy" at all, but one that existed at the time of statehood, well before *Condemarin*. AG Br. 10. Utah has always provided a statutory procedure for individuals to petition the Board. *See id.*; *see also* Utah Rev. Stat. § 19-939 (1898). And, consistent with that tradition, the GIA has always included a provision referring otherwise unauthorized claims to the Board. *See* Utah Code § 63-30-23 (1965) ("If … payment is not authorized by law then said judgment or claim shall be presented to the board ….). Thus, this is not a recently added "safety valve" that would have changed the outcome in *Condemarin*; it was a separate statutory feature contained in the very damages-cap enactment deemed unconstitutional in *Condemarin*.

The GIA Clarification Act, Utah Code § 63-30-3(2)(b) (1991), highlighted by the AG, was not a change in the law, merely a clarification addressing claims in excess of statutory limits. In explaining why this was mere clarification, the bill's sponsor emphasized that victims already had, and always had, the option of seeking legislative payment beyond what the GIA authorized. *See* Floor Debate, Senate Day 16, 1999 SB 53, https://le.utah.gov/av/floorArchive.jsp?markerID=89752. The AG is simply mistaken in characterizing this as something new. *See* AG Br. 6-8. *Condemarin* contains no discussion of the Board's discretionary claims process, not because that process is new but because, as discussed below in Section III.A.2, the process provides no *rights*, only a procedure for seeking the State's discretionary largesse—hardly an equivalent remedy.

Second, the AG repeats the Hospital's inaccurate characterization of the current damages cap as a "significantly larger, inflation-adjusted cap" than what was before this Court in *Condemarin*. AG Br. 6. But as explained in the Tullises' answering brief, the

adjustments to the current damages cap have not even kept pace with inflation in medical expenses, let alone materially increased the cap to change the constitutional analysis. Appellees' Br. 21. It is clear from *Condemarin* that a modest, even a major, increase in the cap would not cure the problem; rather, the Legislature must "settle upon and justify an approximate figure demonstrated to be *large enough to compensate a majority of injuries (minor and serious),*" that is, any compensation for injuries up to the point that an award would "threaten or ensure insolvency in response to one judgment or a major catastrophe." 775 P.2d at 363 (Durham, J.) (emphasis added). In reality, the amount the Tullises can recover under the current GIA is less, relative to the adjusted rate of medical inflation, than what the Condemarins could recover, and does not come close to being the kind of limit that would satisfy *Condemarin* and the Utah Constitution.

In sum, despite injecting new arguments through the reply and this amicus brief, neither the Hospital nor the AG has demonstrated that the Court is not bound by *Condemarin* here.[2]

[2] In its reply, the Hospital also argued for the first time that *Condemarin* no longer has precedential value because this Court "rejected heightened scrutiny for open courts challenges" in *Judd v. Drezga*, 2004 UT 91, 103 P.3d 135. Reply Br. 11. The Hospital cited *Judd* as stating that "article I, section 11 rights are not properly characterized as 'fundamental'" and that courts "apply the rational basis test," but this does not accurately reflect the Court's Open Courts analysis. *Id.* Rather, this language comes from the Court's separate consideration of a Due Process challenge. *See Judd*, 2004 UT 91, ¶ 30. Since *Condemarin*, the Court has clarified that a challenge to a statute's constitutionality under the Open Courts Clause is distinct from a challenge under the Due Process Clause and subject to separate analysis. *See, e.g.*, *Horton v. Goldminer's Daughter*, 785 P.2d 1087, 1092 n.3 (Utah 1989). For Open Courts challenges, the Court applies the *Berry* test, while, for Due Process challenges, the Court applies rational basis review (unless a fundamental right is implicated). *See Tindley v. Salt Lake City Sch. Dist.*, 2005 UT 30, ¶¶ 12-16 & 29, 116 P.3d 295. Accordingly, the *Judd* Court stated that Due Process challenges implicating

III. Even Considering the Damages Cap from First Principles, It Violates the Open Courts and Uniform Operation of Laws Clauses as Applied to the Hospital.

The Tullises demonstrated in their principal brief that *Condemarin* "articulated a sound rule" because—under not only older cases but also this Court's most recent constitutional decisions—the damages cap as applied to the Hospital violates the Open Courts and Uniform Operation of Laws Clauses. *See* Appellees' Br. 32-44.

The AG presents three inapt arguments to the contrary. First, the AG argues the Open Courts Clause is not even implicated here because victims of the Hospital's malpractice could never recover fully under Utah law, and thus no remedy was abrogated by the GIA. Second, the AG contends even if the GIA abrogated a remedy, the damages cap satisfies the *Berry* test because the Legislature provided a reasonable alternative through the excess-damages provision. Third, the AG offers a cursory argument that the damages cap does not violate the Uniform Operation of Laws Clause because the Hospital is a state entity. All three arguments ask this Court to ignore not only *Condemarin* but decades of precedent interpreting the GIA and the Utah Constitution. The Court should decline.

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the Open Courts Clause are subject to only rational basis review but applied the *Berry* standard to determine whether the statute at issue violated the Open Courts Clause. *Compare Judd*, 2004 UT 91, ¶¶ 10-18 (applying *Berry* test for Open Courts analysis) *with id.* ¶¶ 30-31 (applying rational basis review for Due Process analysis). Following *Judd*, the Court reaffirmed in *Waite v. Utah Labor Commission* that "the Open Courts Clause acts as a substantive check on legislative power." 2017 UT 86, ¶ 18, 416 P.3d 635. Both *Judd* and *Waite* demonstrate the Hospital is incorrect in stating that *Judd* shifted to "rational basis review" for Open Courts challenges.

A. The Damages Cap Violates the Open Courts Clause.

1. *The 1978 amendments to the GIA abrogated a remedy.*

"To determine whether legislation violates the Open Courts Clause, [the Court] first look[s] to see whether the legislature has abrogated a cause of action, or modified a cause of action by abrogating a remedy." *Petersen v. Utah Lab. Comm'n*, 2017 UT 87, ¶ 20, 416 P.3d 583. As shown, the damages cap as applied to the Hospital abrogates a remedy that existed prior to the enactment of the 1978 Amendments to the GIA. *See* Appellees' Br. 32-34.

The AG presents a flawed two-part argument on abrogation, contending that capping the Hospital's liability does not abrogate a previously existing remedy because (a) the Hospital's services were considered "governmental functions" under the original GIA, so the 1978 amendments to the GIA expanding immunity to governmentally owned hospitals did not abrogate a remedy; and (b) as a state entity, the Hospital had absolute immunity under the common law so the enactment of the original GIA in 1965 did not abrogate a preexisting remedy. Both points are wrong.

A statute implicates the Open Courts Clause if it "abrogates a cause of action existing *at the time of its enactment*." *Tindley*, 2005 UT 30, ¶ 17 (emphasis added) (quoting *Laney v. Fairview City*, 2002 UT 79, ¶ 50, 57 P.3d 1007). Here, the relevant legislation is the GIA Amendments of 1978 (the "1978 Amendments"). And, in fact, when the 1978 Amendments were enacted, victims of the Hospital's malpractice could sue the Hospital for damages.

Under the GIA, as passed in 1965, governmental entities—whether state, county, or municipal—had immunity only when "engaged in the exercise and discharge of a governmental function." Utah Code § 63-30-3 (1965). The term "governmental function" was not defined by the GIA, and the Court used the governmental/proprietary test to determine whether state, county, or municipal entities were immune from suit. *See, e.g.*, *Sheffield v. Turner*, 445 P.2d 367, 368 (Utah 1968) (applying the distinction to find operating a state prison a governmental function).

In 1975, this Court held that the governmental operation of a hospital is a *proprietary* function and, therefore, not within the scope of the GIA. *Greenhalgh v. Payson City*, 530 P.2d 799, 802 (Utah 1975). The AG tries to limit the import of this case by emphasizing that it related to a hospital operated by a municipality, but this is a distinction without a difference—when *Greenhalgh* was decided, state and municipal entities were subject to the same test for governmental immunity. *See Debry v. Noble*, 889 P.2d 428, 439 (Utah 1995).

After *Greenhalgh*, the Legislature passed the 1978 Amendments to "[p]rovid[e] for the Inclusion of Governmental Proprietary Functions Within the Purview of the Governmental Immunity Act." *See* 1978 Utah Laws 91. One aspect of that was expanding immunity under the GIA to reach governmentally owned hospitals. *See* 1978 Utah Laws 92.[3]

[3] Following the 1978 Amendments, the GIA provided "governmental entities" immunity from suit "for any injury which results from the exercise of a governmental function, governmentally-owned hospital, nursing home, or other governmental health care facility." *See* 1978 Utah Laws 92.

As *Greenhalgh* makes clear, under the original GIA, individuals could sue the Hospital for negligence because the Hospital was performing a proprietary (not a governmental) function. In 1978, that remedy was abrogated when the Legislature expanded the GIA's reach to governmentally owned hospitals.

Misreading *Frank v. State*, 613 P.2d 517 (Utah 1980), the AG argues to the contrary. *See* AG Br. 16. In *Frank*, the Court addressed whether the Hospital was immune from suit under the GIA. *See* 613 P.2d at 519. Although the acts giving rise to the claim had occurred before the enactment of the 1978 Amendments, the Court was "disinclined, as a matter of judicial policy, to disregard the obvious manifestation of legislative intent reflected in the amendment." *Id.* "For this reason, [the Court] h[e]ld the operation of a governmentally-owned health care facility such as the University Medical Center to be a 'governmental function' as contemplated by the statute prior to amendment," *id.*, thereby allowing the amendment to have retroactive application despite the lack of an express retroactivity provision.

Per the AG, this act of "judicial policy" to effectuate "legislative intent" should be read, instead, as a substantive statement of Utah law prior to the enactment of the 1978 Amendments. If that were so, the 1978 Amendments were surplusage, *Greenhalgh* was wrong, and the Legislature's stated purpose of establishing immunity for "proprietary functions" was misguided—and *none* of that got mentioned in *Frank*. Such a reading is wrong. *Frank* is what it says it is: judicial policy effectuating supposed legislative intent by giving retroactive effect to an amendment.

The AG's error is explicitly confirmed by *Hansen*, which disavowed the "dictum" in *Frank* "suggest[ing]" that hospitals were performing governmental functions under the GIA. 794 P.2d at 843 n.10. The Court explained that the 1978 Amendments did not define health care activities as governmental functions but rather "expanded [immunity] to include ['health care activities'] in reaction to one of [the Court's] cases holding that such activities were *not* governmental functions." *Id.* at 843. The Court clarified that *Frank*'s "dictum" was mistaken, and that the 1978 Amendments were an effort to sidestep *Greenhalgh* by applying the GIA to hospitals even though they were *not* performing governmental functions:

> Language in *Frank* …, decided five years after *Greenhalgh*, suggests that operation of a governmental health care facility is a governmental function after all. Such a construction is both unnecessary and inconsistent with the legislative intent. As we recognized in *Frank*, the legislature "resolved the health care classification question" by its amendment in 1978 granting immunity for such activities, subject to the Act's exceptions. *Id.* The legislature did not define operation of a governmental health care facility as a governmental function; it granted immunity despite our holding in *Greenhalgh* that such activities were not governmental functions. *Our interpretation here renders language to the contrary in* Frank *dictum*, but the result and the remainder of the analysis are sound.

Id. at 843 n.10 (emphasis added). In so doing, *Hansen* reiterated what Justice Durham had already explained in *Condemarin*. *See* 775 P.2d at 351 (Durham, J.). When first citing *Frank*, the AG's brief includes the notation "holding modified by *Hansen*," but the AG makes no further mention of *Hansen*, and on the same page claims (1) that what *Hansen* deemed the "*Frank* dictum" is a "holding," and (2) that this "holding remains good law." AG Br. 16. The AG cannot will away *Hansen* and *Greenhalgh* in hopes of rendering *Condemarin* a dead letter, too.

As *Greenhalgh*, *Hansen*, and the Preamble to the 1978 Amendments all make clear, until the 1978 Amendments, the GIA did not furnish immunity to the Hospital. Accordingly, the 1978 Amendments "abrogate[d] a cause of action existing at the time of [their] enactment." *Tindley*, 2005 UT 30, ¶ 17 (quoting *Laney*, 2002 UT 79, ¶ 50).

While the state of the common law is an academic aside, the AG's historical account is also inaccurate and inconsistent with this Court's Open Courts cases. According to the AG, patients injured by the Hospital's negligence could not sue the Hospital from the time of statehood because, as a state entity, the Hospital enjoyed absolute sovereign immunity. *See* AG Br. 9-14. According to the AG, state entities, unlike municipalities, had absolute immunity—whether their actions were proprietary or not. The AG points to Article VII, section 13 of the original Utah Constitution and a quote from *Tiede v. State*, 915 P.2d 500, 504 (Utah 1996), where the Court stated that at the time the Constitution was adopted, "all claims against the State had to be presented to the State Board of Examiners," to support this argument.

This Court, however, has reached a different conclusion than the AG in its review of Utah's history of sovereign immunity. In *DeBry v. Noble*, the Court reviewed the history of governmental and sovereign immunity and concluded the doctrine of absolute sovereign immunity for the State was not part of Utah law prior to or at the time of statehood but rather first established by the Court in 1913, in *Wilkinson v. State*, 134 P. 626 (Utah 1913). *See* 889 P.2d at 439. The *DeBry* Court explained that although there are no decisions prior to *Wilkinson* discussing state immunity, the Court's earlier cases addressing the immunity of municipalities "had clear legal implications for the doctrine of governmental immunity

with respect to the state." *Id.* In those cases, the Court applied various tests to determine whether negligence claims could be maintained against municipalities, eventually landing on the governmental/proprietary test under which municipalities were immune for governmental, but not proprietary, actions. *See id.* at 438-40. The post-*Wilkinson* period in which the State enjoyed absolute immunity "gave way to judicial modifications that made state immunity essentially congruent with the municipal cases by applying the proprietary/governmental test in state cases." *Id.* at 439.

Relying on this harmonization, this Court has held that the test established in *Standiford v. Salt Lake City Corp.*, 605 P.2d 1230, 1236-37 (Utah 1980), "'reflect[s] the proper constitutional boundary between those governmental activities that' implicate the open courts clause and those that do not." *Tindley*, 2005 UT 30, ¶ 22 (quoting *Lyon v. Burton*, 2000 UT 19, ¶ 35, 5 P.3d 616). Under the *Standiford* test, the Court evaluates "whether the activity giving rise to the cause of action is 'of such a unique nature that it can only be performed by a governmental agency or that … is essential to the core of governmental immunity.'" *Id.* (quoting *Laney*, 2002 UT 79, ¶ 52). That test applies regardless of whether the lawsuit in question is against a state or municipal entity. *See, e.g.*, *Moss v. Pete Suazo Utah Athletic Comm'n*, 2007 UT 99, ¶¶ 21-28, 175 P.3d 1042. As explained in the Tullises' opening brief, the Hospital's services fail this test. Appellees' Br. 33-34.

Thus, whether looking at the common law or the GIA, a remedy against the Hospital existed until the 1978 Amendments were enacted. The State's period of absolute immunity

started over two decades after statehood and ended no later than the 1960s.[4] *Tiede* is not to the contrary because there, the Court was assessing historical immunity for the State's operation of a halfway house, an activity the plaintiff had not argued was proprietary in nature. *See* 915 P.2d at 501.

Nor did former article VII, section 13 of Utah's Constitution establish absolute immunity. It provided a procedure for "claims against the State" that would otherwise be "passed upon by the Legislature" and said nothing about immunity in the courts:

> [The Governor, Secretary of State and AG] shall, also, constitute a Board of Examiners, with power to examine all claims against the State except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law; and no claim against the State, except for salaries and compensation of officers fixed by law, shall be passed upon by the Legislature without having been considered and acted upon by the said Board of Examiners.

Like legislatures, constitutions do not "hide elephants in mouseholes," *Rutherford v. Talisker Canyons Fin., Co., LLC*, 2019 UT 27, ¶ 53, 445 P.3d 474 (quoting *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001)), and framers of Utah's constitution would not have established absolute immunity in such a backhanded way. Indeed, if section 13 established absolute immunity, then the GIA could not, constitutionally, have narrowed that immunity.

In short, as *Condemarin* recognized, the 1978 Amendments abrogated a remedy Utahns had when they were harmed by the Hospital's medical malpractice. The damages

[4] *Watson v. Univ. of Utah Med. Ctr.*, 75 F.3d 569, 576 (10th Cir. 1996), *see* AG Br. 12 n.3, is simply not relevant here because "the governmental immunity provided under the Eleventh Amendment is not coextensive with the coverage provided by the [GIA.]" *GeoMetWatch Corp. v. Utah State Univ. Rsch. Found.*, 2018 UT 50, ¶ 19, 428 P.3d 1064.

cap is thus unconstitutional under the Open Courts Clause unless the Legislature provided a reasonable alternative remedy or the damages cap is narrowly tailored to address a clear social or economic evil. Neither of those is true.

2. *The excess-damages provision is not a reasonable alternative remedy.*

The AG joins the Hospital in its untenable new position that because the GIA provides a claimant a means to seek relief as a matter of grace, the Legislature has provided a reasonable alternative remedy. On that theory, the State could—without offending the Open Courts Clause—cap recovery in court for *any* tort at a penny, provided Utahns still had the ability to petition the Legislature to grant them an amount equal to their actual damages. AG Br. 17-19. This facially absurd notion contradicts *Berry* and would gut the protections of the Open Courts Clause.

Berry requires an injured person to have "an effective and reasonable alternative remedy" "by due course of law," and such remedy "must be substantially equal in value or other benefit to the remedy abrogated in providing essentially comparable substantive protection to one's person, property, or reputation." *Berry v. Beech Aircraft Corp.*, 717 P.2d 670, 680 (Utah 1985) (emphases added). The Court "look[s] to the package of rights the individual enjoyed before and after the abrogation, and [it] assess[es] whether the substituted package 'provid[es] essentially comparable substantive protection to one's person property, or reputation' as existed under the previous legal regime." *Petersen*, 2017 UT 87, ¶ 34 (quoting *Sun Valley Water Beds of Utah, Inc. v. Herm Hughes & Son, Inc.*, 782 P.2d 188, 191-92 (Utah 1989)). "[W]hen the legislature removes a particular right or

remedy, it cannot simply rely on other preexisting rights or remedies to the fill the void left behind, but must rather provide a *quid pro quo*." *Sun Valley Water Beds*, 782 P.2d at 192.

A citizen's ability to avail himself of a preexisting, essentially discretionary legislative process does not come close to equaling the right to enforce a judgment through judicial process. Before the 1978 Amendments, victims of the Hospital's malpractice could seek a full recovery in a court of law, subject to established law governing negligence claims and the calculation of damages. They had the attendant rights to due process, to a trial before a jury, and to appeal any adverse decision.

After the 1978 Amendments, until this Court issued *Condemarin* in 1989, victims of the Hospital's malpractice lost those rights. They could seek full recovery only by asking the Board to recommend the Legislature pay, and then asking the Legislature to pay them for their injuries. Since 1978, the process by which the Board and Legislature review claims has included no standards or guarantees, making it completely discretionary. *See* Utah Code §§ 63-6-13 (1963); 63-6-13 (1995); 63-6-13 (2007); 63G-9-304 (2017).

The AG points to "additional procedures" enacted in 2019, *see* AG Br. 19, but these bear no resemblance to the Workers' Compensation Act considered in *Petersen*, under which plaintiffs gained the benefits of a robust, no-fault adjudicative system. Here, the "additional procedures" merely made the process more complicated and expensive, while still leaving a claimant seeking discretionary relief that lacks clear standards. *See* Utah Code § 63G-9-302.5. Now, after obtaining either a judgment against or settlement with the governmental entity to recover the amount allowed with the damages cap, a claimant must then "submit[] a written statement of claim to the board of examiners." *See id.* § 63G-9-

302.5(2). This statement must include "a recitation of the facts and explanation of the evidence supporting the excess damages claim." *See id.* § 63G-9-302.5(3)(a). If the claimant settled with the governmental entity before a final judgment establishing liability and damages, the Board can require claimants to submit their excess damages claim to a special master. *See id.* § 63G-9-302.5(8). A claimant then must "pay all fees and costs of the special master" or "the claimant's excess damages claim is considered withdrawn." *See id.* § 63G-9-302.5(11).

Throughout this process, claimants must put forward evidence to support their damages claims and face opposing arguments (i.e., a de facto retrial), but unlike in court, there is no standard for what they must prove or how they can prove it, other than they must persuade first the special master, then the Board, and ultimately the Legislature that they deserve payment. *See id.* §§ 63G-9-302.5-305. The claimants have no meaningful option of appeal, with their sole right being to appeal the Board's decision to the Legislature, whose review of the Board's recommendation is tied to no standard and is discretionary. *Id.* § 63G-9-401.

Because claimants could already petition for discretionary relief, these "additional procedures" are, if anything, a <u>further reduction</u> of Utahns' rights, not an adequate substitute for the judicial process that they lost under the 1978 Amendments. Under Utah Code Sections 63G-7-701(2) and 63G-9-302, an individual could already present any claim "the settlement of which is not otherwise provided for by law" to the Board. *See* § 63G-9-302. The "additional procedures" touted by the AG "provide[d] no substitute equivalent remedy," *Berry*, 717 P.2d at 679, they merely bogged down an existing inadequate remedy.

Interposing procedures befitting Franz Kafka's *The Castle* as prerequisites to begging for legislative largesse only makes such a "remedy" less effective, less reasonable, and less equivalent to a judicially enforceable right.

Put simply, no one with a meritorious case would take such a procedure over a court proceeding, any more than an innocent person would forgo his right to a criminal trial and rest his fate on a governor's pardon. And if the possibility of discretionary compensation through Board procedures were deemed an adequate substitute for judicial process, then the Open Courts Clause would have no application regarding any damages cap. That cannot be the law because the Court is "obligated" to interpret constitutional provisions "to be effective" rather than "illusory." *Sevier Power Co., LLC v. Bd. of Sevier Cnty. Comm'rs*, 2008 UT 72, ¶ 10, 196 P.3d 583.

B. The Damages Cap Violates the Uniform Operation of Laws Clause.

The AG's dismissal of the Tullises' Uniform Operation of Laws argument in a footnote is equally unconvincing. *See* AG Br. 19 n.7.

First, the AG argues that the Tullises' Uniform Operation of Laws Clause argument fails because it does not account for the excess-damages provision. As explained above, victims of medical malpractice, or any government tort, have *always* had the option to present their claims to the Board. Until the Hospital introduced this issue in reply, this "remedy" had understandably not been raised in this litigation at all, presumably because a standardless path for begging legislative grace is not the same thing as an enforceable legal right.

Second, the AG is wrong that the differences created by the 1978 Amendments between the treatment of the Hospital and its private competitors are constitutional because the Hospital is a state entity. *See* AG Br. 19 n.7. The AG does not even attempt to apply this Court's test for determining whether the damages cap violates the Uniform Operation of Laws Clause. *See Lee v. Gaufin*, 867 P.2d 572, 582-83 (Utah 1993) (stating a statutory classification that implicates the Open Courts Clause "is constitutional only if it (1) is reasonable, (2) has more than a speculative tendency to further the legislative objective and, in fact, actually and substantially furthers a valid legislative purpose, and (3) is reasonably necessary to further a legitimate legislative goal").[5] Applying this test, the classification between the Hospital (and its patients) and its private competitors (and their patients) is unreasonable. Indeed, the classification cannot be to protect the public fisc, given that the Hospital receives only minor funding from the State, is insured well beyond the damages cap, and has been able to pay its malpractice victims well above the cap for the past thirty-five years without issue. *See* Appellees' Br. 38-44.

The AG also misses the second harmful and significant classification caused by the application of the damages cap to the Hospital. Hospital patients who experience minor injuries can recover in full, while the most seriously injured can recover only a fraction of their costs. Appellees' Br. 40. The AG offers no justification for this disparate treatment, which *Condemarin* recognized as outrageous. *See* 775 P.2d at 353 (Durham, J.). It cannot

[5] Because the 1978 Amendments abrogated a then-existing remedy, the AG's attempt to avoid heightened scrutiny under the Uniform Operation of Laws Clause is also unsuccessful. *See supra* Section III.A.1.

be to protect the public fisc, given that malpractice victims will often fall back on taxpayer-funded medical care.

CONCLUSION

The AG has failed to articulate valid reasons for treating *Condemarin* as a dead letter or for reaching a different result here.

Dated: September 4, 2024

WILSON SONSINI GOODRICH & ROSATI, P.C.

By: /s/ *Christine Durham*
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CERTIFICATE OF COMPLIANCE

The brief complies with rules 21 and 24 of the Utah Rules of Appellate Procedure because it contains no more than 7,000 words and because it contains no information other than public information.

CERTIFICATE OF SERVICE

I certify that I filed the above brief with the Supreme Court of Utah and served it on counsel of record as follows:

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ADDENDA

Addendum A	Constitution of Utah, Article I, Section 11
Addendum B	Constitution of Utah, Article I, Section 24
Addendum C	Constitution of Utah, Article VII, Section 13 (repealed 1992)
Addendum D	Utah Rev. Stat. § 19-939 (1898)
Addendum E	Utah Code §§ 63-6-13 (1963)
Addendum F	GIA, Utah Code § § 63-30-3 & 63-30-23 (1965)
Addendum G	1978 Utah Laws 91-96, ch. 27
Addendum H	GIA Clarification Act, Utah Code § 63-30-3(2)(b) (1991)
Addendum I	Utah Code § 63-6-13 (1995)
Addendum J	Utah Code § 63-6-13 (2007)
Addendum K	Utah Code § 63G-9-304 (2017)
Addendum L	Utah Code§ 63G-7-701
Addendum M	Utah Code § 63G-9-302
Addendum N	Utah Code § 63G-9-302.5
Addendum O	Utah Code § 63G-9-303
Addendum P	Utah Code § 63G-9-304
Addendum Q	Utah Code § 63G-9-305
Addendum R	Utah Code§ 63G-9-401

ADDENDUM A

The individual right of the people to keep and bear arms for security and defense of self, family, others, property, or the state, as well as for other lawful purposes shall not be infringed; but nothing herein shall prevent the Legislature from defining the lawful use of arms.

Article I, Section 7 [Due process of law.]

No person shall be deprived of life, liberty or property, without due process of law.

Article I, Section 8 [Offenses bailable.]

(1) All persons charged with a crime shall be bailable except:

(a) persons charged with a capital offense when there is substantial evidence to support the charge; or

(b) persons charged with a felony while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when there is substantial evidence to support the new felony charge; or

(c) persons charged with any other crime, designated by statute as one for which bail may be denied, if there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community or is likely to flee the jurisdiction of the court if released on bail.

(2) Persons convicted of a crime are bailable pending appeal only as prescribed by law.

Article I, Section 9 [Excessive bail and fines -- Cruel punishments.]

Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishments be inflicted. Persons arrested or imprisoned shall not be treated with unnecessary rigor.

Article I, Section 10 [Trial by jury.]

In capital cases the right of trial by jury shall remain inviolate. In capital cases the jury shall consist of twelve persons, and in all other felony cases, the jury shall consist of no fewer than eight persons. In other cases, the Legislature shall establish the number of jurors by statute, but in no event shall a jury consist of fewer than four persons. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded.

Article I, Section 11 [Courts open -- Redress of injuries.]

All courts shall be open, and every person, for an injury done to the person in his or her person, property, or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, with or without counsel, any civil cause to which the person is a party.

Article I, Section 12 [Rights of accused persons.]

ADDENDUM B

All elections shall be free, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers, in time of war, may vote at their post of duty, in or out of the State, under regulations to be prescribed by law.

Article I, Section 18 [Attainder -- Ex post facto laws -- Impairing contracts.]

No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be passed.

Article I, Section 19 [Treason defined -- Proof.]

Treason against the State shall consist only in levying war against it, or in adhering to its enemies or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act.

Article I, Section 20 [Military subordinate to the civil power.]

The military shall be in strict subordination to the civil power, and no soldier in time of peace, shall be quartered in any house without the consent of the owner; nor in time of war except in a manner to be prescribed by law.

Article I, Section 21 [Slavery and involuntary servitude forbidden -- Limitation.]

(1) Neither slavery nor involuntary servitude shall exist within this State.
(2) Subsection (1) does not apply to the otherwise lawful administration of the criminal justice system.

Article I, Section 22 [Private property for public use.]

Private property shall not be taken or damaged for public use without just compensation.

Article I, Section 23 [Irrevocable franchises forbidden.]

No law shall be passed granting irrevocably any franchise, privilege or immunity.

Article I, Section 24 [Uniform operation of laws.]

All laws of a general nature shall have uniform operation.

Article I, Section 25 [Rights retained by people.]

This enumeration of rights shall not be construed to impair or deny others retained by the people.

Article I, Section 26 [Provisions mandatory and prohibitory.]

The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

ADDENDUM C

CONSTITUTION

OF THE

STATE OF UTAH.

PREAMBLE.

Grateful to Almighty God for life and liberty, we, the people of Utah, in order to secure and perpetuate the principles of free government, do ordain and establish this

CONSTITUTION.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. **[Inherent and inalienable rights.]** All men have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.

Toleration of religious sentiment, art. 1, sec. 4; art. 3, sec. 1; Enabling Act, sec. 3. Religious or partisan qualifications in schools forbidden, art. 10, sec. 12. Freedom of speech, art. 1, secs. 11, 15.

SEC. 2. **[All political power inherent in the people.]** All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require.

SEC. 3. **[Utah inseparable from the Union.]** The State of Utah is an inseparable part of the Federal Union and the Constitution of the United States is the supreme law of the land.

SEC. 4. **[Religious liberty.]** The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of Church and State, nor shall any church dominate the State or interfere with its functions. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment. No property qualification shall be required of any person to vote or hold office, except as provided in this Constitution.

Toleration of religious sentiment, art. 1, sec. 1; art. 3, sec. 1; Enabling Act, sec. 3. Religious or partisan qualifications in schools forbidden, art. 10, sec. 12. Public money not to be appropriated to sectarian establishments, art. 10, sec. 13; Enabling Act, sec. 3. Property qualifications, when required of voter, art. 4, sec. 7; art. 14, sec. 3. Qualifications of voter at general election, art. 4, secs. 2, 6.

NOTE.—The text of the constitution of Utah is a literal print of the original on file, except as to the black-letter lines preceding sections and inclosed in brackets.

such respite or reprieve, or they may commute the punishment, or pardon the offense as herein provided. In case of conviction for treason, the Governor shall have the power to suspend execution of the sentence, until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon, or commute the sentence, or direct its execution; he shall communicate to the Legislature at each regular session, each case of remission of fine or forfeiture, reprieve, commutation or pardon granted since the last previous report, stating the name of the convict, the crime for which he was convicted, the sentence and its date, the date of remission, commutation, pardon or reprieve, with the reasons for granting the same, and the objections, if any, of any member of the Board made thereto.

SEC. 13. **[State prison commissioners. Board of examiners.]** Until otherwise provided by law, the Governor, Secretary of State and Attorney-General shall constitute a Board of State Prison Commissioners, which Board shall have such supervision of all matters connected with the State Prison as may be provided by law. They shall, also, constitute a Board of Examiners, with power to examine all claims against the State except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law; and no claim against the State, except for salaries and compensation of officers fixed by law, shall be passed upon by the Legislature without having been considered and acted upon by the said Board of Examiners.

SEC. 14. **[Insane asylum commissioners.]** Until otherwise provided by law, the Governor, State Treasurer and State Auditor shall constitute a Board of Insane Asylum Commissioners. Said Board shall have such supervision of all matters connected with the State Insane Asylum as may be provided by law.

SEC. 15. **[Reform school commissioners.]** Until otherwise provided by law, the Governor, Attorney-General and Superintendent of Public Instruction shall constitute a Board of Reform School Commissioners. Said Board shall have such supervision of all matters connected with the State Reform School as may be provided by law.

SEC. 16. **[Duties of secretary of state.]** The Secretary of State shall keep a record of the official acts of the Legislature and Executive Department of the State, and, when required, shall lay the same and all matters relative thereto before either branch of the Legislature, and shall perform such other duties as may be provided by law.

SEC. 17. **[Duties of auditor.]** The Auditor shall be Auditor of Public Accounts, and the Treasurer shall be the custodian of public moneys, and each shall perform such other duties as may be provided by law.

SEC. 18. **[Duties of attorney general.]** The Attorney-General shall be the legal adviser of the State Officers, and shall perform such other duties as may be provided by law.

SEC. 19. **[Superintendent of public instruction.]** The Superintendent of Public Instruction shall perform such duties as may be provided by law.

Member of state board of education; control of schools, art. 10, sec. 8.

SEC. 20. **[Compensation of state officers.]** The Governor, Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Public Instruction and such other State and district officers as may be provided for by law, shall receive for their services quarterly, a compensation as fixed by law, which shall not be diminished or increased so as to affect the salary of any officer during his term, or the term next ensuing after the adoption of this Constitution, unless a vacancy occur, in which case the successor of the former incumbent shall receive only such salary as may be provided by law at the time of his election or appointment. The compensation of the officers provided for by this article, until otherwise provided by law, is fixed as follows:

Governor, Two Thousand Dollars per annum.

ADDENDUM D

THE

REVISED STATUTES

OF THE

STATE OF UTAH,

IN FORCE

JAN. 1, 1898.

Revised, Annotated, and Published by Authority of the Legislature,

BY

RICHARD W. YOUNG,
GRANT H. SMITH,
WILLIAM A. LEE,
Code Commissioners.

TOGETHER WITH THE CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF UTAH, THE ENABLING ACT, AND THE NATURALIZATION LAWS.

LINCOLN, NEB.:
STATE JOURNAL CO., PRINTERS.
1897.

TITLE 19.

EXAMINERS, STATE BOARD OF.

929. How constituted. Powers. The governor, the secretary of state, and the attorney general constitute a board of examiners, with power to examine all claims against the state, except salaries or compensation of officers fixed by law, and the board shall perform such other duties as may be prescribed by law. No claim against the state, except salaries and compensation of officers fixed by law, shall be passed upon by the legislature without having been considered and acted upon by the board of examiners. ['96, pp. 114–15.

Mont. Pol. C. § 680.
Duties as to capitol grounds, §§ 144, 145. Authority of board, Con. art. 7, sec. 13.

930. Meetings. Officers. The meetings of the board shall be held at the seat of government, or at such other place in the state as the board may determine, on the third Monday in each month, and at such other times as the president may call it together. The governor shall be the president, and the secretary of state shall be the secretary of the board, and, in the absence of either, an officer pro tempore may be elected from among the members of the board. ['96, p. 115.

Mont. Pol. C. § 681.

931. Records. The board must keep a record of all its proceedings, and any member may cause his dissent to the action of a majority upon any matter to be entered upon such record. An abstract of all claims must be entered upon the minutes of the board before the same are acted upon. ['97, p. 115.

Cal. Pol. C. § 656. Mont. Pol. C. § 682.

932. Rules. The board may, in writing, establish rules and regulations not inconsistent with law, for its government. ['96, p. 115.

Cal. Pol. C. § 657. Mont. Pol. C. § 683.

933. Witnesses. The president of the board may issue subpœnas and compel the attendance of witnesses and the production of books and papers before the board or any member thereof; and any member of the board may administer oaths and may examine witnesses. In case of the disobedience of any witness, the board may invoke the aid of the district court to compel obedience. Whenever a witness is subpœnaed before the board to testify against any claim pending before it, the board may allow a reasonable fee to such witness for attendance, which fee must not exceed the fees allowed by law to witnesses in civil cases, and must be paid out of the appropriation for the contingent expenses of the board; *provided*, that in no instance shall a fee be allowed to a witness who has appeared in behalf of a claimant. ['96, p. 115*.

Cal. Pol. C. § 658*. Mont. Pol. C. § 684*. Contempt, how punished, § 3272.

934. Depositions. Each member of the board may take depositions to be used before it. ['96, p. 115.

Cal. Pol. C. § 659. Mont. Pol. C. § 685.

935. Action on claims. Any person having a claim against the state for which an appropriation has been made, may present the same to the board, in the form of an account or petition, and the secretary of the board must date, number, and file such claim, and the board must allow or reject the same in the order of its presentation. The board may, for cause, postpone action upon a claim for not exceeding one month. ['96, p. 115.

Cal. Pol. C. § 660. Mont. Pol. C. § 686.

936. Id. Approval. If the board approves such claim, the members thereof must indorse thereon, over their signatures, "approved for the sum of

——— dollars," and transmit the same to the office of the state auditor; and the auditor must draw his warrant for the amount so approved in favor of the claimant or his assigns, in the order in which the same was approved. ['96, p. 116.

Cal. Pol. C. § 661. Mont. Pol. C. § 687.

937. Id. Disapproval. If the board disapproves such claim, it must cause the same to be filed with the records of the board, with a statement showing such disapproval and the reasons therefor. ['96, p. 116.

Cal. Pol. C. § 662. Mont. Pol. C. § 688.

938. Where there is no appropriation. If no appropriation has been made for the payment of any claim presented to the board, the settlement of which is provided for by law, or, if an appropriation made has been exhausted, the board must audit the claim, and if it is approved must transmit it to the legislature with a statement of the approval. ['96, p. 116.

Cal. Pol. C. § 663. Mont. Pol. C. § 689.

939. Claims not otherwise provided for. Any person having a claim against the state, the settlement of which is not otherwise provided for by law, must present the same to the board of examiners, accompanied by a statement showing the facts constituting the claim, verified in the same manner as complaints in civil actions. ['96, p. 116.

Cal. Pol. C. § 664[8]. Mont. Pol. C. § 690[8].

940. Id. Meeting to consider. On the first Monday in November preceding the meeting of each legislature, the board must hold a session for the purpose of examining the class of claims referred to in the preceding section, and may adjourn from time to time until the work is completed. The board must cause a list and brief abstract of all claims filed with it up to that date, to be made and published in some newspaper at the seat of government for such time as the board may prescribe. The list must be accompanied by a general notice of the order in which and of the time when the board will proceed to examine the claims. ['96, p. 116.

Cal. Pol. C. § 665[8]. Mont. Pol. C. § 691.

941. Id. Hearing report. The board must, at the time designated, proceed to examine and adjust all such claims, and may hear evidence in support of or against them, and shall report to the legislature such facts and recommendations concerning them as it may think proper. In making its recommendations the board may state and use any official or personal knowledge which any member of the board may have touching such claims. ['96, p. 116.

Cal. Pol. C. § 666. Mont. Pol. C. § 692.

942. Id. The board must make up its report and recommendations at least thirty days before the meeting of the legislature; and a brief abstract of the report, showing the claims rejected, and those allowed and the amounts thereof, must be published in a newspaper published at the seat of government, for such time as the board may prescribe, before the meeting of the legislature. ['96, p. 117.

Cal. Pol. C. § 667. Mont. Pol. C. § 693.

943. Member not to be interested in claim. No member of the board shall act upon any claim in which he is interested, or upon any claim for expenditures incurred in his office, nor shall he be present when the decision thereon is made. ['96, p. 117.

Cal. Pol. C. § 668. Mont. Pol. C. § 694.

944. Claims submitted third time. The board shall not entertain for a third time, a demand against the state once rejected by it or by the legislature, unless such facts or reasons are presented to the board as in suits between individuals would furnish sufficient ground for granting a new trial. ['96, p. 117.

Cal. Pol. C. § 670[8]. Mont. Pol. C. § 695[8].

ery, books, and other articles and supplies furnished and on hand, and to issue to any officer a requisition on the secretary of state, for any books, stationery, or other supplies needed by such officer.

4. At the end of each fiscal year, and at such other times as the board thinks proper, to cause an inventory to be taken of all articles and supplies on hand and contracted for, and to make an examination of all accounts and vouchers for such supplies.

5. To establish rules for the government of the board in relation to all contracts, not inconsistent with law. ['96, p. 118.

Cal. Deering, vol. I, p. 183*. Mont. Pol. C. § 704.

952. Must advertise for bids. Before any contract is let, the board must advertise for twenty days, in two daily newspapers printed in the state, one of which must be published at the seat of government, for sealed proposals to furnish any or all the supplies mentioned in the next preceding section; *provided*, that such advertisement need not be made where the amount to be expended for such supplies shall be less than two hundred dollars. ['96, p. 119.

Cal. Deering, vol. I, p. 183*. Mont. Pol. C. § 705*.

953. Id. The board must specify in the advertisement the amount and kind of each article required. ['96, p. 119.

Cal. Deering, vol. I, p. 183*. Mont. Pol. C. § 706.

954. Bids. Opening. A sample and a minute description of each article must accompany and be deposited with each proposal, and proposals received must be directed to the board, and opened and compared by it at its office at twelve o'clock, noon, of the day specified in the advertisement; and the board must award the contract for furnishing such supplies, or any of them, to the lowest responsible bidder. ['96, p. 119.

Cal. Deering, vol. I, p. 183*. Mont. Pol. C. § 706-7.

955. Id. Check to accompany bid. Bond. Each bid must be accompanied by a certified check equal to ten per cent of the amount of the bid, to be held upon the condition that upon the award of said contract to him, the bidder will faithfully and promptly execute a good and sufficient bond, payable to the state, with two sureties to be approved by said board, conditioned for the faithful performance of the contract, and for the delivery of the supplies for which he has contracted, under such rules and regulations as the board may prescribe. ['96, p. 119.

Cal. Deering, vol. I, p. 183*. Mont. Pol. C. § 708.

956. Classified bids. Rejection. The board may, in the advertisement, classify the supplies and articles to be furnished, and may receive bids, and award contracts for such separate class of supplies, or such separate articles, as it considers the lowest and best bid. The board may require any class of supplies or separate articles thereof to be delivered in instalments. Any and all bids may be rejected, and the board may advertise again. ['96, p. 119.

Cal. Deering, vol. I, p. 183*. Mont. Pol. C. § 709.

957. Legislative supplies. The board must, at least one month before the meeting of the legislature, advertise as provided in the preceding sections, for repairing and furnishing the halls and rooms, and for stationery, fuel, light, and such other supplies as are necessary for the members of the legislature at the ensuing session; and at the commencement of each session thereof, the board must report to the legislature an account of the supplies, of the expenditures for the same, and of the stock on hand. ['96, pp. 119-20.

Cal. Deering, vol. I, p. 184*. Mont. Pol. C. § 711.

958. Selling unnecessary material. When deemed advisable by the board, it may sell any old furniture or other material belonging to the state and not required for state purposes, and pay the proceeds thereof into the state treasury to the credit of the general fund.

Sup. Cal. C. (1893) p. 32.

959. Hiring rooms for state purposes. The board may hire the necessary rooms for the state officers, and the halls and rooms for the legislature and its committees, without advertising as provided in this chapter, if the board so decides. ['96, p. 120.

Mont. Pol. C. § 712.

960. State officers not to be interested in contract. No member or officer of any department of the government, shall be in any way interested in any contract made under the provisions of this chapter. ['96, p. 120.

961. Clerical help. The board of examiners may, when necessary, employ clerical help for any state officer or board, but no clerk or clerks shall be employed by any such officer or board without the authority of the board of examiners; nor shall the board of examiners authorize the employment of such clerical assistance, except when the duties of the office or of the board cannot be performed by the officer or the members of such board. ['96, p. 120.

962. State board of examiners to publish reports of state officers, etc. The state board of examiners is authorized to procure the publication of one thousand copies each of the biennial reports of state officers and state institutions immediately after their submission to the governor, and before the meeting of the legislature, and also to procure the publication of one thousand copies, in pamphlet form, of the attorney general's official opinions at the end of each year for distribution by the attorney general to state officers, county attorneys, and other officers throughout the state. ['97, p. 43.

963. Repayment of money collected for lease of school lands. The state board of examiners are hereby directed to receive, audit, and allow all just claims of persons who have paid moneys in pursuance of chapter seventy-six of the session laws of the territory of Utah, of eighteen hundred and ninety-two, in relation to the leasing of school lands, and the state auditor is hereby directed to draw his warrant therefor, on the state district school tax fund. ['97, p. 235.

TITLE 20.

FEES.

CHAPTER 1.

FEES OF STATE OFFICERS.

964. Collected in advance. Payment into treasury. For services performed in their respective offices, the secretary of state, the state auditor, the clerk of the supreme court, the board of land commissioners, the state inspector of mines, and the bank examiner, shall collect in advance for the use and benefit of the state the fees hereinafter enumerated under their respective official titles, and shall pay the same to the state treasurer quarterly.

Penalty for refusal to perform service on payment of fee, § 1016. Fees to be collected in advance and paid over quarterly, Con. art. 7, sec. 20; art. 21, sec. 2. Statement to accompany fees on payment to treasurer, § 1008. Fees to be paid over before salary paid, § 1013. Officers responsible for fees, § 1015.

965. Secretary of state. For a copy of any law, resolution, record, or other document, or paper on file in his office, fifteen cents per folio.

For affixing certificate and seal of state, one dollar; for affixing seal and signature without certificate, fifty cents.

ADDENDUM E

LAWS

of the

STATE OF UTAH, 1963

Passed by

REGULAR SESSION

of the

THIRTY-FIFTH LEGISLATURE

Convened at the Capitol in the City of Salt Lake

January 14, 1963

And Adjourned Sine Die on

March 14, 1963

Published by Authority

CHAPTER 149

H. B. No. 83 (Passed February 28, 1963. In Effect May 14, 1963)

MUNICIPAL CORPORATION PURCHASES

An Act Providing for the Purchase of Supplies and Equipment for Municipal Corporations and Political Subdivisions by State Department of Finance.

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

Section 1. Purchase of Supplies and Equipment.

The state department of finance may purchase supplies and equipment for towns, cities, counties, school districts, and other municipal corporations and political subdivisions when requested to do so by the municipal corporation or political subdivision. All such purchases and the cost of handling the same shall be at the expense of the municipal corporation or political subdivision and in accordance with the law governing purchases for state departments.

Approved March 1, 1963.

CHAPTER 150

S. B. No. 47. (Passed March 14, 1963. In effect July 1, 1963.)

BOARD OF EXAMINERS LAW

An Act Amending Sections 63-6-1, 63-6-2, 63-6-11, 63-6-12, and 63-6-13, Utah Code Annotated 1953, Relating to the Powers and Duties of the State Board of Examiners With Respect to the Examinations of Unliquidated Claims, and Repealing Sections 63-6-7, 63-6-8, 63-6-9, 63-6-18, 63-6-19, 63-6-20, and 63-6-21, Utah Code Annotated 1953.

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

Section 1. Section Amended.

Sections 63-6-1, 63-6-2, 63-6-11, 63-6-12, and 63-6-13, Utah Code Annotated 1953, are amended to read:

63-6-1. General Power—Personnel.

The governor, the secretary of state and the attorney general shall constitute a board of examiners, with power to examine all claims against the state for which funds have not been provided for the payment thereof, except salaries or compensation of officers fixed by law. No claim against the state for which funds have not been provided, except salaries and compensation of officers fixed by law, shall be passed upon by the legislature without having been considered and acted upon by the board of examiners. The governor shall be the president, and the secretary of state shall be the secretary of the board, and in the absence of either an officer pro tempore may be elected from among the members of the board.

63-6-2. Meetings.

The meetings of the Board shall be held upon the call of the president or any two members.

63-6-11. Form and Verification of Claim.

Any person having a claim against the state for which funds have not been provided for the payment thereof, or the settlement of which is not otherwise provided for by law, must present the same to the board of examiners, accompanied by a statement showing the facts constituting the claim.

63-6-12. Notice of Order and Time of Examination of Claims.

At least 60 days preceding the meeting of each legislature the board must hold a session for the purpose of examining the claims referred to in the last preceding section, and may adjourn from time to time until the work is completed. The board must cause notice of such meeting or meetings to be published in some newspaper at the seat of government and such other newspapers as may be determined by the board for such time as the board may prescribe.

63-6-13. Adjustment of Claims—Recommendations to Legislature.

The board must at the time designated proceed to examine and adjust all such claims referred to in Section 63-3-11 of this act, and may hear evidence in support of or against them, and shall report to the legislature such facts and recommendations concerning them as it may think proper. In making its recommendations the board may state and use any official or personal knowledge which any member of the board may have touching such claims. The board shall not pass upon or send to the legislature any claim for which the state would not otherwise be liable were it not for its sovereign immunity. But all claims wherein the state would be liable, were it not for its sovereign immunity, whether recommended by the board for approval or disapproval, shall be reported by the board to the legislature with appropriate findings and recommendations as above provided.

Section 2. Sections Repealed.

Sections 63-6-7, 63-6-8, 63-6-9, 63-6-18, 63-6-19, 63-6-20 and 63-6-21, Utah Code Annotated 1953, are hereby repealed.

Section 3. Savings Clause.

If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby.

Section 4. Effective Date.

This act shall take effect upon July 1, 1963.

Approved March 20, 1963.

CHAPTER 151

H. B. No. 122. (Passed March 14, 1963. In effect May 14, 1963.)

WASATCH STATE PARK TRAMWAY

An Act Authorizing the State Park and Recreation Commission to Acquire, Construct, Maintain and Operate by Contract, Lease Concession

ADDENDUM F

UTAH CODE ANNOTATED

1953

CONTAINING THE GENERAL AND PERMANENT LAWS OF THE STATE IN FORCE AT THE CLOSE OF THE THIRTY-SEVENTH LEGISLATURE, REGULAR SESSION, 1967

TEN VOLUMES

COMPILED, ANNOTATED AND PUBLISHED UNDER AUTHORITY OF CHAPTER 116, LAWS OF UTAH, 1951

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Indianapolis, Indiana

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CHAPTER 30

GOVERNMENTAL IMMUNITY ACT

63-30-1. Short title.—This act shall be known and may be cited as the "Utah Governmental Immunity Act."

History: L. 1965, ch. 139, § 1.

Title of Act.

An act relating to the immunity of the state, its agencies and political subdivision from actions at law; providing for exemption thereto, for the purchase of liability insurance, and for the payment of claims and judgments.

1. Governmental function of sanitary district.

Operation of sewage facilities by sanitary district is governmental function and, prior to Governmental Immunity Act, district enjoyed immunity from suit for damages. Johnson v. Salt Lake County Cottonwood Sanitary Dist., — U. (2d) —, 438 P. 2d 706.

Collateral References.

States⇐191.
81 C.J.S. States §§ 131, 132.

Right of contractor with federal, state, or local public body to latter's immunity from tort liability, 9 A. L. R. 3d 382.

Law Review.

The Utah Governmental Immunity Act: An Analysis, 1967 Utah L. Rev. 120.

63-30-2. Definitions.—As used in this act:

(1) The word "state" shall mean the state of Utah or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof;

(2) The words "political subdivision" shall mean any county, city, town, school district, special improvement or taxing district, or any other political subdivision or public corporation;

(3) The words "governmental entity" shall mean and include the state and its political subdivisions as defined herein;

(4) The word "employee" shall mean and include any officer, employee or servant of a governmental entity;

(5) The word "claim" shall mean any claim brought against a governmental entity or its employee as permitted by this act;

(6) The word "injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to his person, or estate, that would be actionable if inflicted by a private person or his agent.

History: L. 1965, ch. 139, § 2.

63-30-3. Immunity of governmental entities from suit.—Except as may be otherwise provided in this act, all governmental entities shall be immune from suit for any injury which may result from the activities of said entities wherein said entity is engaged in the exercise and discharge of a governmental function.

History: L. 1965, ch. 139, § 3.

63-30-4. Act provisions not construed as admission or denial of liability —Effect of waiver of immunity.—Nothing contained in this act, unless specifically provided, is to be construed as an admission or denial of liability or responsiblity in so far as governmental entities are concerned. Wherein immunity from suit is waived by this act, consent to be sued is granted and liability of the entity shall be determined as if the entity were a private person.

History: L. 1965, ch. 139, § 4.

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63-30-5. Waiver of
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History: L. 1965, ch. 139,

63-30-6. Waiver of
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History: L. 1965, ch. 139

63-30-7. Waiver o
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History: L. 1965, ch. 13

Compiler's Notes.

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Cross-Reference.

Safety Responsibility
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63-30-8. Waiver
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History: L. 1965, ch. 1

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63-30-5. Waiver of immunity as to contractual obligation.—Immunity from suit of all governmental entities is waived as to any contractual obligation.

History: L. 1965, ch. 139, § 5.

63-30-6. Waiver of immunity as to actions involving property.—Immunity from suit of all governmental entities is waived for the recovery of any property real or personal or for the possession thereof or to quiet title thereto, or to foreclose mortgages or other liens thereon or to determine any adverse claim thereon, or secure any adjudication touching any mortgage or other lien said entity may have or claim on the property involved.

History: L. 1965, ch. 139, § 6.

63-30-7. Waiver of immunity for injury from negligent operation of motor vehicles—Exception.—Immunity from suit of all governmental entities is waived for injury resulting from the negligent operation by any employee of a motor vehicle or other equipment while in the scope of his employment; provided, however, that this section shall not apply to the operation of emergency vehicles as defined by law and while being driven in accordance with the requirements of section 41-6-14, Utah Code Annotated 1953, as amended by chapter 86, Laws of Utah, 1961.

History: L. 1965, ch. 139, § 7.

Compiler's Notes.

Section 41-6-14 referred to in this section was further amended by Laws 1965, ch. 83, § 1.

Cross-Reference.

Safety Responsibility Act, provisions of motor vehicle liability policy, 41-12-21.

Collateral References.

What is "motor vehicle" or the like within statute waiving governmental immunity as to operation of such vehicle, 77 A. L. R. 2d 945.

63-30-8. Waiver of immunity for injury caused by defective, unsafe, or dangerous condition of highways, bridges, or other structures.—Immunity from suit of all governmental entities is waived for any injury caused by a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct or other structure located thereon.

History: L. 1965, ch. 139, § 8.

63-30-9. Waiver of immunity for injury from dangerous or defective public building, structure, or other public improvement—Exception.—Immunity from suit of all governmental entities is waived for any injury caused from a dangerous or defective condition of any public building, structure, dam, reservoir or other public improvement. Immunity is not waived for latent defective conditions.

History: L. 1965, ch. 139, § 9.

63-30-10. Waiver of immunity for injury caused by negligent act or omission of employee—Exceptions.—Immunity from suit of all governmental entities is waived for injury proximately caused by a negligent act or omission of an employee committed within the scope of his employment except if the injury:

(1) arises out of the exercise or performance or the failure to exercise or perform a discretionary function, whether or not the discretion is abused, or

(2) arises out of assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, invasion of rights of privacy, or civil rights, or

(3) arises out of the issuance, denial, suspension, or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization, or

(4) arises out of a failure to make an inspection, or by reason of making an inadequate or negligent inspection of any property, or

(5) arises out of the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause, or

(6) arises out of a misrepresentation by said employee whether or not such is negligent or intentional, or

(7) arises out of or results from riots, unlawful assemblies, public demonstrations, mob violence and civil disturbances, or

(8) arises out of or in connection with the collection of and assessment of taxes, or

(9) arises out of the activities of the Utah National Guard, or

(10) arises out of the incarceration of any person in any state prison, county or city jail or other place of legal confinement, or

(11) arises from any natural condition on state lands or the result of any activity authorized by the state land board.

History: L. 1965, ch. 139, § 10.

63-30-11. Claim for injury—Claimant's petition for relief.—Any person having a claim for injury to person or property against a governmental entity or its employee may petition said entity for any appropriate relief including the award of money damages.

History: L. 1965, ch. 139, § 11.

63-30-12. Claim against state or agency—Notice to attorney general and agency—Time for filing.—A claim against the state or any agency thereof as defined herein shall be forever barred unless notice thereof is filed with the attorney general of the state of Utah and the agency concerned within one year after the cause of action arises.

History: L. 1965, ch. 139, § 12.

Cross-Reference.

Mailing claims to state or political subdivisions, 63-37-1 et seq.

63-30-13. Claim against political subdivision—Time for filing notice—Claim against city or town for injury on highways, bridges, or other structures.—A claim against a political subdivision shall be forever barred unless notice thereof is filed within ninety days after the cause of action arises; provided, however, that any claim filed against a city or incorporated town under section 63-30-8 shall be governed by the provisions of section 10-7-77, Utah Code Annotated, 1953.

History: L. 1965, ch. 13

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History: L. 1965, ch. 139, § 13.

Cross-Reference.

Mailing claims to state or political subdivisions, 63-37-1 et seq.

63-30-14. Claim for injury—Approval or denial by governmental entity or insurance carrier within ninety days.—Within ninety days of the filing of a claim the governmental entity or its insurance carrier shall act thereon and notify the claimant in writing of its approval or denial. A claim shall be deemed to have been denied if at the end of the ninety-day period the governmental entity or its insurance carrier has failed to approve or deny the claim.

History: L. 1965, ch. 139, § 14.

63-30-15. Denial of claim for injury—Authority and time for filing action against governmental entity.—If the claim is denied, a claimant may institute an action in the district court against the governmental entity in those circumstances where immunity from suit has been waived as in this act provided. Said action must be commenced within one year after denial or the denial period as specified herein.

History: L. 1965, ch. 139, § 15.

63-30-16. Jurisdiction of district courts over actions—Application of Rules of Civil Procedure.—The district courts shall have exclusive original jurisdiction over any action brought under this act and such actions shall be governed by the Utah Rules of Civil Procedure in so far as they are consistent with this act.

History: L. 1965, ch. 139, § 16.

Collateral References.

Costs: liability of state, or its agency or board, for costs in civil action to which it is a party, 72 A. L. R. 2d 1379.

63-30-17. Venue of actions.—Actions against the state may be brought in the county in which the cause of action arose or in Salt Lake County. Actions against a county may be brought in the county in which the cause of action arose, or in the defendant county, or, upon leave granted by a district court judge of the defendant county, in any county contiguous to the defendant county. Said leave may be granted ex parte. Actions against all other political subdivisions including cities and towns, shall be brought in the county in which said political subdivision is located or in the county in which the cause of action arose.

History: L. 1965, ch. 139, § 17.

63-30-18. Compromise and settlement of actions.—The governmental entity, after conferring with its legal officer or other legal counsel if it has no such officer, may compromise and settle any action as to the damages or other relief sought.

History: L. 1965, ch. 139, § 18.

63-30-19. Undertaking required of plaintiff in action.—At the time of filing the action the plaintiff shall file an undertaking in a sum fixed by the court, but in no case less than the sum of $300, conditioned upon payment by the plaintiff of taxable costs incurred by the governmental en-

tity in the action if the plaintiff fails to prosecute the action or fails to recover judgment.

History: L. 1965, ch. 139, § 19.

63-30-20. Judgment against governmental entity bars action against employee.—Judgment against a governmental entity in an action brought under this act shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee whose act or omission gave rise to the claim.

History: L. 1965, ch. 139, § 20.

63-30-21. Claims by other governmental entities prohibited.—Notwithstanding any other provision of this act, no claim hereunder shall be brought by the United States or by any other state, territory, nation or governmental entity.

History: L. 1965, ch. 139, § 21.

63-30-22. Exemplary or punitive damages prohibited—Governmental entity exempt from execution, attachment or garnishment.—No judgment shall be rendered against the governmental entity for exemplary or punitive damages; nor shall execution, attachment or garnishment issue against the governmental entity.

History: L. 1965, ch. 139, § 22.

63-30-23. Payment of claim or judgment against state—Presentment for payment.—Any claim approved by the state as defined herein or any final judgment obtained against the state shall be presented to the office, agency, institution or other instrumentality involved for payment if payment by said instrumentality is otherwise permitted by law. If such payment is not authorized by law then said judgment or claim shall be presented to the board of examiners and the board shall proceed as provided in section 63-6-10, Utah Code Annotated, 1953.

History: L. 1965, ch. 139, § 23.

63-30-24. Payment of claim or judgment against political subdivision—Procedure by governing body.—Any claim approved by a political subdivision or any final judgment obtained against a political subdivision shall be submitted to the governing body thereof to be paid forthwith from the general funds of said political subdivision unless said funds are appropriated to some other use or restricted by law or contract for other purposes.

History: L. 1965, ch. 139, § 24.

63-30-25. Payment of claim or judgment against political subdivision—Installment payments.—If the subdivision is unable to pay the claim or award during the current fiscal year it may pay the claim or award in not more than ten ensuing annual installments of equal size or in such other installments as are agreeable to the claimant.

History: L. 1965, ch. 139, § 25.

63-30-26. Reserve funds for payment of claims or purchase of insurance created by political subdivisions.—Any political subdivision may create and

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History: L. 1965, ch. 13

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History: L. 1965, ch. 13

**63-30-28. Liabilit
thorized.**—Any gover
insurance against any
of this act.

History: L. 1965, ch. 13

Cross-References.
Settlement of claim u

63-30-29. Liabilit
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maintain a reserve fund or may jointly with one or more other political subdivisions make contributions to a joint reserve fund, for the purpose of making payment of claims against the co-operating subdivisions when they become payable pursuant to this act, or for the purpose of purchasing liability insurance to protect the co-operating subdivisions from any or all risks created by this act.

History: L. 1965, ch. 139, § 26.

63-30-27. Tax levy by political subdivisions for payment of claims or judgments or insurance premiums.—Notwithstanding any provision of law to the contrary all political subdivisions shall have authority to levy an annual property tax in the amount necessary to pay any claims, settlements or judgments secured pursuant to the provisions hereof, or to pay the costs to defend against same, or for the purpose of establishing and maintaining a reserve fund for the payment of such claims, settlements or judgments as may be reasonably anticipated, or to pay the premium for such insurance as herein authorized, even though as a result of such levy the maximum levy as otherwise restricted by law is exceeded thereby; provided, that in no event shall such levy exceed one-half mill nor shall the revenues derived therefrom be used for any other purpose than those stipulated herein.

History: L. 1965, ch. 139, § 27.

63-30-28. Liability insurance—Purchase by governmental entity authorized.—Any governmental entity within the state of Utah may purchase insurance against any risk which may arise as a result of the application of this act.

History: L. 1965, ch. 139, § 28.

Cross-References.

Settlement of claim under liability insurance policy not admission of liability, 31-1-15.

Waiver of policy provisions or defenses, what does not constitute, 31-19-34.

63-30-29. Liability insurance—Required policy provisions.—Every policy or contract of insurance purchased by a governmental entity as permitted under the provisions of this chapter shall provide:

(a) In respect to bodily injury liability that the insurance carrier shall pay on behalf of the insured governmental entity all sums which the insured would in the absence of the defense of governmental immunity be legally obligated to pay as damages because of bodily injury, sickness or disease, including death resulting therefrom, sustained by any person, caused by accident, and arising out of the ownership, maintenance and use of automobiles, or arising out of the ownership, maintenance or use of premises, and all operations necessary or incidental thereto, or in respect to other operations and caused by accident subject to a limit, exclusive of interest and costs, of not less than $100,000 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than $300,000 because of bodily injury or death of two or more persons in any one accident.

(b) In respect to property damage liability that the insurance carrier shall pay on behalf of the insured governmental entity all sums which the insured would in the absence of the defense of governmental immunity

be legally obligated to pay as damages because of injury to or destruction of property, including the loss of use thereof, caused by accident, and arising out of the ownership, maintenance and use of automobiles, or arising out of the ownership, maintenance or use of premises, and all operations necessary or incidental thereto, or in respect to other operations and caused by accident to a limit of not less than $50,000 because of injury to or destruction of property of others in any one accident.

History: L. 1965, ch. 139, § 29.

63-30-30. Liability insurance—Provision for waiver of sovereign immunity defense and for payment by insurer required in policy.—Every contract or policy of insurance purchased under the terms of this act for any or all risks created by this act shall include a provision or endorsement by which the insurer agrees not to assert the defense of sovereign immunity, and to pay all sums for which it would otherwise be liable under its contract or policy of insurance.

History: L. 1965, ch. 139, § 30.

63-30-31. Liability insurance—Construction of policy not in compliance with act.—Any insurance policy, rider or endorsement hereafter issued and purchased to insure against any risk which may arise as a result of the application of this act, which contains any condition or provision not in compliance with the requirements of the act, shall not be rendered invalid thereby, but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider or endorsement been in full compliance with this act, provided the policy is otherwise valid.

History: L. 1965, ch. 139, § 31.

63-30-32. Liability insurance—Purchase of policy from lowest and best bidder required.—No contract or policy of insurance may be purchased under this chapter or renewed under this act except upon public bid to be let to the lowest and best bidder.

History: L. 1965, ch. 139, § 32.

63-30-33. Liability insurance—Insurance for employees authorized.—A governmental entity may insure any or all of its employees against all or any part of his liability for injury or damage resulting from a negligent act or omission in the scope of his employment regardless of whether or not said entity is immune from suit for said act or omission, and any expenditure for such insurance is herewith declared to be for a public purpose.

History: L. 1965, ch. 139, § 33.

63-30-34. Liability insurance—Judgment or award over limits of insurance policy reduced.—If any judgment or award against a governmental entity under sections 63-30-7, 63-30-8, 63-30-9, and 63-30-10 exceeds the minimum amounts for bodily injury and property damage liability specified in section 63-30-29, the court shall reduce the amount of said judgment or award to a sum equal to said minimum requirements unless the governmental entity has secured insurance coverage in excess of said minimum

requirements in which
judgment or award to
the insurance policy.

History: L. 1965, ch. 139, §

Separability Clause.

Section 35 of Laws 1965
vided: "If any section, pa
this act shall be held to
tional, such unconstitution
affect the validity of the re
act."

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Section 63-31-1. Short titl
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63-31-6. Co-operat
63-31-7. Annual
63-31-8. Division
63-31-9. Director

63-31-1. Short titl
dustrial Promotion Co

History: L. 1965, ch. 136,

Compiler's Notes.

Laws 1967, ch. 175 cre
of industrial promotion a
of industrial promotion
ment of development serv
et seq.

Title of Act.

An act creating the U
trial promotion commi
power to make rules, pre
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63-31-1.1. Board
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requirements in which event the court shall reduce the amount of said judgment or award to a sum equal to the applicable limits provided in the insurance policy.

History: L. 1965, ch. 139, § 34.

Separability Clause.

Section 35 of Laws 1965, ch. 139 provided: "If any section, part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remainder of this act."

Repealing Clause.

Section 36 of Laws 1965, ch. 139 provided: "All other acts or statutes in conflict with provisions of this act are repealed as of the effective date of this act."

Effective Date.

Section 37 of Laws 1965, ch. 139 provided: "This act shall take effect on July 1, 1966, and shall apply only to claims and actions arising after said date."

CHAPTER 31

INDUSTRIAL PROMOTION

63-31-1. Short title.—This act shall be known and cited as the "Industrial Promotion Commission Act."

History: L. 1965, ch. 136, § 1.

Compiler's Notes.

Laws 1967, ch. 175 created the board of industrial promotion and the division of industrial promotion with the department of development services. See 63-33-1 et seq.

Title of Act.

An act creating the Utah state industrial promotion commission providing power to make rules, prescribing powers, duties, purpose and terms of office, fixing compensation of commissioners, providing for annual reports, providing commission use of existing agencies and services and appropriating $500,000 therefor.

Cross-Reference.

Industrial facilities development, 11-17-1 et seq.

Collateral References.

Municipal Corporations⇐265-267, 278, 285-286, 457-463, 858-861, 866-867, 869, 872-877; States⇐41, 44-47, 114, 132, 157, 166.

64 C.J.S. Municipal Corporations §§ 1835, 1842, 1902, 1905, 1909, 1911-1912; 81 C.J.S. States §§ 54-59, 66, 101-103.

38 Am. Jur. 116, Municipal Corporations § 429; 42 Am. Jur. 771, Public Funds § 72; 43 Am. Jur. 795, Public Works § 52.

63-31-1.1. Board of industrial promotion—Creation—Transfer of powers and duties—Members of commission continue to serve.—There is created within the department of development services a board of industrial promotion which shall assume all of the functions, powers, duties, rights and responsibilities of the Utah state industrial promotion commission, as amended by this act, together with all functions, powers, duties, rights and

ADDENDUM G

LAWS

of the

STATE OF UTAH, 1978

Passed at the

BUDGET SESSION

of the

FORTY-SECOND LEGISLATURE

Convened at the Capitol in the City of Salt Lake

January 9, 1978

and Adjourned Sine Die on

January 28, 1978

Published by Authority

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sistance and assistance payments for the year the service is rendered except as provided below in this section.

Suppliers of services shall submit billings [~~either~~] to the department [~~or the medical intermediary~~] within [~~90~~] 180 days after the end of the fiscal year in which service is concluded. The department is authorized to pay those claims in the next fiscal year that are not received in time to be processed by July 31, but not to exceed a total of [~~two~~] four million dollars in state and federal matching funds. Any other claims received [~~90~~] 180 days after the end of the fiscal year or that cause the department to exceed the [~~two~~] four million dollar limitation provided by this section shall not be paid unless approved by the board of examiners and the legislature.

Unexpended appropriated funds lapse July 31. Funds dispensed from this account shall be for services rendered prior to June 30.

Approved February 8, 1978.

STATE AFFAIRS IN GENERAL

CHAPTER 27

H. B. No. 14 (Passed January 27, 1978. In effect March 30, 1978)

GOVERNMENTAL IMMUNITY ACT AMENDMENTS

An Act Amending Section 63-30-2, Utah Code Annotated 1953, as Enacted by Chapter 139, Laws of Utah 1965, as Amended by Chapter 103, Laws of Utah 1973, Sections 63-30-3, 63-30-4, 63-30-11, 63-30-12, 63-30-13, 63-30-28, 63-30-29, and 63-30-34, Utah Code Annotated 1953, as Enacted by Chapter 139, Laws of Utah 1965, Section 63-30-5, Utah Code Annotated 1953, as Enacted by Chapter 139, Laws of Utah 1965, as Amended by Chapter 189, Laws of Utah 1975, and Section 63-30-27, Utah Code Annotated 1953, as Enacted by Chapter 139, Laws of Utah 1965, as Amended by Chapter 165, Laws of Utah 1973; and Repealing Sections 63-30-21 and 63-30-30, Utah Code Annotated 1953, as Enacted by Chapter 139, Laws of Utah 1965, Section 10-7-77, Utah Code Annotated 1953, as Amended by Chapter 10, Laws of Utah 1973, and Section 10-7-78, Utah Code Annotated 1953; Relating to State Affairs in General; Providing for the Inclusion of Governmental Proprietary Functions Within the Purview of the Governmental Immunity Act; Providing that the Remedy Against a Governmental Entity Provided by the Act is Exclusive of Any Other Civil Action by Reason of the Same Subject Matter; Providing for Enlargement of the Time Period for Filing Claims Against Political Subdivisions; Providing Discretion in Courts to Extend the Filing Deadline for Claims Which Involve Persons Suffering a Legal Disability; Providing Specific Requirements for the content of Notice of Claim; and Providing Changes in the Insurance Requirement Provisions of the Act.

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

Section 1. Section amended.

Section 63-30-2, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, as amended by Chapter 103, Laws of Utah 1973, is amended to read:

63-30-2. Definitions.

As used in this act:

(1) The word "state" shall mean the state of Utah or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof;

(2) The words "political subdivision" shall mean any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district, or any other political subdivision or public corporation;

(3) The words "governmental entity" shall mean [~~and include~~] the state and its political subdivisions as defined herein;

(4) The word "employee" shall mean [~~and include~~] any officer, employee or servant of a governmental entity including student teachers certificated in accordance with section 53-2-15, educational aides, volunteers and tutors;

(5) The word "claim" shall mean any claim brought against a governmental entity or its employee [~~as permitted by this act~~] for which the entity may be liable;

(6) The word "injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to his person, or estate, that would be actionable if inflicted by a private person or his agent.

Section 2. Section amended.

Section 63-30-3, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, is amended to read:

63-30-3. Immunity of governmental entities from suit.

Except as may be otherwise provided in this act, all governmental entities [~~shall be~~] are immune form suit for any injury which [~~may result form the activities of said entities wherein said entity is engaged in the exercise and discharge of a governmental function~~] results from the exercise of a governmental function, governmentally-owned hospital, nursing home, or other governmental health care facility.

Section 3. Section amended.

Section 63-30-4, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, is amended to read:

63-30-4. Act provisions not construed as admission or denial of liability—Effect of waiver of immunity—Exclusive remedy—Joinder of

employee—Limitations on personal liability.

Nothing contained in this act, unless specifically provided, is to be construed as an admission or denial of liability or responsibility in so far as governmental entities are concerned. Wherein immunity from suit is waived by this act, consent to be sued is granted and liability of the entity shall be determined as if the entity were a private person.

The remedy against a governmental entity or its employee for an injury caused by an act or omission which occurs during the performance of such employee's duties, within the scope of employment, or under color of authority is, after the effective date of this act, exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or the estate of the employee whose act or omission gave rise to the claim, unless the employee acted or failed to act through gross negligence, fraud, or malice.

An employee may be joined in an action against a governmental entity in a representative capacity if the act or omission complained of is one for which the governmental entity may be liable, but no employee shall be held personally liable for acts or omissions occurring during the performance of the employee's duties, within the scope of employment or under color of authority, unless it is established that the employee acted or failed to act due to gross negligence, fraud or malice.

Section 4. Section amended.

Section 63-30-5, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, as amended by Chapter 189, Laws of Utah 1975, is amended to read:

63-30-5. Waiver of immunity as to contractual obligations.

Immunity from suit of all governmental entities is waived as to any contractual obligation and actions arising out of contractual rights or obligations shall not be subject to the requirements of sections 63-30-11, 63-30-12, 63-30-13 or 63-30-19 of this act.

Section 5. Section amended.

Section 63-30-11, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, is amended to read:

63-30-11. Claim for injury—Notice—Claimant's petition for relief—Service—Legal disability effect.

Any person having a claim for injury to person or property against a governmental entity or its employee [~~may petition said~~] shall, before maintaining an action under this act, file a written notice of claim with such entity for [~~any~~] appropriate relief including [~~the award of~~] money damages. The notice of claim shall set forth a brief statement of the facts and the nature of the claim asserted, shall be signed by the person making the claim or such person's agent, attorney, parent or legal guardian, and shall be

directed and delivered to the responsible governmental entity within the time prescribed in section 63-30-12 or 63-30-13, as applicable.

Service of the notice of claim upon an employee of a governmental entity is not a condition precedent to the commencement of an action or special proceeding against such person. If an action or special proceeding is commenced against the employee, but not against the governmental entity, service of the notice of claim upon the governmental entity is required only if the entity has a statutory duty to indemnify such person.

If the claimant is under the age of majority, or mentally incompetent and without a legal guardian, or imprisoned at the time the cause of action accrued, the court, in its discretion, may extend the time for service of notice of claim, but in no event shall it grant an extension which exceeds the general statutory period of limitation applicable to the cause of action. In determining whether to grant an extension, the court shall consider whether the delay in serving the notice of claim will substantially prejudice the governmental entity in maintaining its defense on the merits.

Section 6. Section amended.

Section 63-30-12, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, is amended to read:

63-30-12. Claim against state—Notice to attorney general and agency—Time for filing.

A claim against the state [~~or any agency thereof as defined herein shall be forever~~] is barred unless notice [~~thereof~~] of claim is filed with the attorney general [~~of the state of Utah~~] and the agency concerned within one year after the cause of action arises.

Section 7. Section amended.

Section 63-30-13, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, is amended to read:

63-30-13. Claim against political subdivision—Time for filing notice.

A claim against a political subdivision [~~shall be forever~~] is barred unless notice [~~thereof~~] of claim is filed with the governing body of the political subdivision within [~~ninety days~~] one year after the cause of action arises [~~; provided, however, that any claim filed against a city or incorporated town under section 63-30-8 shall be governed by the provisions of section 10-7-77, Utah Code Annotated, 1953~~].

Section 8. Section amended.

Section 63-30-27, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, as amended by Chapter 165, Laws of Utah 1973, is amended to read:

63-30-27. Tax levy by political subdivisions for payment of claims, judgments or insurance premiums.

Notwithstanding any provision of law to the contrary, all political subdivisions shall have authority to levy an annual property tax [~~in the amount necessary~~] sufficient to pay any claims, settlements or judgments [~~secured pursuant to the provisions hereof~~], or to pay the costs to defend against same, or for the purpose of establishing and maintaining a reserve fund for the payment of such claims, settlements or judgments as may be reasonably anticipated; and there is hereby specifically included any judgment against an elected official or employee of any political subdivision, including peace officers based upon a claim for punitive damages, [~~for which no insurance coverage can be obtained as authorized and provided by chapter 30, Title 63; and~~] provided, [~~further~~] that [~~the extent of~~] the authority of [~~any~~] a political subdivision for the payment of such judgments for punitive damages [~~shall be~~] is limited in any individual case to [~~a sum not in excess of~~] $10,000. It is hereby declared to be the legislative intent that the payments [~~herein~~] authorized for punitive damage judgments is money spent for a public purpose within the meaning of this section and Article XIII, section 5 of the Constitution of Utah; or to pay the premium for such insurance as [~~herein~~] authorized, even though as a result of such levy the maximum levy as otherwise restricted by law is exceeded [~~thereby~~]; provided, that in no event shall such levy exceed one-half mill nor shall the revenues derived therefrom be used for any other purpose than those stipulated herein.

Section 9. Section amended.

Section 63-30-28, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, is amended to read:

63-30-28. Liability insurance—Purchase or self-insurance by governmental entity authorized.

Any governmental entity within the state [~~of Utah~~] may purchase insurance or self insure against any risk [~~which may arise as a result of the application of~~] created by this act.

Section 10. Section amended.

Section 63-30-29, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, is amended to read:

63-30-29. Liability insurance—Required policy provisions.

Every policy or contract of insurance purchased by a governmental entity as permitted under the provisions of this chapter shall provide:

(a) In respect to bodily injury liability that the insurance carrier shall pay on behalf of the insured governmental entity all sums which the insured would [~~in the absence of the defense of governmental immunity~~] be legally obligated to pay as damages because of bodily injury, sickness or disease, including death resulting therefrom, sustained by any person, caused by accident, and arising out of the ownership, maintenance and use of automobiles, or arising out of the ownership, maintenance or use of premises, and all operations necessary or incidental thereto, or in respect to other opera-

tions and caused by accident subject to a limit, exclusive of interest and costs, of not less than $100,000 because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than $300,000 because of bodily injury or death of two or more persons in any one accident.

(b) In respect to property damage liability that the insurance carrier shall pay on behalf of the insured governmental entity all sums which the insured would in the absence of the defense of governmental immunity be legally obligated to pay as damages because of injury to or destruction of property, including the loss of use thereof, caused by accident, and arising out of the ownership, maintenance and use of automobiles, or arising out of the ownership, maintenance or use of premises, and all operations necessary or incidental thereto, or in respect to other operations and caused by accident to a limit of not less than $50,000 because of injury to or destruction of property of others in any one accident.

Section 11. Section amended.

Section 63-30-34, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, is amended to read:

63-30-34. Liability insurance-Judgment or award over limits of insurance policy reduced—Limitation of judgment or award against self-insurers.

If any judgment or award against a governmental entity under sections 63-30-7, 63-30-8, 63-30-9, and 63-30-10 exceeds the minimum amounts for bodily injury and property damage liability specified in section 63-30-29, the court shall reduce the amount of [~~said~~] the judgment or award to a sum equal to [~~said~~] the minimum requirements unless the governmental entity has secured insurance coverage in excess of said minimum requirements in which event the court shall reduce the amount of [~~said~~] the judgment or award to a sum equal to the applicable limits provided in the insurance policy.

Any governmental entity that acts as a self-insurer is liable for any judgment or award entered against it or its employee under sections 63-30-7, 63-30-8, 63-30-9, and 63-30-10, but only to the extent of the minimum amounts for bodily injury and property damage liability specified in section 63-30-29, and no judgment or award shall be entered in excess of such minimum amounts.

Section 12. Repealer.

Sections 63-30-21 and 63-30-30, Utah Code Annotated 1953, as enacted by Chapter 139, Laws of Utah 1965, Section 10-7-77, Utah Code Annotated 1953, as amended by Chapter 10, Laws of Utah 1973, and Section 10-7-78, Utah Code Annotated 1953, are repealed.

Approved February 9, 1978.

ADDENDUM H

CHAPTER 15
S.B. No. 53
Passed February 26, 1991
Approved March 13, 1991
Effective April 29, 1991

GOVERNMENTAL IMMUNITY ACT CLARIFICATION

By Haven J. Barlow
Fred W. Finlinson
Robert C. Steiner

AN ACT RELATING TO GOVERNMENTAL IMMUNITY; PROVIDING THAT BECAUSE STATE OWNED MEDICAL FACILITIES ARE GOVERNMENTAL FUNCTIONS WITHIN THE CORE OF GOVERNMENTAL ACTIVITY, THEY ARE ENTITLED TO GOVERNMENTAL IMMUNITY.

THIS ACT AFFECTS SECTIONS OF UTAH CODE ANNOTATED 1953 AS FOLLOWS:

AMENDS:
63-30-3, AS LAST AMENDED BY CHAPTER 93, LAWS OF UTAH 1985

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

Section 1. Section Amended.

Section 63-30-3, Utah Code Annotated 1953, as last amended by Chapter 93, Laws of Utah 1985, is amended to read:

63-30-3. Immunity of governmental entities from suit.

(1) Except as may be otherwise provided in this chapter, all governmental entities are immune from suit for any injury which results from the exercise of a governmental function, governmentally-owned hospital, nursing home, or other governmental health care facility, and from an approved medical, nursing, or other professional health care clinical training program conducted in either public or private facilities.

(2) (a) For the purposes of this chapter only, the following state medical programs and services performed at a state-owned university hospital are unique or essential to the core of governmental activity in this state and are considered to be governmental functions:

(i) care of a patient referred by another hospital or physician because of the high risk nature of the patient's medical condition;

(ii) high risk care or procedures available in Utah only at a state-owned university hospital or provided in Utah only by physicians employed at a state-owned university acting in the scope of their employment;

(iii) care of patients who cannot receive appropriate medical care or treatment at another medical facility in Utah; and

(iv) any other service or procedure performed at a state-owned university hospital or by physicians employed at a state-owned university acting in the scope of their employment that a court finds is unique or essential to the core of governmental activity in this state.

(b) If any claim under this subsection exceeds the limits established in Section 63-30-34, the claimant may submit the excess claim to the Board of Examiners and the Legislature under Chapter 6, Title 63.

(3) The management of flood waters and other natural disasters and the construction, repair, and operation of flood and storm systems by governmental entities are considered to be governmental functions, and governmental entities and their officers and employees are immune from suit for any injury or damage resulting from those activities.

ADDENDUM I

LAWS

of the

STATE OF UTAH

passed at the

1995 GENERAL SESSION

and

1995 FIRST SPECIAL SESSION

Published by Authority

CHAPTER 20
H. B. 150
Passed January 24, 1995
Approved February 24, 1995
Effective May 1, 1995

REVISOR'S STATUTE

Sponsor: John L. Valentine
Gerry A. Adair
R. Lee Ellertson
R. Mont Evans
David M. Jones
Kurt E. Oscarson
Michael G. Waddoups

AN ACT RELATING TO STATE GOVERNMENT; PROVIDING TECHNICAL CORRECTIONS TO THE UTAH CODE.

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

AMENDS:
4-1-8, as last amended by Chapter 42, Laws of Utah 1988
4-3-2, as enacted by Chapter 2, Laws of Utah 1979
4-4-2, as enacted by Chapter 2, Laws of Utah 1979
4-5-7, as enacted by Chapter 2, Laws of Utah 1979
4-6-3, as enacted by Chapter 2, Laws of Utah 1979
4-9-2, as enacted by Chapter 2, Laws of Utah 1979
4-10-3, as enacted by Chapter 2, Laws of Utah 1979
4-11-3, as enacted by Chapter 2, Laws of Utah 1979
4-12-8, as enacted by Chapter 2, Laws of Utah 1979
4-14-6, as enacted by Chapter 2, Laws of Utah 1979
4-15-3, as enacted by Chapter 2, Laws of Utah 1979
4-16-3, as enacted by Chapter 2, Laws of Utah 1979
4-22-9.5, as enacted by Chapter 139, Laws of Utah 1992
4-23-5, as enacted by Chapter 2, Laws of Utah 1979
4-24-3, as enacted by Chapter 2, Laws of Utah 1979
4-24-30, as enacted by Chapter 2, Laws of Utah 1979
4-25-3, as enacted by Chapter 2, Laws of Utah 1979
4-29-1, as enacted by Chapter 2, Laws of Utah 1979
4-30-3, as enacted by Chapter 2, Laws of Utah 1979
4-33-4, as enacted by Chapter 8, Laws of Utah 1981
7-3-33, as enacted by Chapter 16, Laws of Utah 1981
7-7-26, as last amended by Chapter 8, Laws of Utah 1983
7-14-1, as enacted by Chapter 16, Laws of Utah 1981
7-16-10, as last amended by Chapter 244, Laws of Utah 1985
9-4-906, as renumbered and amended by Chapter 241, Laws of Utah 1992
9-4-923, as last amended by Chapter 4, Laws of Utah 1993
10-2-108, as last amended by Chapter 27, Laws of Utah 1983
10-2-417, as enacted by Chapter 25, Laws of Utah 1979
10-2-418, as enacted by Chapter 25, Laws of Utah 1979
10-6-151, as enacted by Chapter 26, Laws of Utah 1979
17-36-4, as last amended by Chapter 73, Laws of Utah 1983
20A-7-308, as enacted by Chapter 1, Laws of Utah 1994
22-5-1, as enacted by Chapter 46, Laws of Utah 1961
22-5-2, as enacted by Chapter 46, Laws of Utah 1961
22-5-4, as enacted by Chapter 46, Laws of Utah 1961
22-5-5, as enacted by Chapter 46, Laws of Utah 1961
22-5-6, as enacted by Chapter 46, Laws of Utah 1961
22-5-8, as enacted by Chapter 46, Laws of Utah 1961
22-5-9, as enacted by Chapter 46, Laws of Utah 1961
23-19-36, as last amended by Chapter 84, Laws of Utah 1992
25-5-2, Utah Code Annotated 1953
27-12-27, as last amended by Chapter 120, Laws of Utah 1994
27-16-105, as last amended by Chapter 120, Laws of Utah 1994
30-1-2.2, as enacted by Chapter 56, Laws of Utah 1965
30-1-2.3, as enacted by Chapter 14, Laws of Utah 1993, Second Special Session
31A-1-104, as enacted by Chapter 242, Laws of Utah 1985
31A-1-301, as last amended by Chapter 316, Laws of Utah 1994
31A-2-310, as last amended by Chapter 204, Laws of Utah 1986
31A-4-102, as last amended by Chapter 91, Laws of Utah 1987
31A-4-105, as enacted by Chapter 242, Laws of Utah 1985
31A-4-106, as last amended by Chapter 114, Laws of Utah 1990
31A-4-111, as enacted by Chapter 242, Laws of Utah 1985
31A-5-102, as last amended by Chapter 277, Laws of Utah 1992
31A-5-508, as last amended by Chapter 277, Laws of Utah 1992
31A-7-102, as last amended by Chapter 91, Laws of Utah 1987
31A-8-103, as last amended by Chapter 243, Laws of Utah 1994
31A-9-403, as enacted by Chapter 242, Laws of Utah 1985
31A-14-106, as enacted by Chapter 204, Laws of Utah 1986
31A-17-301, as enacted by Chapter 242, Laws of Utah 1985
31A-17-506, as enacted by Chapter 305, Laws of Utah 1993
31A-18-106, as last amended by Chapter 316, Laws of Utah 1994
31A-22-707, as enacted by Chapter 242, Laws of Utah 1985
31A-26-102, as last amended by Chapter 204, Laws of Utah 1986
31A-26-201, as enacted by Chapter 242, Laws of Utah 1985
31A-28-114, as repealed and reenacted by Chapter 211, Laws of Utah 1991

31A-29-105, as enacted by Chapter 232, Laws of Utah 1990
31A-29-120, as enacted by Chapter 232, Laws of Utah 1990
31A-30-103, as enacted by Chapter 314, Laws of Utah 1994
31A-31-106, as enacted by Chapter 243, Laws of Utah 1994
32A-12-203, as last amended by Chapters 49 and 241, Laws of Utah 1991
32A-12-214, as last amended by Chapter 30, Laws of Utah 1992
32A-12-501, as renumbered and amended by Chapter 23, Laws of Utah 1990
32A-13-103, as last amended by Chapter 142, Laws of Utah 1994
34-20a-1, as enacted by Chapter 102, Laws of Utah 1975
34-20a-2, as enacted by Chapter 102, Laws of Utah 1975
34-20a-6, as enacted by Chapter 102, Laws of Utah 1975
35-1-42, as last amended by Chapters 106 and 140, Laws of Utah 1993
35-1-58, Utah Code Annotated 1953
35-1-70, Utah Code Annotated 1953
35-1-109, as last amended by Chapter 243, Laws of Utah 1994
35-3-18, as last amended by Chapter 259, Laws of Utah 1991
35-4-103, as renumbered and amended by Chapter 169, Laws of Utah 1994
35-4-508, as renumbered and amended by Chapter 169, Laws of Utah 1994
36-2-3, as last amended by Chapter 21, Laws of Utah 1985
35-3-1, as last amendod by Chapter 21, Laws of Utah 1985
36-20-1, as enacted by Chapter 282, Laws of Utah 1993
36-11-302, as enacted by Chapter 308, Laws of Utah 1994
39-5-1, as enacted by Chapter 10, Laws of Utah 1953, First Special Session
40-8-23, as enacted by Chapter 130, Laws of Utah 1975
41-6-13.5, as last amended by Chapter 71, Laws of Utah 1993
41-6-163.8, as last amended by Chapter 112, Laws of Utah 1991
41-12a-502, as enacted by Chapter 242, Laws of Utah 1985
45-2-4, Utah Code Annotated 1953
54-6-23, as enacted by Chapter 208, Laws of Utah 1986
54-10-5, as enacted by Chapter 54, Laws of Utah 1977
54-10-7, as enacted by Chapter 54, Laws of Utah 1977
55-3-1, Utah Code Annotated 1953
57-8-35, as last amended by Chapter 173, Laws of Utah 1975
57-15-6, as enacted by Chapter 224, Laws of Utah 1981
58-7-17, as last amended by Chapter 313, Laws of Utah 1994
58-12-23, as last amended by Chapter 138, Laws of Utah 1967
58-17-6, as last amended by Chapter 297, Laws of Utah 1993
58-28-6, as last amended by Chapter 264, Laws of Utah 1989
58-37-9, as last amended by Chapter 225, Laws of Utah 1989
58-47a-3, as last amended by Chapter 297, Laws of Utah 1993
58-50-9, as last amended by Chapter 12, Laws of Utah 1994
58-50-10, as last amended by Chapter 12, Laws of Utah 1994
58-55-305, as renumbered and amended by Chapter 181, Laws of Utah 1994
59-2-402, as last amended by Chapter 182, Laws of Utah 1994
59-7-402, as last amended by Chapter 83, Laws of Utah 1994
59-13-103, as enacted by Chapter 92, Laws of Utah 1992
62A-5-206, as last amended by Chapters 207 and 213, Laws of Utah 1991
62A-9-134, as last amended by Chapter 122, Laws of Utah 1994
62A-12-228, as last amended by Chapters 82 and 285, Laws of Utah 1993
63-2-203, as last amended by Chapter 194, Laws of Utah 1994
63-6-12, as last amendod by Chapter 150, Laws of Utah 1963
63-6-13, as last amended by Chapter 150, Laws of Utah 1963
63-9a-13, as enacted by Chapter 230, Laws of Utah 1979
63-9a-21, as enacted by Chapter 229, Laws of Utah 1979
63-30b-3, as enacted by Chapter 93, Laws of Utah 1979
63-49-10, as last amended by Chapter 120, Laws of Utah 1994
69-1-3, Utah Cede Annotated 1953
70C-3-101, as enacted by Chapter 159, Laws of Utah 1985
73-10e-2, as enacted by Chapter 172, Laws of Utah 1985
73-10e-3, as enacted by Chapter 172, Laws of Utah 1985
73-10e-4, as enacted by Chapter 172, Laws of Utah 1985
73-21-2, as enacted by Chapter 74, Laws of Utah 1980
76-1-401, as last amended by Chapter 47, Laws of Utah 1975
76-2-307, as enacted by Chapter 196, Laws of Utah 1973
76-4-301, as enacted by Chapter 196, Laws of Utah 1973
76-7-306, as enacted by Chapter 33, Laws of Utah 1974
76-7-316, as enacted by Chapter 33, Laws of Utah 1974
76-7-321, as last amended by Chapter 50, Laws of Utah 1988
76-8-811, as enacted by Chapter 196, Laws of Utah 1973
76-9-508, as enacted by Chapter 196, Laws of Utah

1973
76-10-603, as enacted by Chapter 196, Laws of Utah 1973
76-10-604, as enacted by Chapter 196, Laws of Utah 1973
76-10-709, as enacted by Chapter 196, Laws of Utah 1973
76-10-711, as enacted by Chapter 196, Laws of Utah 1973
76-10-908, as enacted by Chapter 196, Laws of Utah 1973
76-10-909, as enacted by Chapter 196, Laws of Utah 1973
76-10-910, as enacted by Chapter 196, Laws of Utah 1973
76-10-1005, as enacted by Chapter 196, Laws of Utah 1973
76-10-1008, as enacted by Chapter 196, Laws of Utah 1973
76-10-1211, as enacted by Chapter 196, Laws of Utah 1973
77-1a-4, as last amended by Chapter 7, Laws of Utah 1994
77-18-1, as last amended by Chapters 13, 24, 198, and 230 Laws of Utah 1994
77-30-11, as enacted by Chapter 15, Laws of Utah 1980
77-30-14, as enacted by Chapter 15, Laws of Utah 1980
77-31-32, as enacted by Chapter 15, Laws of Utah 1980
77-38-3, as enacted by Chapter 198, Laws of Utah 1994.
78-7-3, Utah Code Annotated 1953
78-7-18, Utah Code Annotated 1953
78-7-20, Utah Code Annotated 1953
78-11-7, Utah Code Annotated 1953
78-11-20.7, as last amended by Chapter 12, Laws of Utah 1994
78-12-20, Utah Code Annotated 1953
78-13-5, Utah Code Annotated 1953
78-21-2, Utah Code Annotated 1953
78-24-10, Utah Code Annotated 1953
78-24-13, Utah Code Annotated 1953
78-24-18, Utah Code Annotated 1953
78-25-16, as last amended by Chapter 165, Laws of Utah 1983
78-27-15, Utah Code Annotated 1953
78-27-21, Utah Code Annotated 1953
78-30-1.1, as enacted by Chapter 245, Laws of Utah 1990
78-30-4.8, as last amended by Chapter 12, Laws of Utah 1994
78-30-18, as last amended by Chapter 30, Laws of Utah 1992
78-31b-2, as repealed and reenacted by Chapter 228, Laws of Utah 1994
78-32-6, Utah Code Annotated 1953
78-34-11, Utah Code Annotated 1953
78-34-15, Utah Code Annotated 1953
78-38-4, Utah Code Annotated 1953
78-39-11, Utah Code Annotated 1953
78-39-28, Utah Code Annotated 1953
78-45c-8, as enacted by Chapter 41, Laws of Utah 1980
78-51-16, Utah Code Annotated 1953
78-51-28, Utah Code Annotated 1953
78-51-35, Utah Code Annotated 1953
78-51-43, Utah Code Annotated 1953

REPEALS:
9-1-601, as enacted by Chapter 278, Laws of Utah 1993
17A-3-343, as renumbered and amended by Chapter 186, Laws of Utah 1990
59-14c-1, as last amended by Chapter 12, Laws of Utah 1994

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

Section 1. Section 4-1-8 is amended to read:

4-1-8. General definitions.

Subject to additional definitions contained in the chapters of this title which are applicable to specific chapters, as used in this title:

(1) "Agriculture" means the science and art of the production of plants and animals useful to man including the preparation of plants and animals for human use and disposal by marketing or otherwise.

(2) "Agricultural product" or "product of agriculture" means any product which is derived from agriculture, including any product derived from aquaculture as defined in Section [4-37-2] 4-37-103.

(3) "Commissioner" means the commissioner of the Department of Agriculture.

(4) "Department" means the Department of Agriculture created under Title 4, Chapter 2.

(5) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, or any other domestic animal or domestic furbearer raised or kept for profit.

(6) "Organization" means a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(7) "Person" means a natural person or individual, corporation, organization, or other legal entity.

Section 2. Section 4-3-2 is amended to read:

4-3-2. Authority to make and enforce rules.

The department is authorized and directed, subject to [the] Title 63, Chapter 46a, Utah [Rule-making] Administrative Rulemaking Act, to make and enforce such [regulations] rules as may in its judgment and discretion be necessary to carry out the purposes of this chapter.

Section 3. Section 4-4-2 is amended to read:

4-4-2. Authority to make and enforce rules.

The department is authorized, subject to [the] Title 63, Chapter 46a, Utah [Rule-making] Administrative Rulemaking Act, to make and enforce such [regulations] rules as in its judgment are necessary to administer and enforce this chapter.

Section 4. Section 4-5-7 is amended to read:

4-5-7. Adulterated food specified.

(c) The judiciary shall establish fees by rules of the judicial council.

(4) A governmental entity may fulfill a record request without charge and is encouraged to do so when it determines that:

(a) releasing the record primarily benefits the public rather than a person;

(b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63-2-202(1) or (2); or

(c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

(5) A governmental entity may not charge a fee for:

(a) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(b); or

(b) inspecting a record.

(6) (a) A person who bolieves that there has been an unreasonable denial of a fee waiver under Subsection (4) may appoal the denial in the same manner as a person appeals when inspection of a public record is denied under Section 63-2-205.

(b) The adjudicative body hearing tbe appeal has the same authority when a fee waiver or reduction is denied as it has wben the inspection of a public record is denied.

(7) (a) All fees received under this section by a governmental entity subject to Subsection (3)(a) shall be retained by the governmental entity as a dedicated credit.

(b) Those funds shall be used to recover the actual cost and expenses incurred by the governmental entity in previding the requested record or record series.

(8) A governmental entity may require payment of past fees and future estimated fees before beginning to process a request if fees are expected to exceed $50, or if the requester has not paid fees from previous requests. Any prepaid amount in excess of fees due shall be returned to the requester.

(9) This section does not alter, repeal, or reduce fees established by other statutes or legislative acts.

Section 115. Section 63-6-12 is amended to read:

63-6-12. Meeting to examine claims — Notice of meeting.

At least 60 days preceding the meeting of each Legislature the board must hold a session for the purpose of examining the claims referred to in [~~the last preceding~~] Section 63-6-11, and may adjourn from time to time until the work is completed. The board must cause notice of such meeting or meetings to bo published in some newspaper at the seat of government and such other newspapers as may be determined by the board for such time as the board may prescribe.

Section 116. Section 63-6-13 is amended to read:

63-6-13. Adjustment of claims — Recommendations to Legislature.

The board must at tbe time designated proceed to examine and adjust all [~~such~~] claims referred to in Section [~~of this act~~] 63-6-11, and may hear evidence in support of or against them, and shall report to the Legislature sucb facts and recommendations concerning them as it may think proper. In making its recommendations the board may state and use any official or personal knowledge whicb any member of the board may have touching such claims. The board shall not pass upon or send to the Legislature any claim for which the state would not otherwise be liable were it not for its sovereign immunity. But all claims wherein the state would bo liable, were it not for its sovereign immunity, whether recommended by tbe board for approval or disapproval, sball bo reported by the board to the Legislature with appropriate findings and recommendations as above provided.

Section 117. Section 63-9a-13 is amended to read:

63-9a-13. Negotiability of obligations — Registration.

All obligations of the authority shall be deemed to bo negotiable instruments within the meaning of, and for all purposes of Title 70A, [~~the~~] Uniform Commercial Code, subject only to any previsions of those obligations relating to registration.

Section 118. Section 63-9a-21 is amended to read:

63-9a-21. State Building Ownership Authority Program of 1979 — Obligations for general office building faeility authorized.

(1) The State Building Ownership Authority, established pursuant to [~~the~~] Title 63, Chapter 9a, State Building Ownership [~~Authority~~] Act [~~embodied in Senate Bill No. 238 in the 1979 General Session~~], is authorized and directed to issue or cause to bo issued, as soon as practicable, its obligations in an aggregate principal sum not to exceed $25,000,000, to pay all or part of the cost of acquiring or constructing a general office building facility in Salt Lake City to meet the general office needs of state bodies now utilizing rented office space and of such other state bedies as the authority may deem appropriate. The facility may include appropriate parking and suppert facilities.

(2) The obligations of the autbority issued pursuant te Subsection (1) shall clearly state that they are limited obligations of the autbority, to be paid solely from the rentals and lease payments received by the authority from the state bedies utilizing tbe facility, and that they shall not constitute, nor give rise to, a general obligation or liability of, nor a charge against, the authority or general credit or taxing pewer of this state or any of its political subdivisions. Those obligations may be secured by such mortgages, trust deeds,

ADDENDUM J

LAWS

of the

STATE OF UTAH

passed at the

2005 SECOND SPECIAL SESSION

2006 GENERAL SESSION

2006 THIRD SPECIAL SESSION

2006 FOURTH SPECIAL SESSION

VOLUME II

Published by Authority
Utah Legislative Printing Office

CHAPTER 357
S. B. 113
Passed March 1, 2006
Approved March 21, 2006
Effective July 1, 2007

GOVERNMENTAL IMMUNITY LIMITS

Chief Sponsor: Howard A. Stephenson
House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill modifies provisions under the Governmental Immunity Act of Utah and provisions related to the Board of Examiners.

Highlighted Provisions:

This bill:

- defines terms;
- permits the Board of Examiners to review claims against certain political subdivisions of the state;
- requires that certain unpaid or unsettled claims against certain political subdivisions be presented to the Board of Examiners; and
- raises the limitation for damages awardable against a governmental entity for multiple claims and sets a cap for the total amount awardable for multiple claims in a single occurrence.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:

AMENDS:

63-6-1, as last amended by Chapters 303 and 320, Laws of Utah 1983
63-6-11, as last amended by Chapter 150, Laws of Utah 1963
63-6-13, as last amended by Chapter 20, Laws of Utah 1995
63-6-16, Utah Code Annotated 1953
63-30d-604, as enacted by Chapter 267, Laws of Utah 2004

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 63-6-1 is amended to read:

63-6-1. Members -- Functions.

(1) As used in this chapter:

(a) "Political subdivision" means any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district, special district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(b) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, college, university, Children's Justice Center, or other instrumentality of the state.

(2) The governor, the state auditor, and the attorney general shall constitute a Board of Examiners, with power to examine all claims against the state or a political subdivision, for the payment of which funds appropriated by the Legislature or derived from any other source are not available.

(3) No claim against the state or a political subdivision, for the payment of which specifically designated funds are required to be appropriated by the Legislature shall be passed upon by the Legislature without having been considered and acted upon by the Board of Examiners.

(4) The governor shall be the president, and the state auditor shall be the secretary of the board, and in the absence of either an officer pro tempore may be elected from among the members of the board.

Section 2. Section 63-6-11 is amended to read:

63-6-11. Form for presentment of claim against the state or political subdivision.

Any person having a claim against the state or a political subdivision, for which funds have not been provided for the payment thereof, or the settlement of which is not otherwise provided for by law, must present the same to the Board of Examiners, accompanied by a statement showing the facts constituting the claim.

Section 3. Section 63-6-13 is amended to read:

63-6-13. Adjustment of claims -- Recommendations to Legislature.

(1) The board must, at the time designated, proceed to examine and adjust all claims referred to in Section 63-6-11, and may hear evidence in support of or against them, and shall report to the Legislature [~~such~~] the facts and recommendations concerning them as it may think proper.

(2) In making its recommendations, the board may state and use any official or personal knowledge which any member of the board may have touching such claims.

(3) The board shall not pass upon or send to the Legislature any claim for which the state or a political subdivision would not otherwise be liable were it not for its sovereign immunity. [~~But all~~]

(4) Notwithstanding Subsection (3), claims wherein the state or a political subdivision would be liable, were it not for its sovereign immunity, whether recommended by the board for approval or disapproval, shall be reported by the board to the Legislature with appropriate findings and recommendations as above provided.

Section 4. Section 63-6-16 is amended to read:

63-6-16. Reconsideration of rejected claims.

The board shall not entertain for a third time a demand against the state or a political subdivision

once rejected by it or by the Legislature, unless [~~such~~] the facts or reasons are presented to the board as in actions between private parties would furnish sufficient ground for granting a new trial.

Section 5. Section 63-30d-604 is amended to read:

63-30d-604. Limitation of judgments against governmental entity or employee -- Process for adjustment of limits.

(1) (a) Except as provided in Subsections (2) and (3), if a judgment for damages for personal injury against a governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds $553,500 for one person in any one occurrence, [~~or $1,107,000 for two or more persons in any one occurrence,~~] the court shall reduce the judgment to that amount.

(b) A court may not award judgment of more than $553,500 for injury or death to one person regardless of whether or not the function giving rise to the injury is characterized as governmental.

(c) Except as provided in Subsection (2), if a judgment for property damage against a governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds $221,400 in any one occurrence, the court shall reduce the judgment to that amount, regardless of whether or not the function giving rise to the damage is characterized as governmental.

(d) There is a $2,000,000 limit to the aggregate amount of individual awards that may be awarded in relation to a single occurrence.

(2) The damage limits established in this section do not apply to damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation.

(3) The limitations of judgments established in Subsection (1) shall be adjusted according to the methodology set forth in Subsection (4).

(4) (a) Each year, the risk manager shall:

(i) calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code;

(ii) calculate the increase or decrease in the limitation of judgment amounts established in this section as a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2003; and

(iii) after making an increase or decrease under Subsection (4)(a)(ii), round up the limitation of judgment amounts established in Subsection (1) to the nearest $100.

(b) Each even-numbered year after 2004, the risk manager shall make rules, which become effective no later than July 1, that establish the new limitation of judgment amounts.

(c) Adjustments made by the risk manager to the limitation of judgment amounts established by this section have prospective effect only from the date the rules establishing the new limitation of judgment take effect and those adjusted limitations of judgment apply only to claims for injuries or losses that occur after the effective date of the rules that establish those new limitations of judgment.

Section 6. Request for report from state risk manager.

On or before October 1, 2006, the state risk manager is requested to:

(1) invite the early and continued participation of all involved parties in the development of a process for the state and its political subdivisions to contribute to and administer an equitable pool for catastrophic claims made against the respective entities;

(2) recommend strategies for the creation, composition, and management of a board or boards to administer a statewide catastrophic claims pool; and

(3) consider and report to the Political Subdivisions Interim Committee regarding Subsections (1) and (2).

Section 7. Effective date.

This bill takes effect on July 1, 2007.

ADDENDUM K

LAWS
of
UTAH 2017

Published by Authority
Utah Legislative Printing Office

CHAPTER 151
S. B. 98
Passed March 1, 2017
Approved March 20, 2017
Effective May 9, 2017

EXCESS DAMAGES CLAIMS

Chief Sponsor: Jani Iwamoto
House Sponsor: V. Lowry Snow
Cosponsors: Lyle W. Hillyard
Howard A. Stephenson

LONG TITLE

General Description:

This bill addresses claims for damages for personal injury that are subject to a statutory limit.

Highlighted Provisions:

This bill:

- modifies the inflationary adjustment formula for personal injury damages caps;
- modifies the board of examiner process for reporting claims; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-604, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-9-304, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

63G-7-605, Utah Code Annotated 1953

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

Section 1. Section 63G-7-604 is amended to read:

63G-7-604. Limitation of judgments against governmental entity or employee -- Process for adjustment of limits.

(1) (a) Except as provided in Subsection (2) and subject to Subsection (3), if a judgment for damages for personal injury against a governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds $583,900 for one person in any one occurrence, the court shall reduce the judgment to that amount.

(b) A court may not award judgment of more than the amount in effect under Subsection (1)(a) for injury or death to one person regardless of whether or not the function giving rise to the injury is characterized as governmental.

(c) Except as provided in Subsection (2) and subject to Subsection (3), if a judgment for property damage against a governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds $233,600 in any one occurrence, the court shall reduce the judgment to that amount, regardless of whether or not the function giving rise to the damage is characterized as governmental.

(d) Subject to Subsection (3), there is a $2,000,000 limit to the aggregate amount of individual awards that may be awarded in relation to a single occurrence.

(2) The damage limits established in this section do not apply to damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation.

(3) The limitations of judgments established in Subsection (1) shall be adjusted according to the methodology set forth in [~~Subsection (4)~~] Section 63G-7-605.

[~~(4) (a) Each even-numbered year, the risk manager shall:~~]

[~~(i) calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code;~~]

[~~(ii) calculate the increase or decrease in the limitation of judgment amounts established in this section as a percentage equal to the percentage change in the Consumer Price Index since the previous adjustment made by the risk manager or the Legislature; and~~]

[~~(iii) after making an increase or decrease under Subsection (4)(a)(ii), round up the limitation of judgment amounts established in Subsection (1) to the nearest $100.~~]

[~~(b) Each even-numbered year, the risk manager shall make rules, which become effective no later than July 1, that establish the new limitation of judgment amounts calculated under Subsection (4)(a).~~]

[~~(c) Adjustments made by the risk manager to the limitation of judgment amounts established by this section have prospective effect only from the date the rules establishing the new limitation of judgment take effect and those adjusted limitations of judgment apply only to claims for injuries or losses that occur after the effective date of the rules that establish those new limitations of judgment.~~]

Section 2. Section 63G-7-605 is enacted to read:

63G-7-605. Adjustments to limitation of judgment amounts.

(1) As used in this section:

(a) "Adjusted consumer price factor" means what the consumer price index, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code, would be without the medical care component and the medical services component.

(b) "Aggregate limit" means the limit on the aggregate amount of personal injury damages claims from a single occurrence, as provided in Subsection 63G-7-604(1)(d).

(c) "Individual limit" means the limit on the amount of a judgment for damages for personal injury, as provided in Subsection 63G-7-604(1)(a).

(d) "Latest aggregate limit" means the aggregate limit, as last adjusted by the risk manager under this section.

(e) "Latest individual limit" means the individual limit, as last adjusted by the risk manager under this section.

(f) "Latest property damage limit" means the property damage limit, as last adjusted by the risk manager under this section.

(g) "Medical care component" means the medical care sub-index of the consumer price index, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(h) "Medical services component" means the medical services sub-index of the consumer price index, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(i) "Property damage limit" means the limit on the amount of a judgment for property damage, as provided in Subsection 63G-7-604(1)(c).

(2) (a) Each even-numbered year, the legislative fiscal analyst shall, subject to Subsection (3):

(i) adjust the individual limit by an amount equal to the sum of:

(A) 66.5% of the latest individual limit, multiplied by the adjusted consumer price factor;

(B) 16.75% of the latest individual limit, multiplied by the medical care component; and

(C) 16.75% of the latest individual limit, multiplied by the medical services component;

(ii) adjust the aggregate limit by an amount equal to the sum of:

(A) 66.5% of the latest aggregate limit, multiplied by the adjusted consumer price factor;

(B) 16.75% of the latest aggregate limit, multiplied by the medical care component; and

(C) 16.75% of the latest aggregate limit, multiplied by the medical services component;

(iii) adjust the property damage limit as a percentage equal to the percentage increase or decrease in the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code; and

(iv) no later than June 1, communicate the adjusted limits under Subsections (2)(a)(i), (ii), and (iii) to the risk manager.

(b) The legislative fiscal analyst shall round up to the nearest $100 the individual limit, aggregate limit, and property damage limit adjusted under Subsection (2)(a).

(3) The legislative fiscal analyst may not adjust an individual limit or aggregate limit under Subsection (2) if the adjustment results in a decrease in the amount of the limit.

(4) (a) Each even-numbered year, the risk manager shall make rules, to become effective no later than July 1 of that year, that establish a new individual limit, aggregate limit, and property damage limit, as adjusted under Subsection (2).

(b) An adjustment to the individual limit, aggregate limit, or property damage limit under this section has prospective effect only from the date the rules establishing the new limit take effect.

(c) An individual limit, aggregate limit, or property damage limit, as adjusted under this section, applies only to a claim for injury or loss that occurs after the effective date of the rules that establish the adjusted limit.

Section 3. Section 63G-9-304 is amended to read:

63G-9-304. Adjustment of claims -- Recommendations to Executive Appropriations Committee.

(1) The board [~~must~~] shall, at the time designated, proceed to examine and adjust all claims referred to in Section 63G-9-302, and may hear evidence in support of or against [~~them~~] the claims, and shall report to the [~~Legislature~~] Executive Appropriations Committee the facts and recommendations concerning [~~them as it may think~~] the claims as the board considers proper.

(2) In making its recommendations, the board may state and use any official or personal knowledge which any member of the board may have touching [~~such~~] the claims.

(3) The board [~~shall~~] may not pass upon or send to the [~~Legislature~~] Executive Appropriations Committee any claim for which the state or a political subdivision would not otherwise be liable were it not for its sovereign immunity.

(4) Notwithstanding Subsection (3), claims wherein the state or a political subdivision would be liable, were it not for its sovereign immunity, whether recommended by the board for approval or disapproval, shall be reported by the board to the Legislature with appropriate findings and recommendations as [~~above~~] provided in this section.

ADDENDUM L

West's Utah Code Annotated
Title 63g. General Government (Refs & Annos)
Chapter 7. Governmental Immunity Act of Utah (Refs & Annos)
Part 7. Payment Process and Sources for Paying Proved Claims Against Governmental Entities

U.C.A. 1953 § 63G-7-701
Formerly cited as UT ST § 63-30d-701

§ 63G-7-701. Payment of claim or judgment against state--Presentment for payment

Effective: July 1, 2020
Currentness

(1) Each claim that is approved by the state or any final judgment obtained against the state shall be presented for payment to:

(a) the state risk manager; or

(b) the office, agency, institution, or other instrumentality involved, if payment by that instrumentality is otherwise permitted by law.

(2) If payment of the claim is not authorized by law, the judgment or claim shall be presented to the board of examiners for action as provided in Section 63G-9-301.

(3) If a judgment against the state is reduced by the operation of Section 63G-7-604, the claimant may submit the excess claim to the board of examiners.

Credits
Laws 2008, c. 382, § 1507, eff. May 5, 2008; Laws 2013, c. 278, § 46, eff. May 14, 2013; Laws 2020, 5th Sp. Sess., c. 4, § 30, eff. July 1, 2020.

U.C.A. 1953 § 63G-7-701, UT ST § 63G-7-701
Current with laws through the 2024 Third Special Session. Some statutes sections may be more current, see credits for details

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ADDENDUM M

U.C.A. 1953 § 63G-9-302
Formerly cited as UT ST § 63-6-11

§ 63G-9-302. Form for presentment of claim against the state or political subdivision

Currentness

Any person having a claim against the state or a political subdivision, for which funds have not been provided for the payment thereof, or the settlement of which is not otherwise provided for by law, must present the same to the Board of Examiners, accompanied by a statement showing the facts constituting the claim.

Credits
Laws 2008, c. 382, § 1534, eff. May 5, 2008.

U.C.A. 1953 § 63G-9-302, UT ST § 63G-9-302
Current with laws through the 2024 Third Special Session. Some statutes sections may be more current, see credits for details

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ADDENDUM N

West's Utah Code Annotated
Title 63g. General Government (Refs & Annos)
Chapter 9. Board of Examiners Act
Part 3. Review of Claims

U.C.A. 1953 § 63G-9-302.5

§ 63G-9-302.5. Special master proceeding for damages cap claims

Effective: May 14, 2019
Currentness

(1) As used in this section:

(a) "Claimant" means an individual who submits an excess damages claim to the board of examiners.

(b) "Damages cap" means the amount to which a personal injury claim is or would be reduced because of the operation of Subsection 63G-7-604(1)(a) or (d).

(c) "Damages cap settlement" means a settlement:

(i) between an individual with a personal injury claim that exceeds the damages cap and the governmental entity against which the personal injury claim is asserted; and

(ii) that provides for the governmental entity to pay the individual an amount equal to the damages cap to settle the personal injury claim.

(d) "Excess damages amount" means the amount of a personal injury claim that:

(i) exceeds the damages cap; and

(ii) a governmental entity would be liable to pay except for the operation of Subsection 63G-7-604(1)(a) or (d).

(e) "Excess damages claim" means a claim for an excess damages amount.

(f) "Government attorney" means:

(i) an attorney representing a political subdivision, if the personal injury claim that results in an excess damages claim was asserted against the political subdivision; or

(ii) the attorney general, if:

(A) the personal injury claim that results in an excess damages claim was asserted against the state; or

(B) the attorney general chooses to participate on behalf of a political subdivision, as provided in Subsection (9)(b).

(g) "Personal injury claim" means a claim for damages for personal injury that is subject to the operation of Subsection 63G-7-604(1)(a) or (d).

(h) "Responsible governmental entity" means:

(i) the political subdivision against which the personal injury claim was asserted, if an excess damages claim results from a personal injury claim against a political subdivision; or

(ii) the state, if an excess damages claim results from a personal injury claim against the state.

(i) "Special master list" means a list compiled under Subsection (7).

(j) "Statement of claim" means a statement detailing an excess damages claim.

(k) "Third party claim" means a personal injury claim that:

(i) arises out of the same underlying facts as the facts that provide the basis for an individual's personal injury claim against a governmental entity; and

(ii) the individual asserts against a person who the individual claims is also liable, in addition to the governmental entity, for the individual's personal injury claim.

(2) An individual may seek payment of an excess damages claim by submitting a written statement of claim to the board of examiners after, but no later than 180 days after, as applicable:

(a)(i) the date of a final, nonappealable judgment in favor of the individual on a personal injury claim in an amount that would have exceeded the damages cap except for the operation of Subsection 63G-7-604(1)(a) or (d); or

(ii) the date of a damages cap settlement; or

(b) the date that all third party claims the individual has asserted are resolved by final, nonappealable judgment or settlement, if that date is later than the applicable date under Subsection (2)(a).

(3) A statement of claim shall include:

(a) a recitation of the facts and explanation of the evidence supporting the excess damages claim;

(b) the excess damages amount;

(c) if applicable, a list and description of each third party claim the individual has asserted and an explanation of the disposition of the third party claim, including the amount of any judgment or settlement and the amount actually recovered;

(d) if applicable, a summary of a damages cap settlement; and

(e) if applicable, the amount of a final judgment awarded to the claimant against the governmental entity with:

(i) the amount of the judgment before operation of Subsection 63G-7-604(1)(a) or (d); and

(ii) a description of each element of damages awarded and the amount awarded for each element.

(4) A claimant shall submit with a statement of claim a copy of:

(a) a final judgment in favor of the claimant on the claimant's personal injury claim that forms the basis of the claimant's excess damages claim, together with any findings of fact and conclusions of law entered by the court, if the claimant has recovered a judgment that exceeds the damages cap; or

(b) the agreement memorializing the damages cap settlement, if the claimant is asserting an excess damages claim following a damages cap settlement.

(5) An excess damages claim may not include an amount recovered by a claimant from any source as compensation for damages for the claimant's personal injury claim.

(6) A claimant with a personal injury claim that is subject to the aggregate limit under Subsection 63G-7-604(1)(d) may not submit a statement of claim under this section before the amount of the personal injury claim has been determined after application of Subsection 63G-7-604(1)(d).

(7)(a) The board of examiners shall compile a list of at least five retired Utah judges to serve as a special master under this section.

(b) A retired judge included in the special master list shall meet qualifications established by the board of examiners.

(8)(a) Except as provided in Subsection (8)(b), the board of examiners may require a claimant's excess damages claim to be submitted to a special master, as provided in this section, to make a recommendation concerning:

(i) the governmental entity's liability for the personal injury claim that forms the basis of the excess damages claim;

(ii) the amount of the claimant's damages and excess damages claim; or

(iii) both the governmental entity's liability and the amount of the claimant's damages and excess damages claim.

(b) The board of examiners may not require a claimant's excess damages claim to be submitted to a special master to the extent that the excess damages claim is based on a court judgment following a verdict by a trier of fact determining the governmental entity's liability or the amount of damages or both.

(9)(a) A political subdivision that is the responsible governmental entity may choose whether to have an attorney representing the political subdivision participate in proceedings under this section to represent the interests opposing approval of the excess damages claim.

(b) The attorney general may choose to participate in proceedings under this section to represent the interests opposing approval of the excess damages claim, whether or not the state is the responsible governmental entity.

(10)(a) If the board of examiners requires a claimant's excess damages claim to be submitted to a special master under this section, the claimant and the government attorney shall together select an individual from the special master list to act as special master.

(b) If the claimant and the government attorney are unable to agree on an individual to act as special master, or if there is no government attorney participating in the proceedings before the board of examiners, the board of examiners shall randomly select an individual from the special master list to act as special master.

(11)(a) Within 20 days after appointment under Subsection (10), a special master shall:

(i) prepare a written budget of the special master's estimated fees and costs relating to the special master's anticipated services under this section; and

(ii) provide the budget to the claimant.

(b) Within 20 days after receiving the special master's budget under Subsection (11)(a), the claimant shall:

(i) approve or reject the special master's budget; and

(ii) notify the board of examiners in writing of the approval or rejection.

(c) If the claimant rejects the special master's budget, the claimant's excess damages claim is considered withdrawn.

(d) If the claimant approves the special master's budget, the claimant shall pay all fees and costs of the special master in a special master proceeding under this section.

(12) Within 30 days after the approval of a special master's budget, the claimant shall provide the special master a written statement that includes:

(a)(i) a list of the name and last known address of each health care provider that has provided health care services to the claimant at any time during the period beginning five years before the event giving rise to the claimant's personal injury claim and ending on the date that the claimant submits the written statement;

(ii) a description of the health care services provided by each health care provider listed in Subsection (12)(a)(i); and

(iii) a statement describing and explaining any health care services described under Subsection (12)(a)(ii) that the claimant claims are immaterial to the claimant's personal injury claim;

(b)(i) a list of the name and last known address of each health care insurer or other entity to which a health care or other similar benefit claim has been submitted on the claimant's behalf at any time during the period beginning five years before the event giving rise to the claimant's personal injury claim and ending on the date that the claimant submits the written statement;

(ii) a description of the health care or other similar benefits claimed under claims submitted to health care insurers or other entities listed under Subsection (12)(b)(i); and

(iii) a statement describing and explaining any health care or other similar benefit described under Subsection (12)(b)(ii) that the claimant claims is immaterial to the claimant's personal injury claim;

(c) a list of the name and address of each employer that employed the claimant at any time during the period beginning five years before the event giving rise to the claimant's personal injury claim and ending on the date that the claimant submits the written statement, if the claimant's personal injury claim includes a claim for lost wages or diminished earning capacity;

(d) a list of the name and address of each state or federal entity holding a statutory lien on any recovery obtained by the claimant through the claimant's personal injury claim; and

(e) a statement as to whether the claimant has received any Medicare or Medicaid benefits and, if so, a description of those benefits, including the amount.

(13) The claimant shall submit with the statement required under Subsection (12):

(a) a copy of all documentary evidence supporting the claimant's excess damages claim; and

(b) a signed authorization from the claimant allowing the special master to obtain all documents, including any billing statements, relevant to the claimant's excess damages claim from each person listed under Subsections (12)(a)(i), (b)(i), and (c).

(14) The special master:

(a) shall objectively consider evidence related to the claimant's excess damages claim;

(b) may hold a hearing in connection with the special master recommendation regarding the excess damages claim;

(c) may request or allow a responsible governmental entity or government attorney voluntarily to provide information or argument to help the special master understand the factors weighing against an excess damages claim; and

(d) after considering the relevant evidence, shall make a recommendation concerning, as directed by the board of examiners:

(i) the governmental entity's liability for the personal injury claim that forms the basis of the claimant's excess damages claim;

(ii) the amount of the excess damages claim; or

(iii) both the governmental entity's liability and the amount of the claimant's damages and excess damages claim.

(15)(a) Within 30 days after a hearing under Subsection (14)(b) or, if no hearing is held, after the special master's determination not to hold a hearing, the special master shall:

(i) prepare a written recommendation, including a brief, informal discussion of the factual and legal basis for the recommendation; and

(ii) deliver a copy of the written recommendation to the claimant, the attorney general, and the board of examiners.

(b) A written recommendation under Subsection (15)(a) may, but need not, contain findings of fact and conclusions of law.

Credits

Laws 2019, c. 229, § 7, eff. May 14, 2019.

U.C.A. 1953 § 63G-9-302.5, UT ST § 63G-9-302.5

Current with laws through the 2024 Third Special Session. Some statutes sections may be more current, see credits for details

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ADDENDUM O

West's Utah Code Annotated
Title 63g. General Government (Refs & Annos)
Chapter 9. Board of Examiners Act
Part 3. Review of Claims

U.C.A. 1953 § 63G-9-303
Formerly cited as UT ST § 63-6-12

§ 63G-9-303. Meeting to examine claims--Notice of meeting

Effective: July 1, 2021
Currentness

(1) At least 60 days preceding the annual general session of the Legislature, the board shall hold a session for the purpose of examining the claims referred to in Section 63G-9-302, and may adjourn from time to time until the work is completed.

(2) The board shall cause notice of such meeting or meetings to be published on the Utah Public Notice Website created in Section 63A-16-601.

Credits
Laws 2008, c. 382, § 1535, eff. May 5, 2008; Laws 2009, c. 388, § 201, eff. May 12, 2009; Laws 2010, c. 90, § 53, eff. May 11, 2010; Laws 2016, c. 118, § 1, eff. May 10, 2016; Laws 2021, c. 84, § 136, eff. May 5, 2021; Laws 2021, c. 344, § 182, eff. July 1, 2021.

U.C.A. 1953 § 63G-9-303, UT ST § 63G-9-303
Current with laws through the 2024 Third Special Session. Some statutes sections may be more current, see credits for details

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ADDENDUM P

U.C.A. 1953 § 63G-9-304
Formerly cited as UT ST § 63-6-13

§ 63G-9-304. Adjustment of claims--Recommendations to Executive Appropriations Committee

Currentness

(1) The board shall, at the time designated, proceed to examine and adjust all claims referred to in Section 63G-9-302, and may hear evidence in support of or against the claims, and shall report to the Executive Appropriations Committee the facts and recommendations concerning the claims as the board considers proper.

(2) In making its recommendations, the board may state and use any official or personal knowledge which any member of the board may have touching the claims.

(3) The board may not pass upon or send to the Executive Appropriations Committee any claim for which the state or a political subdivision would not otherwise be liable were it not for its sovereign immunity.

(4) Notwithstanding Subsection (3), claims wherein the state or a political subdivision would be liable, were it not for its sovereign immunity, whether recommended by the board for approval or disapproval, shall be reported by the board to the Legislature with appropriate findings and recommendations as provided in this section.

Credits
Laws 2008, c. 382, § 1536, eff. May 5, 2008; Laws 2017, c. 151, § 3, eff. May 9, 2017.

Notes of Decisions (1)

U.C.A. 1953 § 63G-9-304, UT ST § 63G-9-304
Current with laws through the 2024 Third Special Session. Some statutes sections may be more current, see credits for details

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ADDENDUM Q

U.C.A. 1953 § 63G-9-305
Formerly cited as UT ST § 63-6-14

§ 63G-9-305. Publication of abstract of claims allowed and rejected

Currentness

The board must make up its report and recommendations at least 30 days before the meeting of the Legislature; and a brief abstract of the report, showing the claims rejected, and those allowed and the amounts thereof, must be published in a newspaper published at the seat of government before the meeting of the Legislature for such time as the board may prescribe.

Credits
Laws 2008, c. 382, § 1537, eff. May 5, 2008.

U.C.A. 1953 § 63G-9-305, UT ST § 63G-9-305
Current with laws through the 2024 Third Special Session. Some statutes sections may be more current, see credits for details

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ADDENDUM R

U.C.A. 1953 § 63G-9-401
Formerly cited as UT ST § 63-6-17

§ 63G-9-401. Appeal to Legislature

Currentness

Any person interested who is aggrieved by the disapproval of a claim by the board may appeal from its decision to the Legislature by filing with the board a notice thereof, and upon the receipt of such notice the board must transmit the demand and all the papers accompanying the same, with a statement of the evidence taken before it, to the Legislature.

Credits
Laws 2008, c. 382, § 1539, eff. May 5, 2008.

Notes of Decisions (2)

U.C.A. 1953 § 63G-9-401, UT ST § 63G-9-401
Current with laws through the 2024 Third Special Session. Some statutes sections may be more current, see credits for details

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