

SB0169S02 compared with SB0169

~~{Omitted text}~~ shows text that was in SB0169 but was omitted in SB0169S02

inserted text shows text that was not in SB0169 but was inserted into SB0169S02

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Governmental Immunity Act Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor:

LONG TITLE

General Description:

This bill amends the Governmental Immunity Act.

Highlighted Provisions:

This bill:

- ▶ defines a term;
- ▶ requires a governmental entity to file a statement with Division of Corporations and Commercial Code containing:
 - any ~~{fictitious}~~ doing-business-as name the governmental entity utilizes;
 - the office or agent designated to receive service of a summons and complaint; and
 - the physical address to which service of a summons and complaint is to be delivered by hand or transmitted by mail; ~~{and}~~
- ▶ prohibits a governmental entity ~~{that fails to file or update the statement described above}~~ from challenging the validity of a notice of claim, or the sufficiency of service of ~~{the}~~ a summons and complaint~~{.}~~ , if the governmental entity:
 - fails to file or update the statement described above; and

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- 18 • has actual notice of the notice of claim or the summons and complaint;
19 ▸ if a challenge described above is not prohibited, requires a claimant to prove that the
claimant used reasonable diligence in attempting to discover the identity of a governmental entity
using a doing-business-as name; and
22 ▸ makes technical and conforming changes.

23 Money Appropriated in this Bill:

24 None

25 This bill provides a special effective date.

28 AMENDS:

29 **11-13-602 , as last amended by Laws of Utah 2020, Chapters 354, 381 , as last amended by**
Laws of Utah 2020, Chapters 354, 381

30 **63G-7-401 , as last amended by Laws of Utah 2023, Chapter 16 , as last amended by Laws of Utah**
2023, Chapter 16

31 **63G-7-403 , as last amended by Laws of Utah 2020, Chapter 53 , as last amended by Laws of**
Utah 2020, Chapter 53

32 **63G-33-201 , as enacted by Laws of Utah 2024, Chapter 511 , as enacted by Laws of Utah**
2024, Chapter 511

33 **63L-5-302 , as renumbered and amended by Laws of Utah 2008, Chapter 382 , as**
renumbered and amended by Laws of Utah 2008, Chapter 382

34

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

36 Section 1. Section 11-13-602 is amended to read:

37 **11-13-602. Definitions.**

As used in this part:

39 (1) "Asset" means funds, money, an account, real or personal property, or personnel.

40 (2)

(a) "Associated entity" means a taxed interlocal entity that adopts a segment's organizing resolution.

42 (b) "Associated entity" does not include any other segment.

43 (3) "Fiduciary duty" means a duty expressly designated as a fiduciary duty of:

44 (a) a director or an officer of a taxed interlocal entity in:

45 (i) the organization agreement of the taxed interlocal entity; or

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- 46 (ii) an agreement executed by the director or the officer and the taxed interlocal entity; or
48 (b) a director or an officer of a segment in:
- 49 (i) the organizing resolution of the segment; or
50 (ii) an agreement executed by the director or the officer and the segment.
- 51 (4) "Governing body" means the body established in an organizing resolution to govern a segment.
- 53 (5) "Governmental law" means:
- 54 (a) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
Other Local Entities Act;
- 56 (b) Title 63A, Chapter 3, Division of Finance;
- 57 (c) Title 63G, Chapter 6a, Utah Procurement Code;
- 58 (d) a law imposing an obligation on a taxed interlocal entity similar to an obligation imposed by a law
described in Subsection (5)(a), (b), or (c);
- 60 (e) an amendment to or replacement or renumbering of a law described in Subsection (5)(a), (b), (c), or
(d); or
- 62 (f) a law superseding a law described in Subsection (5)(a), (b), (c), or (d).
- 63 (6) "Indexed office" means the address identified under Subsection [~~63G-7-401(5)(a)(i)~~] 63G-7-405(6)
(a)(i) by a segment's associated entity in the associated entity's statement described in Subsection
[~~63G-7-401(5)~~] 63G-7-401(6).
- 66 (7) "Organization agreement" means an agreement, as amended, that creates a taxed interlocal entity.
- 68 (8) "Organizing resolution" means a resolution described in Subsection 11-13-604(1) that creates a
segment.
- 70 (9) "Principal county" means the county in which the indexed office of a segment's associated entity is
located.
- 72 (10) "Project" means:
- 73 (a) the same as that term is defined in Section 11-13-103; or
- 74 (b) facilities, improvements, or contracts undertaken by a taxed interlocal entity in accordance with
Subsection 11-13-204(2).
- 76 (11) "Public asset" means:
- 77 (a) an asset used by a public entity;
- 78 (b) tax revenue;
- 79 (c) state funds; or

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- 80 (d) public funds.
- 81 (12) "Segment" means a segment created in accordance with Section 11-13-604.
- 82 (13) "Taxed interlocal entity" means:
- 83 (a) a project entity that:
- 84 (i) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;
- 86 (ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than:
- 88 (A) a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; or
- 90 (B) a grant that is subject to accountability requirements and that the project entity receives for purposes related to a Utah interlocal energy hub, including research and development of technology, financing, construction, installation, operation, and other actions that the project entity may take with respect to a project; and
- 95 (iii) does not receive, expend, or have the authority to compel payment from tax revenue; or
- 97 (b) an interlocal entity that:
- 98 (i) was created before 1981 for the purpose of providing power supply at wholesale to its members;
- 100 (ii) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than:
- 102 (A) a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; or
- 105 (B) a loan, grant, guaranty, transferable tax credit, cost-sharing arrangement, or other funding arrangement for an advanced nuclear power facility, as defined in 26 U.S.C. Sec. 45J(d), for an advanced nuclear reactor, as defined in 42 U.S.C. Sec. 16271(b)(1), or for an advanced nuclear energy facility that is eligible for a guarantee under 42 U.S.C. Sec. 16513; and
- 110 (iii) does not receive, expend, or have the authority to compel payment from tax revenue.
- 112 (14)
- . (a) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.
- 114 (b) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (14)(a), individually.

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- 116 (15) "Utah interlocal energy hub" means project entity-owned facilities that:
- 117 (a) are located within the state; and
- 118 (b) facilitate the coordination of resources and participants in a multi-county or interstate region for:
- 120 (i) the generation of energy, including with hydrogen fuel;
- 121 (ii) the transmission of energy;
- 122 (iii) energy storage, including compressed air energy storage;
- 123 (iv) producing environmental benefits; or
- 124 (v) the production, storage, or transmission of fuel, including hydrogen fuel.

125 Section 2. Section **63G-7-401** is amended to read:

126 **63G-7-401. When a claim arises -- Notice of claim requirements -- Governmental entity statement -- Limits on challenging validity or timeliness of notice of claim.**

129 (1) As used in this section, "doing-business-as name" means the name of an entity that:

130 (a) is owned, operated, or controlled by a governmental entity; and

131 (b)

. (i) is not the name of the governmental entity; or

132 (ii) is not a name from which the governmental entity can be identified.

29 ~~(1)~~ (2)

. (a) Except as provided in Subsection ~~(1)(b)~~ (2)(b), a claim arises when the statute of limitations that would apply if the claim were against a private person begins to run.

31 (b) The statute of limitations does not begin to run until a claimant knew, or with the exercise of reasonable diligence should have known:

33 (i) that the claimant had a claim against the governmental entity or the governmental entity's employee; and

35 (ii) the identity of the governmental entity or the name of the employee.

36 (c) The burden to prove the exercise of reasonable diligence is upon the claimant.

37 ~~(2)~~ (3) Any person having a claim against a governmental entity, or against the governmental entity's employee for an act or omission occurring during the performance of the employee's duties, within the scope of employment, or under color of authority shall file a written notice of claim with the entity before maintaining an action, regardless of whether or not the function giving rise to the claim is characterized as governmental.

42 ~~(3)~~ (4)

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- . (a) The notice of claim shall set forth:
- 43 (i) a brief statement of the facts;
- 44 (ii) the nature of the claim asserted;
- 45 (iii) the damages incurred by the claimant so far as the damages are known; and
- 46 (iv) if the claim is being pursued against a governmental employee individually as provided in
Subsection 63G-7-202(3)(c), the name of the employee.
- 48 (b) The notice of claim shall be:
- 49 (i) signed by the person making the claim or that person's agent, attorney, parent, or legal guardian,
using any form of signature recognized by law as binding; and
- 51 (ii) delivered, transmitted, or sent, as provided in Subsection ~~[(3)(e)]~~ (4)(c), to the office of:
- 52 (A) the city or town clerk, when the claim is against an incorporated city or town;
- 53 (B) the county clerk, when the claim is against a county;
- 54 (C) the superintendent or business administrator of the board, when the claim is against a school district
or board of education;
- 56 (D) the presiding officer or secretary or clerk of the board, when the claim is against a special district or
special service district;
- 58 (E) the attorney general, when the claim is against the state;
- 59 (F) a member of the governing board, the executive director, or executive secretary, when the claim is
against any other public board, commission, or body; or
- 62 (G) the agent authorized by a governmental entity to receive the notice of claim by the governmental
entity under Subsection ~~[(5)(e)]~~ (6)(e).
- 64 (c) A notice of claim shall be:
- 65 (i) delivered by hand to the physical address provided under Subsection ~~[(5)(a)(iii)(A)]~~ {(5)(a)(iv)(A)}
(6)(a)(iv)(A);
- 67 (ii) transmitted by mail to the physical address provided under Subsection ~~[(5)(a)(iii)(A)]~~ {(5)(a)(iv)
(A)} (6)(a)(iv)(A), according to the requirements of Section 68-3-8.5; or
- 69 (iii) sent by electronic mail to the email address provided under Subsection ~~[(5)(a)(iii)(B)]~~ {(5)(a)(iv)
(B)} (6)(a)(iv)(B).
- 71 (d) A claimant who submits a notice of claim by electronic mail under Subsection ~~[(3)(e)(iii)]~~ (4)
(c)(iii) shall contemporaneously send a copy of the notice of claim by electronic mail to the city

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attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity.

75 ~~[(4)]~~ (5)

. (a) If an injury that may reasonably be expected to result in a claim against a governmental entity is sustained by a claimant who is under the age of majority or mentally incompetent, that governmental entity may file a request with the court for the appointment of a guardian ad litem for the potential claimant.

79 (b) If a guardian ad litem is appointed, the time for filing a claim under Section 63G-7-402 begins when the order appointing the guardian ad litem is issued.

81 ~~[(5)]~~ (6)

. (a) A governmental entity subject to suit under this chapter shall file a statement with the Division of Corporations and Commercial Code within the Department of Commerce containing:

84 (i) the name and address of the governmental entity;

85 (ii) any {~~fictitious~~} doing-business-as name the governmental entity utilizes;

86 ~~[(ii)]~~ (iii) the office or agent designated to receive a notice of claim and service of a summons and complaint; and

88 ~~[(iii)]~~ (iv)

. (A) the physical address to which a notice of claim is to be delivered by hand or transmitted by mail, for a notice of claim that a claimant chooses to hand deliver or transmit by mail; ~~[and]~~

91 (B) the email address to which a notice of claim is to be sent, for a notice of claim that a claimant chooses to send by email, and the email address of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity[-] ; and

95 (C) the physical address to which service of a summons and complaint is to be delivered by hand or transmitted by mail.

97 (b) A governmental entity shall update the governmental entity's statement as necessary to ensure that the information is accurate.

99 (c) The Division of Corporations and Commercial Code shall develop a form for governmental entities to complete that provides the information required ~~[by Subsection (5)(a)]~~ under Subsection (6)(a).

102 (d)

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- (i) A newly incorporated municipality shall file the statement required ~~by Subsection (5)(a)~~ under Subsection (6)(a) promptly after the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5.
- 105 (ii) A newly incorporated special district shall file the statement required ~~by Subsection (5)(a)~~ under Subsection (6)(a) at the time that the written notice is filed with the lieutenant governor under Section 17B-1-215.
- 108 (e) A governmental entity may, in the governmental entity's statement, identify an agent authorized to accept notices of claim on behalf of the governmental entity.
- 110 ~~(6)~~ (7) The Division of Corporations and Commercial Code shall:
- 111 (a) maintain an index of the statements required by this section arranged both alphabetically by entity and by county of operation; and
- 113 (b) make the indices available to the public both electronically and via hard copy.
- 114 ~~(7)~~ (8) A governmental entity may not challenge the validity of a notice of claim ~~on the grounds that it~~ or the sufficiency of service of a summons and complaint, ~~on the grounds that the notice of claim or the summons and complaint was not directed and delivered to the proper office or agent, if:~~
- 225 (a) the error in the direction and delivery of the notice of claim or the summons and complaint is caused by the governmental entity's failure to file or update the statement ~~required by Subsection (5)~~ described in Subsection (6)(a); and
- 228 (b) the governmental entity had actual notice of the notice of claim or the summons and complaint.
- 230 (9) A claimant bears the burden of proving that, despite the claimant's use of reasonable diligence, the claimant could not discover the identity of a governmental entity, if:
- 232 (a) the governmental entity asserts a challenge to the validity of a notice of claim, or the sufficiency of service of a summons and complaint, that is not prohibited under Subsection (8); and
- 235 (b) the claimant opposes the challenge on the basis of the governmental entity's use of a doing-business-as name.
- 119 ~~(8)~~ (10) A governmental entity may not challenge the timeliness, under Section 63G-7-402, of a notice of claim if:
- 121 (a)
- . (i) the claimant files a notice of claim with the governmental entity:
- 122 (A) in accordance with the requirements of this section; and
- 123

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- (B) within 30 days after the expiration of the time for filing a notice of claim under Section 63G-7-402;
- 125 (ii) the claimant demonstrates that the claimant previously filed a notice of claim:
- 126 (A) in accordance with the requirements of this section;
- 127 (B) with an incorrect governmental entity;
- 128 (C) in the good faith belief that the claimant was filing the notice of claim with the correct governmental entity;
- 130 (D) within the time for filing a notice of claim under Section 63G-7-402; and
- 131 (E) no earlier than 30 days before the expiration of the time for filing a notice of claim under Section 63G-7-402; and
- 133 (iii) the claimant submits with the notice of claim:
- 134 (A) a copy of the previous notice of claim that was filed with a governmental entity other than the correct governmental entity; and
- 136 (B) proof of the date the previous notice of claim was filed; or
- 137 (b)
- . (i) the claimant delivers by hand, transmits by mail, or sends by email a notice of claim:
- 139 (A) to an elected official or executive officer of the correct governmental entity but not to the correct office under Subsection ~~[(3)(b)(ii)]~~ (4)(b)(ii); and
- 141 (B) that otherwise meets the requirements of Subsection ~~[(3)]~~ (4); and
- 142 (ii)
- . (A) the claimant contemporaneously sends a hard copy or electronic copy of the notice of claim to the office of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, representing the correct governmental entity; or
- 146 (B) the governmental entity does not, within 60 days after the claimant delivers the notice of claim under Subsection ~~[(8)(b)(i)]~~ (10)(b)(i), provide written notification to the claimant of the delivery defect and of the identity of the correct office to which the claimant is required to deliver the notice of claim.

268 Section 3. Section 63G-7-403 is amended to read:

269 **63G-7-403. Notifying of the receipt of a notice of claim -- Action in district court -- Time for**
commencing action -- Commencing action after time limit.

271

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- (1) Within 60 days after the filing of a notice of claim, the governmental entity, the entity's representative, or the entity's insurance carrier shall inform the claimant in writing:
- 273 (a) that the notice of claim has been received; and
- 274 (b) if applicable, that the governmental entity believes it is not the correct governmental entity with which the notice of claim should have been filed.
- 276 (2)
- . (a)
- . (i) Subject to Subsections (2)(a)(ii) and (b), a claimant may pursue an action in the district court against the governmental entity or an employee of the entity.
- 278 (ii) A claimant may not file an action before the date that is 60 days after the claimant's notice of claim is filed.
- 280 (b) Subject to Subsection (3), a claimant shall commence the action within two years after the claim arises, as provided in Subsection [~~63G-7-401(1)~~] 63G-7-401(2), regardless of whether or not the function giving rise to the claim is characterized as governmental.
- 284 (3)
- . (a) As used in this Subsection (3), "claimant" includes a representative of an individual:
- 286 (i) who dies before an action is begun under this section; and
- 287 (ii) whose cause of action survives the individual's death.
- 288 (b) A claimant may commence an action after the time limit described in Subsection (2)(b) if:
- 290 (i) the claimant had commenced a previous action within the time limit of Subsection (2)(b);
- 292 (ii) the previous action failed or was dismissed for a reason other than on the merits; and
- 294 (iii) the claimant commences the new action within one year after the previous action failed or was dismissed.
- 296 (c) A claimant may commence a new action under Subsection (3)(b) only once.
- 297 Section 4. Section 63G-33-201 is amended to read:
- 298 **63G-33-201. Free exercise of religion -- Limitations on burdens imposed by government --**
- Claims or defenses -- Attorney fees and costs.**
- 300 (1) The free exercise of religion is a fundamental right and applies to all government action, including action that is facially neutral.
- 302 (2) Except as provided in Subsection (3):
- 303

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- (a) a government entity may not substantially burden the free exercise of religion of a person, regardless of whether the burden results from a rule of general applicability; and
- 306 (b) a person other than a government entity may not seek to apply or enforce government action against another person that substantially burdens the free exercise of religion of the other person, regardless of whether the burden results from a rule of general applicability.
- 310 (3) A government entity or government action may substantially burden a person's free exercise of religion only if the government entity, or any other person seeking to enforce government action, demonstrates that the burden on the person's free exercise of religion is:
- 314 (a) essential to furthering a compelling governmental interest; and
- 315 (b) the least restrictive means of furthering the compelling governmental interest.
- 316 (4) A person whose free exercise of religion is burdened in violation of this section:
- 317 (a) may assert the violation as a claim or defense in a judicial or administrative proceeding to obtain relief, regardless of whether a government entity is a party to the proceeding; and
- 320 (b) is not required to exhaust administrative remedies before bringing a claim, or raising a defense, described in this Subsection (4).
- 322 (5)
- . (a) Except as provided in Subsection (5)(b), a person may not bring an action under this section against a government entity described in Subsections 63G-33-101(4)(a)(i) through (iii) unless, at least 60 days before the day on which the person brings the action, the person provides written notice to the government entity, in accordance with Subsections [~~63G-7-401(3)(b)~~] 63G-7-401(4)(b) through (d), that:
- 327 (i) states that the person intends to bring an action against the entity for a violation of this section;
- 329 (ii) describes the government action that has burdened or will burden the person's free exercise of religion; and
- 331 (iii) describes the manner in which the government action burdens or will burden the person's free exercise of religion.
- 333 (b) Subsection (5)(a) does not apply if the government action alleged in the action:
- 334 (i) is ongoing, and complying with Subsection (5)(a) will place an undue hardship on the person or increase the harm suffered by the person; or
- 336 (ii) is likely to occur or reoccur before the end of the 60-day period described in Subsection (5)(a).
- 338

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(6) A person who prevails in an action to enforce the provisions of this section against a government entity is entitled to recover reasonable attorney fees and costs.

340 Section 5. Section 63L-5-302 is amended to read:

341 **63L-5-302. Notice of claim -- Government's right to accommodate.**

342 (1) A person may not bring an action under Section 63L-5-301 unless, 60 days before bringing the action, the person sends written notice of the intent to bring an action.

344 (2) The notice shall be addressed to the government entity imposing the land use regulation, and shall be prepared and delivered according to the requirements of Subsection [63G-7-401(3)] 63G-7-401(4).

347 (3) Mailing of the notice required by Subsection (1) tolls the limitation period for bringing an action under this chapter for a period of 75 days, starting on the day the notice was mailed.

350 (4) Notwithstanding Subsection (1), a person may bring an action under Section 63L-5-301 before the expiration of the 60-day notice period if:

352 (a) the imposition of a substantial burden on the person's free exercise of religion by the land use regulation is imminent; and

354 (b) the person was not informed of and did not otherwise have knowledge of the land use regulation in time to reasonably provide 60 days notice.

356 (5)

. (a) A government entity provided with the notice required by Subsection (2) may remedy the substantial burden on the person's free exercise of religion:

358 (i) before the expiration of the 60-day notice period; or

359 (ii) in the case of an action properly brought according to Subsection (4), before the adjudication of a court hearing on the action.

361 (b) Nothing in this section prevents a government entity from providing a remedy after these time periods.

363 (6) The court may not award compensatory damages, attorney's fees, costs, or other expenses to a person if the substantial burden has been cured by a remedy implemented by the government entity according to Subsection (5)(a).

366 **Section 6. Effective date.**

This bill takes effect on {~~May 7,~~ July 1, 2025.

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