

HB0432S01 compared with HB0432

~~{deleted text}~~ shows text that was in HB0432 but was deleted in HB0432S01.

inserted text shows text that was not in HB0432 but was inserted into HB0432S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Kim Coleman proposes the following substitute bill:

GOVERNMENTAL NONPROFIT ENTITY COMPLIANCE

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to governmental nonprofit corporations.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ provides that the Open and Public Meetings Act~~{and}~~, the Government Records Access and Management Act, and the Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities apply to~~{a~~
~~governmental nonprofit corporation; and~~

~~→ addresses the state auditor's authority to audit the accounts of}~~ a governmental

HB0432S01 compared with HB0432

nonprofit corporation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-2a-102, as last amended by Laws of Utah 2015, Chapters 138 and 407

51-2a-403, as enacted by Laws of Utah 2004, Chapter 206

ENACTS:

16-6a-1801, Utah Code Annotated 1953

16-6a-1802, Utah Code Annotated 1953

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

Section 1. Section **16-6a-1801** is enacted to read:

Part 18. Governmental Nonprofit Corporations

16-6a-1801. Definitions.

As used in this part:

(1) "Controlling interest" means a majority of the voting power on the board of directors of the nonprofit corporation.

(2) "Governmental nonprofit corporation" means a nonprofit corporation in which one or more governmental entities have a controlling interest.

(3) "Government entity" means the state, a county, municipality, local district, special service district, school district, state institution of higher education, or any other political subdivision or administrative unit of the state.

(4) "Municipality" means a city, town, or metro township.

Section 2. Section **16-6a-1802** is enacted to read:

16-6a-1802. Applicability of certain acts -- State auditor authority.

~~1~~ A governmental nonprofit corporation shall comply with:

~~1~~ Title 52, Chapter 4, Open and Public Meetings Act; ~~and~~

~~2~~ Title 63G, Chapter 2, Government Records Access and Management Act.

HB0432S01 compared with HB0432

~~(2) The~~; and

(3) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 3. Section 51-2a-102 is amended to read:

51-2a-102. Definitions.

As used in this chapter:

(1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

(2) "Audit" means an examination that:

(a) is performed in accordance with generally accepted government auditing standards, or for a nonprofit [corporations described in Subsection (6)(f)] corporation or a governmental nonprofit corporation, in accordance with generally accepted auditing standards; and

(b) conforms to the uniform classification of accounts established or approved by the state auditor ~~{may audit the accounts}~~ or any other classification of accounts established by any federal government agency.

(3) "Audit report" means:

(a) the financial statements presented in conformity with generally accepted accounting principles;

(b) the auditor's opinion on the financial statements;

(c) a statement by the auditor expressing positive assurance of compliance with state fiscal laws identified by the state auditor;

(d) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and

(e) management's response to the specific recommendations.

(4) "Compilation" means information presented in the form of financial statements presented in conformity with generally accepted accounting principles that are the representation of management without the accountant undertaking to express any assurances on the statements.

(5) "Fiscal report" means providing information detailing revenues and expenditures of all funds in a format prescribed by the state auditor.

HB0432S01 compared with HB0432

(6) "Governing board" means:

(a) the governing board of each political subdivision;

(b) the governing board of each interlocal organization having the power to tax or to expend public funds;

(c) the governing board of any local mental health authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(d) the governing board of any substance abuse authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(e) the governing board of any area agency established under the authority of Title 62A, Chapter 3, Aging and Adult Services;

(f) the [governing] board of directors of any nonprofit corporation that receives an amount of money requiring an accounting report under Section 51-2a-201.5;

(g) the board of directors of a governmental nonprofit corporation†;

Legislative Review Note

Office of Legislative Research and General Counsel;

[~~(g)~~] (h) the governing board of any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes; and

[~~(h)~~] (i) in municipalities organized under an optional form of municipal government, the municipal legislative body.

(7) "Governmental nonprofit corporation" means the same as that term is defined in Section 16-6a-1801.

(8) "Nonprofit corporation" does not include a governmental nonprofit corporation.

[~~(7)~~] (9) "Review" means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements for them to be in conformity with generally accepted accounting principles.

Section 4. Section 51-2a-403 is amended to read:

HB0432S01 compared with HB0432

51-2a-403. General Fund reimbursed for accounting report of nonappropriated activities -- Amount of reimbursement.

(1) The General Fund shall be reimbursed by the entity for which an audit, review, or compilation are in whole or in part performed, whenever the state auditor or legislative auditor general is required by law or constitutional provision to perform that audit, review, or compilation or cause that audit, review, or compilation to be made for any office, department, division, board, agency, commission, council, authority, institution, hospital, school, college, university, or other instrumentality of the state or any of its political subdivisions for nonappropriated activities including associated students' accounts, auxiliary enterprise funds, nonprofit corporations, governmental nonprofit corporations, contracts with the federal government, federal grants-in-aid, and federal assistance programs.

(2) (a) The reimbursement amount shall be a pro rata share of that auditor's total cost, based upon a time-spent factor.

(b) An audit includes an audit of state-appropriated funds.

(i) If state-appropriated funds are not involved in the accounting report, the reimbursement may not be less than the average hourly cost of the operations of that auditor's office nor more than the average rate attainable from certified public accounting firms performing similar services for this state.

(ii) Reimbursement charges may be negotiated with that auditor's office within these limitations.