

ACCIDENT CLAIM SUBROGATION

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Johnny Anderson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to subrogation.

Highlighted Provisions:

This bill:

► modifies the costs that the Department of Transportation, the Utah Highway Patrol, or an independent contractor of either may charge in connection with the provision of emergency services; and

► addresses the fees that the Department of Transportation or an independent contractor may charge a liable third party relating to a claim for subrogation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-409, as enacted by Laws of Utah 2012, Chapters 364 and 364

63J-1-504, as last amended by Laws of Utah 2013, Chapter 310

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

Section 1. Section **41-6a-409** is amended to read:



28 **41-6a-409. Prohibition of flat response fee for motor vehicle accident.**

29 (1) The Department of Transportation or the Utah Highway Patrol Division, or a
30 person who contracts with the Department of Transportation or the Utah Highway Patrol
31 Division to provide emergency services:

32 (a) may not impose a flat fee, or collect a flat fee, from an individual involved in a
33 motor vehicle accident; and

34 (b) may only charge the individual for the actual cost of services provided in
35 responding to the motor vehicle accident, limited to:

36 (i) medical costs for:

37 (A) transporting an individual from the scene of a motor vehicle accident; or

38 (B) treatment of a person injured in a motor vehicle accident;

39 (ii) repair to damaged public property, if the individual is legally liable for the damage;

40 (iii) the cost of removing debris from public property, if the individual is legally liable
41 for the accident;

42 ~~[(iii)]~~ (iv) the cost of materials used in cleaning up the motor vehicle accident, if the
43 individual is legally liable for the motor vehicle accident; and

44 ~~[(iv)]~~ (v) towing costs.

45 (2) If the Department of Transportation or the Utah Highway Patrol Division, or a
46 person who contracts with the Department of Transportation or the Utah Highway Patrol
47 Division to provide emergency services, imposes a charge on more than one individual for the
48 actual cost of responding to a motor vehicle accident, the Department of Transportation or the
49 Utah Highway Patrol Division or the person contracting with the Department of Transportation
50 or the Utah Highway Patrol Division shall apportion the charges so that it does not receive
51 more for responding to the motor vehicle accident than the actual response cost.

52 (3) Notwithstanding the provisions of Subsection (1), if the Department of
53 Transportation contracts with an independent contractor to pursue subrogation on behalf of the
54 state for damage to public property, the independent contractor may, to the extent authorized or
55 required by the contract with the Department of Transportation:

56 (a) impose and collect a fee from a liable third party to pay the independent contractor's
57 administrative costs for administering the claim; and

58 (b) charge a liable third party for the reasonable estimated cost to repair or recover

59 property for which the state is responsible.

60 Section 2. Section **63J-1-504** is amended to read:

61 **63J-1-504. Fees -- Adoption, procedure, and approval -- Establishing and**
62 **assessing fees without legislative approval.**

63 (1) As used in this section:

64 (a) (i) "Agency" means each department, commission, board, council, agency,
65 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
66 unit, bureau, panel, or other administrative unit of the state.

67 (ii) "Agency" does not mean the Legislature or its committees.

68 (b) "Fee agency" means any agency that is authorized to establish fees.

69 (c) "Fee schedule" means the complete list of fees charged by a fee agency and the
70 amount of those fees.

71 (2) Each fee agency shall adopt a schedule of fees assessed for services provided by the
72 fee agency that are:

73 (a) reasonable, fair, and reflect the cost of services provided; and

74 (b) established according to a cost formula determined by the executive director of the
75 Governor's Office of Management and Budget and the director of the Division of Finance in
76 conjunction with the agency seeking to establish the fee.

77 (3) Except as provided in Subsection (6), a fee agency may not:

78 (a) set fees by rule; or

79 (b) create, change, or collect any fee unless the fee has been established according to
80 the procedures and requirements of this section.

81 (4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

82 (a) present each proposed fee at a public hearing, subject to the requirements of Title
83 52, Chapter 4, Open and Public Meetings Act;

84 (b) increase, decrease, or affirm each proposed fee based on the results of the public
85 hearing;

86 (c) except as provided in Subsection (6), submit the fee schedule to the Legislature as
87 part of the agency's annual appropriations request; and

88 (d) where necessary, modify the fee schedule to implement the Legislature's actions.

89 (5) (a) Each fee agency shall submit its fee schedule or special assessment amount to

90 the Legislature for its approval on an annual basis.

91 (b) The Legislature may approve, increase or decrease and approve, or reject any fee
92 submitted to it by a fee agency.

93 (6) After conducting the public hearing required by this section, a fee agency may
94 establish and assess fees without first obtaining legislative approval if:

95 (a) (i) the Legislature creates a new program that is to be funded by fees to be set by the
96 Legislature;

97 (ii) the new program's effective date is before the Legislature's next annual general
98 session; and

99 (iii) the fee agency submits the fee schedule for the new program to the Legislature for
100 its approval at a special session, if allowed in the governor's call, or at the next annual general
101 session of the Legislature, whichever is sooner;

102 (b) the Division of Occupational and Professional licensing makes a special assessment
103 against qualified beneficiaries under the Residence Lien Restriction and Lien Recovery Fund
104 Act as provided in Subsection [38-11-206\(1\)](#); or

105 (c) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of
106 adding or removing a transactional fee that is charged or assessed by a non-governmental third
107 party but is included as part of the fee charged by the fee agency;

108 (ii) the amount of the increase or decrease in the fee is equal to the amount of the
109 transactional fee charged or assessed by the non-governmental third party; and

110 (iii) the increased or decreased fee is submitted to the Legislature for its approval at a
111 special session, if allowed in the governor's call, or at the next annual session of the
112 Legislature, whichever is sooner.

113 (7) (a) Each fee agency that wishes to change any fee shall submit to the governor as
114 part of the agency's annual appropriation request a list that identifies:

115 (i) the title or purpose of the fee;

116 (ii) the present amount of the fee;

117 (iii) the proposed new amount of the fee;

118 (iv) the percent that the fee will have increased if the Legislature approves the higher
119 fee;

120 (v) the estimated total annual revenue change that will result from the change in the

121 fee;

122 (vi) the account or fund into which the fee will be deposited; and

123 (vii) the reason for the change in the fee.

124 (b) (i) The governor may review and approve, modify and approve, or reject the fee
125 increases.

126 (ii) The governor shall transmit the list required by Subsection (7)(a), with any
127 modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.

128 (c) Bills approving any fee change shall be filed before the beginning of the
129 Legislature's annual general session, if possible.

130 (8) (a) Except as provided in Subsection (8)(b), the School and Institutional Trust
131 Lands Administration, established in Section 53C-1-201, is exempt from the requirements of
132 this section.

133 (b) The following fees of the School and Institutional Trust Lands Administration are
134 subject to the requirements of this section: application, assignment, amendment, affidavit for
135 lost documents, name change, reinstatement, grazing nonuse, extension of time, partial
136 conveyance, patent reissue, collateral assignment, electronic payment, and processing.

137 (9) This section does not apply to a fee charged by the Department of Transportation or
138 by an independent contractor of the Department of Transportation if the fee relates to the
139 exercise of the state's subrogation rights for damage to public property.

Legislative Review Note
as of 2-19-15 3:15 PM

Office of Legislative Research and General Counsel