

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

3 2012 FOURTH SPECIAL 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 counsel,
17 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 This bill provides an immediate effective date.

23 **Utah Code Sections Affected:**

24 ENACTS:

25 **67-5-32**, Utah Code Annotated 1953

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

28 Section 1. Section **67-5-32** is enacted to read:

29 **67-5-32. 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
32 establish public disclosure, transparency, accountability, and reporting in relation to the
33 procurement of outside 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, 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, Government Records Access and Management Act; and

47 (ii) other applicable provisions of law and the Utah Rules of Professional Conduct;

48 (f) establish standard contractual terms for the procurement of outside counsel, expert
49 witnesses, and other litigation support services; and

50 (g) provide for the retention of records relating to the procurement of outside counsel,
51 expert witnesses, and other litigation support services.

52 **Section 2. Effective date.**

53 If approved by two-thirds of all the members elected to each house, this bill takes effect
54 upon approval by the governor, or the day following the constitutional time limit of Utah
55 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
56 the date of veto override.