

Representative Kenneth W. Sumsion proposes the following substitute bill:

UTAH ENABLING ACT LITIGATION

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kenneth W. Sumsion

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill requires the attorney general to file an action to enforce the Utah Enabling Act if the United States does not comply with certain demands.

Highlighted Provisions:

This bill:

- requires the attorney general to file an action for a declaratory judgment to enforce Section 9 of the Utah Enabling Act if the United States does not comply with certain demands; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates to the Attorney General - Enabling Act Litigation line item a one-time transfer of \$350,000 that was appropriated in fiscal year 2011-12 to the Governor's Office - Public Lands Litigation from the Constitutional Defense Restricted Account, subject to intent language stating that the appropriation is to be used to file certain actions.

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:



26 AMENDS:

27 **67-5-29**, as enacted by Laws of Utah 2010, Chapter 262

28

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

30 Section 1. Section **67-5-29** is amended to read:

31 **67-5-29. Duty to file legal actions.**

32 (1) (a) Unless the United States substantially complies with the demands referenced in
 33 2012 General Session, H.C.R. 1, Concurrent Resolution - Letter to Federal Government, the
 34 attorney general shall file an action on or before ~~Ĥ~~→ [October 1, 2012] April 15, 2013 ←Ĥ , in
 34a United States district court
 35 to obtain a declaratory judgment to enforce the Utah Enabling Act, Section 9.

36 [(+)] (b) The attorney general may file an action in addition to the action described in
 37 Subsection (1)(a) to enforce the Utah Enabling Act, Section 9.

38 (2) In accordance with Title 78B, Chapter 6, Particular Proceedings, the attorney
 39 general shall file an eminent domain action or quiet title action on property possessed by the
 40 federal government:

41 (a) (i) that facilitates the state's ability to manage the school and institutional trust lands
 42 consistent with the state's fiduciary responsibilities towards the beneficiaries of the trust lands;
 43 and

44 (ii) (A) that provides access to school and institutional trust lands; or

45 (B) that increases the profitability of the school and institutional trust lands; or

46 (b) for a public use that increases the ability of the state to generate revenue.

47 (3) The attorney general shall file, by no later than July 1, 2011, an eminent domain
 48 action or quiet title action described in Subsection (2) on property possessed by the federal
 49 government for:

50 (a) a highway on Spring Creek Road located in the western half of section 3, township
 51 38 south, range 12 west to provide access to section 2, township 38 south, range 12 west;

52 (b) a highway off of Old Canyon Road located in the northeast quarter of the southeast
 53 quarter of section 5, township 10 north, range 5 east to provide access to the southeast quarter
 54 of the southeast quarter of section 32, township 11 north, range 5 east; or

55 (c) the purposes described in Subsection (2).

56 Section 2. **Fiscal Year 2012 Supplemental Appropriation.**

57 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
 58 following sums of money are appropriated from resources not otherwise appropriated, or
 59 reduced from amounts previously appropriated, out of the funds or accounts indicated for the
 60 fiscal year beginning July 1, 2011 and ending June 30, 2012. These are additions to amounts
 61 previously appropriated for fiscal year 2012.

62 Item 1 To Governor's Office - Public Lands Litigation
 63 From General Fund Restricted - Constitutional Defense (\$350,000)

64 Schedule of Programs:
 65 Public Lands Litigation (\$350,000)

66 Item 2 To Attorney General - Enabling Act Litigation
 67 From General Fund Restricted - Constitutional Defense \$350,000

68 Schedule of Programs:
 69 Enabling Act Litigation \$350,000

70 The Legislature intends that the Attorney General use this appropriation only to file an
 71 action in accordance with Section 67-5-29.

72 Under Section 63J-1-603, the Legislature intends that appropriations provided for the
 73 Attorney General - Public Lands Litigation line item in this section not lapse at the close of
 74 Fiscal Year 2012. The use of any nonlapsing funds is limited to filing an action in accordance
 75 with Section 67-5-29.

76 Section 3. **Revisor instructions.**

77 The Legislature intends that the Office of Legislative Research and General Counsel, in
 78 preparing the Utah Code database for publication, replace the reference in Subsection
 79 67-5-29(1)(a) from "2012 General Session, H.C.R. 1, Concurrent Resolution - Letter to Federal
 80 Government" to the resolution's designated chapter number in the Laws of Utah.