

HB0364S01 compared with HB0364

~~{Omitted text}~~ shows text that was in HB0364 but was omitted in HB0364S01

inserted text shows text that was not in HB0364 but was inserted into HB0364S01

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Governmental Immunity Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor:

LONG TITLE

General Description:

This bill amends the Governmental Immunity Act of Utah (act).

Highlighted Provisions:

This bill:

▸ defines terms;

▸ provides that, ~~{for purposes of}~~ under the act, an independent contractor of a ~~{governmental entity}~~ municipality is entitled to the same immunity as an employee of ~~{the governmental entity}~~ a municipality if the independent contractor:

• is a law firm or attorney hired by the ~~{governmental entity}~~ municipality; and

• performs legal work related to a governmental function on behalf of the ~~{governmental entity}~~ municipality; ~~{and}~~

▸ clarifies that an independent contract described above is not entitled to any employment-related benefits; and

▸ makes technical changes.

Money Appropriated in this Bill:

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17 None

18 None

21 AMENDS:

22 **63G-7-102** , as last amended by Laws of Utah 2023, Chapter 16 , as last amended by Laws of Utah
2023, Chapter 16

23 ENACTS:

24 **63G-7-102.5 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

25

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

27 Section 1. Section **63G-7-102** is amended to read:

28 **63G-7-102. Definitions.**

As used in this chapter:

26 (1) "Arises out of or in connection with, or results from," when used to describe the relationship
between conduct or a condition and an injury, means that:

28 (a) there is some causal relationship between the conduct or condition and the injury;

29 (b) the causal relationship is more than any causal connection but less than proximate cause; and

31 (c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is
incident to the conduct or condition.

33 (2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising
under the common law, under state constitutional provisions, or under state statutes, against a
governmental entity or against an employee in the employee's personal capacity.

37 (3)

. (a) "Employee" includes:

38 (i)

. (A) a governmental entity's officers, employees, servants, trustees, or commissioners; or

40 (B) an independent contractor of a { governmental entity } municipality, if the independent contractor
is a law firm or attorney hired by the { governmental entity } municipality to perform legal work
related to a governmental function on behalf of the { governmental entity } municipality;

44 (ii) a member of a governing body;

45 (iii) a member of a government entity board;

46 (iv) a member of a government entity commission;

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- 47 (v) members of an advisory body, officers, and employees of a Children's Justice Center created in
accordance with Section 67-5b-102;
- 49 (vi) a student holding a license issued by the State Board of Education;
- 50 (vii) an educational aide;
- 51 (viii) a student engaged in an internship under Section 53B-16-402 or 53G-7-902;
- 52 (ix) a volunteer, as defined in Section 67-20-2; ~~and~~ or
- 53 (x) a tutor.
- 54 (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the
individual holding that position receives compensation.
- 56 (c) [~~"Employee"~~] Except as provided in Subsection (3)(a)(i)(B), "employee" does not include an
independent contractor.
- 58 (4) "Governmental entity" means:
- 59 (a) the state and its political subdivisions; and
- 60 (b) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law
enforcement officers, as defined in Section 53-13-103.
- 62 (5)
- . (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.
- 64 (b) "Governmental function" includes each activity, undertaking, or operation performed by a
department, agency, employee, agent, or officer of a governmental entity.
- 66 (c) "Governmental function" includes a governmental entity's failure to act.
- 67 (6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a
person may suffer to the person or estate, that would be actionable if inflicted by a private person or
the private person's agent.
- 70 (7) "Personal injury" means an injury of any kind other than property damage.
- 71 (8) "Political subdivision" means any county, city, town, school district, community reinvestment
agency, special improvement or taxing district, special district, special service district, an entity
created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act,
or other governmental subdivision or public corporation.
- 76 (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal
property.

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

81 (11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

87 Section 2. Section 2 is enacted to read:

88 **63G-7-102.5. Independent contractors.**

The definition of an employee in Section 63G-7-102 as including an independent contractor described in Subsection 63G-7-102(3)(a)(i)(B) does not have the effect of making the independent contractor entitled to any seniority, status, benefits, insurance, salary, minimum wage, overtime pay, workers' compensation, or tax-related withholding from the municipality that hires the independent contractor.

94 Section 3. **Effective date.**

This bill takes effect on May 7, 2025.

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