

CHOICE OF LAW IN UTAH COURTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires that Utah courts only apply United States and Utah law in cases and controversies before them.

Highlighted Provisions:

This bill:

► requires Utah courts to apply United States and Utah law in cases and controversies before them unless the foreign law sought to be applied would provide protection equal to or stronger than specific elements of the United States and Utah constitutions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-5-104, Utah Code Annotated 1953

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

Section 1. Section **78B-5-104** is enacted to read:

78B-5-104. Choice of law -- Definition -- Use of foreign laws.



28 (1) "Foreign law, legal code or system" means any foreign law, legal code or system
29 used or applied in a jurisdiction outside of any United States territory. It does not include any
30 law, legal code or system applied in any state or United States territory.

31 (2) A contract or contractual provision, if capable of segregation, which provides for
32 the choice of a foreign law, legal code or system to govern some or all of the disputes between
33 the parties adjudicated by a court of law or by an arbitration panel arising from the contract
34 mutually agreed upon violates the public policy of this state and is void and unenforceable if
35 the foreign law, legal code or system chosen includes or incorporates any substantive or
36 procedural law, specifically applicable to the dispute at issue, that would not grant the parties
37 the same fundamental liberties, rights, and privileges granted under the United States and Utah
38 constitutions, including freedom of religion, freedom of speech, freedom of the press, due
39 process, the right of privacy, and the right to marriage as specifically defined by the Utah
40 Constitution.

41 (3) Any court, arbitration, tribunal, or administrative agency ruling or decision violates
42 the public policy of this state and is void and unenforceable if the court, arbitration, tribunal, or
43 administrative agency bases its ruling or decision in whole or in part on any foreign law, legal
44 code or system where the parties affected by the ruling or decision are denied the same
45 fundamental liberties, rights, and privileges granted under the United States and Utah
46 constitutions, including freedom of religion, freedom of speech, freedom of the press, due
47 process, the right of privacy, and the right to marriage as specifically defined by the Utah
48 Constitution.

Legislative Review Note
as of 2-1-10 7:17 PM

Office of Legislative Research and General Counsel

H.B. 296 - Choice of Law in Utah Courts

Fiscal Note

2010 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.
