

1 **LEGISLATOR COMMUNICATIONS WITH**
2 **JUDICIARY AND EXECUTIVE BRANCH**
3 **JOINT RULES RESOLUTION**

4 2009 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: John L. Valentine**

7 House Sponsor: John Dougall

8
9 **LONG TITLE**

10 **General Description:**

11 This bill creates a chapter in the legislative rules relating to communications with the
12 judiciary and executive branches of government.

13 **Highlighted Provisions:**

14 This resolution:

15 ▶ provides guidelines and restrictions for legislators when communicating with
16 judges, executive branch agencies and representatives, and administrative law
17 judges;

18 ▶ prohibits legislators from communicating with a judge in reference to a particular
19 judicial case or proceeding until a final order has been made;

20 ▶ provides guidelines for communicating with the Administrative Office of the Courts
21 or the clerk of the court in other circumstances;

22 ▶ prohibits legislators from communicating with an executive agency or
23 administrative law judge in reference to a pending or current adjudicative
24 proceeding if the communication would unduly influence the proceeding;

25 ▶ provides guidelines for communicating with executive agencies in other
26 circumstances;

27 ▶ provides guidelines for keeping records of communications with the judiciary and



28 executive agencies; and

29 ▶ provides an exception for communications made in the ordinary course of a
30 legislator's private employment, except where a legislator attempts to use his or her
31 status as legislator to exert undue influence.

32 **Special Clauses:**

33 None

34 **Legislative Rules Affected:**

35 ENACTS:

36 **JR6-6-101**

37 **JR6-6-102**

38 **JR6-6-103**

39 **JR6-6-104**



41 *Be it resolved by the Legislature of the state of Utah:*

42 Section 1. **JR6-6-101** is enacted to read:

43 **CHAPTER 6. COMMUNICATIONS WITH OTHER BRANCHES OF GOVERNMENT**

44 **JR6-6-101. Communications with the Judiciary.**

45 (1) As used in this section, "final decision or order" means a decision or order that
46 determines the rights of the parties and concerning which appellate remedies have been
47 exhausted or the time for appeal has expired.

48 (2) When communicating with the judiciary, a legislator is advised to consider the
49 nature of the communication and to choose an appropriate forum for the communication.

50 (3) (a) A legislator may not communicate, either verbally or in writing, with a judge in
51 reference to a particular judicial case or proceeding until a final decision or order has been
52 made on the matter **Ŝ→ if that communication will unduly influence the case or proceeding ←Ŝ** .

53 (b) Inquiries to the judiciary that are merely technical or logistical in nature should be
54 made with the Administrative Office of the Courts or a clerk of the court.

55 (c) Legislators should praise or criticize a judge's judicial decision only in an open,
56 public forum in order to avoid the appearance of undue influence, and may wish to consult the
57 Speaker of the House of Representatives or the President of the Senate before making a
58 communication described in this Subsection (3)(c).

59 Section 2. **JR6-6-102** is enacted to read:

60 **JR6-6-102. Communications with Executive Agencies.**

61 (1) When communicating with an executive agency or a representative of an executive
 62 agency, a legislator is advised to consider the nature of the communication and to choose an
 63 appropriate forum for the communication.

64 (2) (a) A legislator may not communicate, either verbally or in writing, with an
 65 executive agency, an executive agency's representative, or an administrative law judge in
 66 reference to a pending or current adjudicative case or proceeding if that communication will
 67 unduly influence the case or proceeding.

68 (b) Inquiries that are merely technical or logistical in nature may be made personally
 69 with an agency or administrative authority.

70 (c) Legislators should praise or criticize an administrative law judge, ~~§~~→ [executive branch
 71 employee, or executive branch] or an administrative law judge ←~~§~~ decision only
 71a in an open, public forum in order to avoid the
 72 appearance of undue influence, and may wish to consult the Speaker of the House of
 73 Representatives or the President of the Senate before making a communication described in
 74 this Subsection (2)(c).

75 Section 3. **JR6-6-103** is enacted to read:

76 **JR6-6-103. Records of Communications.**

77 A legislator's communication with the judiciary or an executive agency that is subject to
 78 the provisions of this ~~§~~→ [chapter] joint rule ←~~§~~ :

79 (1) should be documented by:

80 (a) keeping a copy of the communication; or

81 (b) preparing a written description of the communication that may include:

82 (i) the nature of the discussion;

83 (ii) the parties present; and

84 (iii) the date and time of the communication; and

85 (2) may be, in order to encourage full disclosure and to establish a record if the
 86 communication is called into question:

87 (a) sent to the Chief Clerk of the House of Representatives or Secretary of the Senate;

88 or

89 (b) made publicly available or be publicly posted or displayed.

90 Section 4. **JR6-6-104** is enacted to read:
91 **JR6-6-104. Exceptions -- Acting in Normal Course of Private Employment.**
92 The restrictions in this **§**→ [chapter] joint rule ←**§** shall not apply to a communication that
92a a legislator
93 makes with the judiciary or an executive agency in the normal course of the legislator's private
94 employment, provided that the legislator does not use his or her status as a legislator in an
95 attempt to unduly influence the judiciary or executive agency.

Legislative Review Note
as of 1-30-09 3:12 PM

Office of Legislative Research and General Counsel

Fiscal Note

**S.J.R. 6 - Legislator Communications with Judiciary and Executive Branch
Joint Rules Resolution**
2009 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.
