{deleted text} shows text that was in SB0233S02 but was deleted in SB0233S03.

inserted text shows text that was not in SB0233S02 but was inserted into SB0233S03.

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.

Senator Todd Weiler proposes the following substitute bill:

{GOVERNMENTAL IMMUNITY}<u>COLLECTION PROCESS</u>

AMENDMENTS

2016 GENERAL SESSION STATE OF UTAH

Chief Sponsor: {Curtis S. Bramble} Todd Weiler

House Sponsor:

LONG TITLE

General Description:

This bill modifies provisions relating to {governmental immunity} collection processes. Highlighted Provisions:

This bill:

- provides that immunity is retained under specified circumstances notwithstanding a waiver of immunity;
- modifies a standard applicable to an exception to an immunity waiver provision;
 and
- modifies provisions relating to tprocesses to obtain property held by a governmental entity.

Money Appropriated in this Bill:
None
Other Special Clauses:
None
Utah Code Sections Affected:
AMENDS:
{ 63G-7-101, as last amended by Laws of Utah 2015, Chapter 342
63G-7-201, as last amended by Laws of Utah 2015, Chapter 342
63G-7-301, as last amended by Laws of Utah 2015, Chapter 342
63G-7-603, as renumbered and amended by Laws of Utah 2008, Chapter 382
78B-5-808, as renumbered and amended by Laws of Utah 2008, Chapter 3
Be it enacted by the Legislature of the state of Utah:
Section 1. Section $\frac{(63G-7-101)}{(63G-7-603)}$ is amended to read:
{ 63G-7-101. Title Scope of waivers and retentions of immunity.
(1) This chapter is known as the "Governmental Immunity Act of Utah."
(2) The scope of the waivers and retentions of immunity found in this comprehensive
chapter:
(a) applies to all functions of government, no matter how labeled; and
(b) governs all claims against governmental entities or against their employees or agents
arising out of the performance of the employee's duties, within the scope of employment, or
under color of authority.
(3) A governmental entity and an employee of a governmental entity retain immunity
from suit unless that immunity has been expressly waived in this chapter.
(4) If an injury would not have occurred but for conduct or a condition described in
Subsection 63G-7-201(3) or (4), immunity from suit for the injury is retained notwithstanding
Subsections 63G-7-301(2)(c), (h), and (i).
Section 2. Section 63G-7-201 is amended to read:
63G-7-201. Immunity of governmental entities and employees from suit.
(1) Except as otherwise provided in this chapter, each governmental entity and each
employee of a governmental entity are immune from suit for any injury that results from the

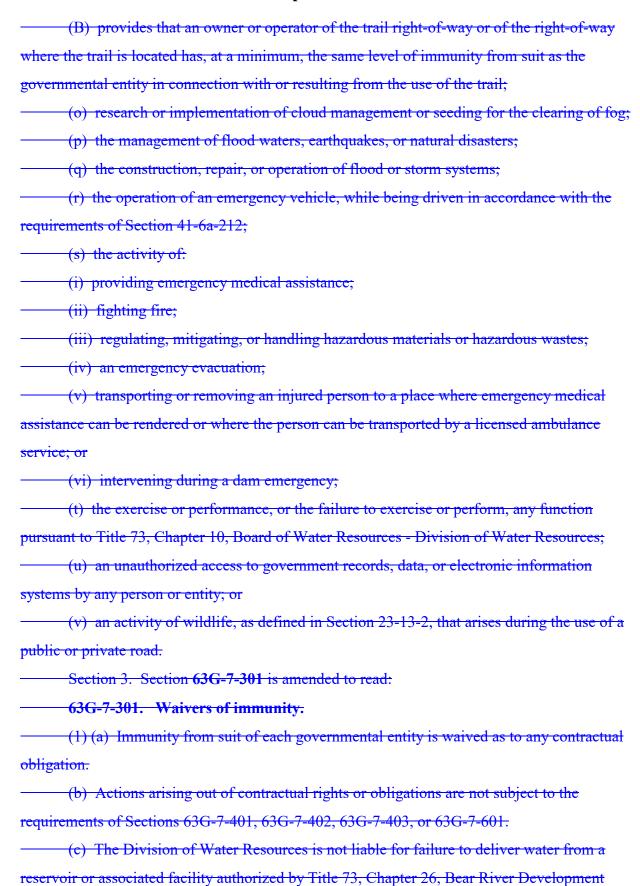
exercise of a governmental function.

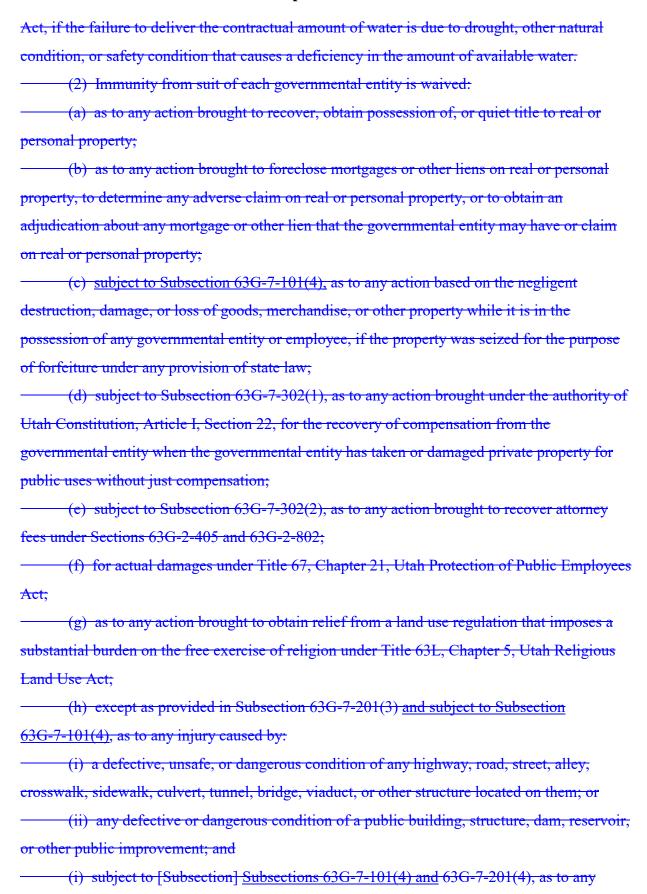
- (2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to: (a) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments; (b) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act; (c) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities; and (d) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve. (3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from: (a) a latent dangerous or latent defective condition of: (i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or (ii) another structure located on any of the items listed in Subsection (3)(a)(i); or (b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement. (4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an
- (a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;
 - (b) an assault, battery, false imprisonment, false arrest, malicious prosecution,

employee committed within the scope of employment, if the injury [arises out of or in

connection with, or results from] would not have occurred but for:

intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights; (c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization; (d) a failure to make an inspection or making an inadequate or negligent inspection; (e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause; (f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional; (g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance; (h) the collection or assessment of taxes; (i) an activity of the Utah National Guard; (j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement; (k) a natural condition on publicly owned or controlled land; (1) a condition existing in connection with an abandoned mine or mining operation; (m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands; (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if: (i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401; (ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between: (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and (B) the municipality or county where the trail is located; and (iii) the written agreement: (A) contains a plan for operation and maintenance of the trail; and





injury proximately caused by a negligent act or omission of an employee committed within the scope of employment.

Section 4. Section 63G-7-603 is amended to read:

- **†** 63G-7-603. Exemplary or punitive damages prohibited -- Governmental entity exempt from execution, attachment, or garnishment.
- (1) (a) A judgment may not be rendered against a governmental entity for exemplary or punitive damages.
- (b) If a governmental entity would be required to pay the judgment under Section 63G-7-902 or 63G-7-903, the governmental entity shall pay any judgment or portion of any judgment entered against its employee in the employee's personal capacity even if the judgment is for or includes exemplary or punitive damages.
- (2) Execution, attachment, or garnishment may not issue against a governmental entity in aid of collecting a judgment against a governmental entity or {its}the governmental entity's employee.

Section $\frac{5}{2}$. Section **78B-5-808** is amended to read:

78B-5-808. Property subject to {garnishment} collection processes.

The state and any subdivision, agency, or institution of the state [which] that has in its possession or under its control any credits or other personal property of[5] or owing [any debt to, the] to a defendant in any action[, whether as salary or wages, as a public official or employee] may be subject to attachment, garnishment, and execution in accordance with any rights, remedies, and procedures applicable to attachment, garnishment, and execution, respectively, except as provided in Section 78B-5-809.