

**REVISORS DIRECTIVE ON
UNCONSTITUTIONAL STATUTES**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: _____

LONG TITLE

General Description:

This bill directs the Office of Legislative Research and General Counsel to file an annual report of those Utah Code provisions held unconstitutional which may have a high probability of being held unconstitutional based on certain appellate court opinions.

Highlighted Provisions:

This bill:

► requires the Office of Legislative Research and General Counsel to make an annual report to the Judiciary Interim Committee regarding any final, unappealable opinion by certain appellate courts:

- that holds a Utah Code provision is unconstitutional; or
- that suggests there is a high probability that a Utah Code provision could be held unconstitutional.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

S.B. 212



36-12-12, as last amended by Chapter 92, Laws of Utah 2003

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

Section 1. Section 36-12-12 is amended to read:

36-12-12. Office of Legislative Research and General Counsel -- Established -- Powers, functions, and duties -- Organization of office -- Selection of director and general counsel.

(1) There is established an Office of Legislative Research and General Counsel as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of Legislative Research and General Counsel under the supervision of the director shall be:

(a) to provide research and legal staff assistance to all standing, special, and interim committees as follows:

(i) to assist each committee chairman in planning the work of the committee;

(ii) to prepare and present research and legal information in accordance with committee instructions or instructions of the committee chairman;

(iii) to prepare progress reports of committee work when requested; and

(iv) to prepare a final committee report in accordance with committee instructions, that includes relevant research information, committee policy recommendations, and recommended legislation;

(b) to collect and examine the acts and official reports of any state and report their contents to any committee or member of the Legislature;

(c) to provide research and legal analysis services to any interim committee, legislative standing committee, or individual legislator on actual or proposed legislation or subjects of general legislative concern;

(d) to maintain a legislative research library that provides analytical, statistical, legal, and descriptive data relative to current and potential governmental and legislative subjects;

(e) (i) to exercise under the direction of the general counsel the constitutional authority provided in Article VI, Sec. 32, Utah Constitution, in serving as legal counsel to the Legislature, majority and minority leadership of the House or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or

any of the legislative staff; and

(ii) to represent the Legislature, majority and minority leadership of the House or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff in cases and controversies before courts and administrative agencies and tribunals;

(f) to prepare and assist in the preparation of legislative bills, resolutions, memorials, amendments, and other documents or instruments required in the legislative process and, under the direction of the general counsel, give advice and counsel regarding them to the Legislature, majority and minority leadership of the House or Senate, any of its members or members-elect, any of its committees or subcommittees, or the legislative staff;

(g) under the direction of the general counsel, to review, examine, and correct any technical errors and approve legislation that has passed both houses in order to enroll the legislation and prepare the laws for publication;

(h) to keep on file records concerning all legislation and proceedings of the Legislature with respect to legislation referred to in Subsection (2)(g);

(i) to formulate recommendations for the revision, clarification, classification, arrangement, codification, annotation, and indexing of Utah statutes, and to develop proposed legislation to effectuate the recommendations;

(j) to appoint and develop a professional staff within budget limitations; and

(k) to prepare and submit the annual budget request for the Office of Legislative Research and General Counsel.

(3) The statutory authorization of the Office of Legislative Research and General Counsel to correct technical errors provided in Subsection (2)(g) includes:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

(b) eliminating duplication and the repeal of laws directly or by implication, including renumbering when necessary;

(c) correcting defective or inconsistent section and paragraph structure in the arrangement of the subject matter of existing statutes;

(d) eliminating all obsolete and redundant words;

(e) correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;

(f) changing the boldface to more accurately reflect the substance of each section, part, chapter, or title; and

(g) merging or determining priority of any amendments, enactments, or repealers to the same code provisions that are passed by the Legislature.

(4) In carrying out the duties provided for in this section, the director of the Office of Legislative Research and General Counsel may obtain access to all records, documents, and reports necessary to the scope of the director's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

(5) In organizing the management of the Office of Legislative Research and General Counsel, the Legislative Management Committee may either:

(a) select a person to serve as both the director of the office and as general counsel. In such case, the director of the office shall be a lawyer admitted to practice in Utah and shall have practical management experience or equivalent academic training; or

(b) select a person to serve as director of the office who would have general supervisory authority and select another person to serve as the legislative general counsel within the office. In such case, the director of the office shall have a master's degree in public or business administration, economics, or the equivalent in academic or practical experience and the legislative general counsel shall be a lawyer admitted to practice in Utah.

(6) The Office of Legislative Research and General Counsel shall file a report by July 1 of each year with the Judiciary Interim Committee on the potential impact to Utah's laws related to any final, unappealable opinion reported in the immediately preceding calendar year:

(a) (i) by the United States Supreme Court;

(ii) by the United States Court of Appeals for the Tenth Circuit;

(iii) by the Utah Supreme Court; or

(iv) by the Utah Court of Appeals; and

(b) (i) that holds a Utah Code provision is unconstitutional; or

(ii) that suggests there is a high probability that a Utah Code provision could be held unconstitutional.

Legislative Review Note

as of 1-29-07 11:19 AM

Office of Legislative Research and General Counsel

S.B. 212 - Revisors Directive on Unconstitutional Statutes

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/31/2007, 10:44:44 AM, Lead Analyst: Bleazard, M.

Office of the Legislative Fiscal Analyst