

Senator J. Stuart Adams proposes the following substitute bill:

1 **RETENTION OF OUTSIDE COUNSEL, EXPERT WITNESSES, AND**
2 **LITIGATION SUPPORT SERVICES**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: J. Stuart Adams**

6 House Sponsor: Derek E. Brown

8 **LONG TITLE**

9 **General Description:**

10 This bill requires the attorney general's office to make rules to establish disclosure,
11 transparency, accountability, and reporting in relation to the procurement of outside
12 counsel, expert witnesses, and other litigation support services.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ requires the attorney general's office to make rules regarding public disclosure,
16 transparency, accountability, and reporting in relation to the procurement of outside
17 counsel, expert witnesses, and other litigation support services; and

18 ▶ describes requirements for the rules described in the preceding paragraph.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 ENACTS:

25 **67-5-30**, Utah Code Annotated 1953



26

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

28 Section 1. Section **67-5-30** is enacted to read:

29 **67-5-30. Rulemaking authority regarding the procurement of outside counsel,**

30 **expert witnesses, and other litigation support services.**

31 (1) The attorney general's office shall ~~§→~~, **on or before August 1, 2012,** ~~←§~~ **make rules to**

31a **establish public disclosure,**

32 **transparency, accountability, and reporting in relation to the procurement of outside**

33 **counsel, expert witnesses, and other litigation support services.**

34 (2) The rules described in Subsection (1) shall:

35 (a) **ensure that a procurement for outside counsel is supported by a determination by**

36 **the attorney general that the procurement is in the best interests of the state, in light of available**

37 **resources of the attorney general's office;**

38 (b) **provide for the fair and equitable treatment of all potential providers of outside**

39 **counsel, expert witnesses, and other litigation support services;**

40 ~~§→~~ **[(c) ensure a competitive process, to the greatest extent possible** ~~§→~~ **as required by Title**

40a **63G, Chapter 6, Utah Procurement Code** ~~←§~~, **for the procurement of**

41 **outside counsel, expert witnesses, and other litigation support services;** ~~←§~~

42 (d) **provide for oversight and control, by the attorney general's office, in relation to**

43 **outside counsel hired under a contingency fee arrangement;**

44 (e) **establish for transparency regarding the procurement of outside counsel, expert**

45 **witnesses, and other litigation support services, subject to:**

46 (i) **Title 63G, Chapter 2, Governmental Records Access and Management Act; and**

47 (ii) **other applicable provisions of** ~~§→~~ **[the Utah Code] law and the Utah Rules of**

47a **Professional Conduct** ~~←§~~ ;

48 (f) **establish standard contractual terms for the procurement of outside counsel, expert**

49 **witnesses, and other litigation support services** ~~§→~~ **[, subject to]** ~~←§~~ ; and

50 (g) **provide for the retention of records relating to the procurement of outside counsel,**

51 **expert witnesses, and other litigation support services.**