

Senator Lyle W. Hillyard proposes the following substitute bill:

**UNIFORM INTERSTATE DEPOSITIONS AND
DISCOVERY ACT**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill establishes a process for a party residing in another state that is involved in a civil case in Utah to issue and serve subpoenas in Utah.

Highlighted Provisions:

This bill:

- ▶ establishes definitions and defines the scope of the bill;
- ▶ authorizes issuance and service of subpoenas by out-of-state parties under certain circumstances;
- ▶ clarifies the application of certain Utah statutes and court rules relating to issuance, service, and enforcement of subpoenas;
- ▶ establishes criteria for interpreting and applying this uniform law; and
- ▶ establishes May 5, 2008 as the date when this uniform law applies to discovery requests in pending cases.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 ENACTS:

28 **78B-17-101**, Utah Code Annotated 1953

29 **78B-17-102**, Utah Code Annotated 1953

30 **78B-17-103**, Utah Code Annotated 1953

31 **78B-17-201**, Utah Code Annotated 1953

32 **78B-17-202**, Utah Code Annotated 1953

33 **78B-17-203**, Utah Code Annotated 1953

34 **78B-17-204**, Utah Code Annotated 1953

35 **78B-17-301**, Utah Code Annotated 1953

36 **78B-17-302**, Utah Code Annotated 1953



37
38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **78B-17-101** is enacted to read:

40 **CHAPTER 17. UTAH UNIFORM INTERSTATE**

41 **DEPOSITIONS AND DISCOVERY ACT**

42 **Part 1. General Provisions**

43 **78B-17-101. Title.**

44 This chapter is known as the "Utah Uniform Interstate Depositions and Discovery Act."

45 Section 2. Section **78B-17-102** is enacted to read:

46 **78B-17-102. Definitions.**

47 As used in this chapter:

48 (1) "Foreign jurisdiction" means a state other than Utah.

49 (2) "Foreign subpoena" means a subpoena issued under authority of a court of record of
50 a foreign jurisdiction.

51 (3) "Person" means an individual, corporation, business trust, estate, trust, partnership,
52 limited liability company, association, joint venture, public corporation, government or
53 governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

54 (4) "State" means a state of the United States, the District of Columbia, Puerto Rico,
55 the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular
56 possession subject to the jurisdiction of the United States.

57 (5) "Subpoena" means a document, however denominated, issued under authority of a
58 court of record requiring a person to:

59 (a) attend and give testimony at a deposition;

60 (b) produce and permit inspection and copying of designated books, documents,
61 records, electronically stored information, or tangible things in the possession, custody, or
62 control of the person; or

63 (c) permit inspection of premises under the control of the person.

64 Section 3. Section **78B-17-103** is enacted to read:

65 **78B-17-103. Scope -- Unauthorized practice of law prohibited -- Reciprocity**
66 **required.**

67 (1) Except as provided in Subsection (3), this chapter applies only to issuance, service,
68 and enforcement of subpoenas as provided in this chapter.

69 (2) Except as provided in Subsection 78B-17-201(1)(b), nothing in this chapter may be
70 construed to exempt an attorney from another state from complying with statutes and rules
71 governing unauthorized practice of law or from the requirements contained in the Utah Rules
72 of Civil Procedure governing limited appearance.

73 (3) Parties resident in another state may use the provisions of this chapter for issuance,
74 service, or enforcement of subpoenas only if the other state has enacted this uniform act or
75 enacted provisions substantially similar to this uniform act.

76 Section 4. Section **78B-17-201** is enacted to read:

77 **Part 2. Process for Issuance and Service of a Subpoena by a Party in Another State**
78 **78B-17-201. Issuance of subpoena.**

79 (1) (a) To request issuance of a subpoena under this section, a party must submit a
80 foreign subpoena to a court in the judicial district in which discovery is sought to be conducted
81 in Utah.

82 (b) A request for the issuance of a subpoena under this chapter does not constitute an
83 appearance in the courts of this state.

84 (2) When a party submits a foreign subpoena to a clerk of court in Utah, the clerk, in
85 accordance with that court's procedure, shall promptly issue a subpoena for service upon the
86 person to whom the foreign subpoena is directed.

87 (3) A subpoena under Subsection (2) must:

88 (a) incorporate the terms used in the foreign subpoena; and
89 (b) contain or be accompanied by the names, addresses, and telephone numbers of all
90 counsel of record in the proceeding to which the subpoena relates and of any party not
91 represented by counsel.

92 Section 5. Section **78B-17-202** is enacted to read:

93 **78B-17-202. Service of subpoena.**

94 A subpoena issued by a clerk of court under Section 78B-17-201 must be served in
95 compliance with Rule 4 and Rule 5, Utah Rules of Civil Procedure.

96 Section 6. Section **78B-17-203** is enacted to read:

97 **78B-17-203. Depositions, production, inspection, and contempt remedies for**
98 **subpoenas.**

99 Section 78B-6-301 and Utah Rules of Civil Procedure 26 through 37 and 45 apply to
100 subpoenas issued under Section 78B-17-201.

101 Section 7. Section **78B-17-204** is enacted to read:

102 **78B-17-204. Application to court.**

103 An application to the court for a protective order or to enforce, quash, or modify a
104 subpoena issued by a clerk of court under Section 78B-17-201 must comply with the rules or
105 statutes of Utah and be submitted to the court in the judicial district in which discovery is to be
106 conducted.

107 Section 8. Section **78B-17-301** is enacted to read:

108 **Part 3. Uniform Application and Construction - Application to Pending Actions**

109 **78B-17-301. Uniformity of application and construction.**

110 In applying and construing this uniform act, consideration must be given to the need to
111 promote uniformity of the law with respect to its subject matter among states that enact it.

112 Section 9. Section **78B-17-302** is enacted to read:

113 **78B-17-302. Application to pending actions.**

114 This chapter applies to requests for discovery in cases pending on May 5, 2008.

S.B. 205 1st Sub. (Green) - Uniform Interstate Depositions and Discovery Act

Fiscal Note

2008 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.
