

CASE STATUS UPDATES

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Mike K. McKell

LONG TITLE

General Description:

This bill addresses the attorney general's reports to the Legislature.

Highlighted Provisions:

This bill:

- requires the attorney general to report to the Legislature on lawsuits that challenge the constitutionality of state law.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-5-1, as last amended by Laws of Utah 2016, Chapter 120

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

Section 1. Section **67-5-1** is amended to read:

67-5-1. General duties.

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section **67-5-17**;



28 (2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court
29 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
30 defend all causes to which the state or any officer, board, or commission of the state in an
31 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
32 state is interested;

33 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
34 process as necessary to execute the judgment;

35 (4) account for, and pay over to the proper officer, all money that comes into the
36 attorney general's possession that belongs to the state;

37 (5) keep a file of all cases in which the attorney general is required to appear, including
38 any documents and papers showing the court in which the cases have been instituted and tried,
39 and whether they are civil or criminal, and:

40 (a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to
41 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not
42 satisfied, documentation of the return of the sheriff;

43 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
44 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
45 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
46 prevention; and

47 (c) deliver this information to the attorney general's successor in office;

48 (6) exercise supervisory powers over the district and county attorneys of the state in all
49 matters pertaining to the duties of their offices, and from time to time require of them reports of
50 the condition of public business entrusted to their charge;

51 (7) give the attorney general's opinion in writing and without fee to the Legislature or
52 either house and to any state officer, board, or commission, and to any county attorney or
53 district attorney, when required, upon any question of law relating to their respective offices;

54 (8) when required by the public service or directed by the governor, assist any county,
55 district, or city attorney in the discharge of county, district, or city attorney's duties;

56 (9) purchase in the name of the state, under the direction of the state Board of
57 Examiners, any property offered for sale under execution issued upon judgments in favor of or
58 for the use of the state, and enter satisfaction in whole or in part of the judgments as the

59 consideration of the purchases;

60 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
61 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
62 taking precedence of the judgment in favor of the state, redeem the property, under the
63 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
64 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
65 out of any money appropriated for these purposes;

66 (11) when in the attorney general's opinion it is necessary for the collection or
67 enforcement of any judgment, institute and prosecute on behalf of the state any action or
68 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment
69 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of
70 Examiners, out of any money not otherwise appropriated;

71 (12) discharge the duties of a member of all official boards of which the attorney
72 general is or may be made a member by the Utah Constitution or by the laws of the state, and
73 other duties prescribed by law;

74 (13) institute and prosecute proper proceedings in any court of the state or of the
75 United States to restrain and enjoin corporations organized under the laws of this or any other
76 state or territory from acting illegally or in excess of their corporate powers or contrary to
77 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
78 and wind up their affairs;

79 (14) institute investigations for the recovery of all real or personal property that may
80 have escheated or should escheat to the state, and for that purpose, subpoena any persons
81 before any of the district courts to answer inquiries and render accounts concerning any
82 property, examine all books and papers of any corporations, and when any real or personal
83 property is discovered that should escheat to the state, institute suit in the district court of the
84 county where the property is situated for its recovery, and escheat that property to the state;

85 (15) administer the Children's Justice Center as a program to be implemented in
86 various counties pursuant to Sections [67-5b-101](#) through [67-5b-107](#);

87 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,
88 Constitutional and Federalism Defense Act;

89 (17) pursue any appropriate legal action to implement the state's public lands policy

90 established in Section 63C-4a-103;

91 (18) investigate and prosecute violations of all applicable state laws relating to fraud in
92 connection with the state Medicaid program and any other medical assistance program

93 administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

94 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
95 at:

96 (a) health care facilities that receive payments under the state Medicaid program; and

97 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.

98 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

99 (20) (a) report at least twice per year to the Legislative Management Committee on any
100 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

101 (i) cost the state more than \$500,000; or

102 (ii) require the state to take legally binding action that would cost more than \$500,000
103 to implement; and

104 (b) if the meeting is closed, include an estimate of the state's potential financial or other
105 legal exposure in that report; [~~and~~]

106 (21) (a) submit a written report to the committees described in Subsection (21)(b) that
107 summarizes the status and progress of any lawsuits that challenge the constitutionality of state
108 law that were pending at the time the attorney general submitted the attorney general's last
109 report under this Subsection (21), including any:

110 (i) settlements reached;

111 (ii) consent decrees entered; or

112 (iii) judgments issued; and

113 (b) at least 30 days before the Legislature's May and November interim meetings,

114 submit the report described in Subsection (21)(a) to:

115 (i) the Legislative Management Committee;

116 (ii) the Judiciary Interim Committee; and

117 (iii) the Law Enforcement and Criminal Justice Interim Committee; and

118 [~~21~~] (22) if the attorney general operates the Office of the Attorney General or any
119 portion of the Office of the Attorney General as an internal service fund agency in accordance
120 with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

- 121 (a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
122 (b) any other information or analysis requested by the rate committee.
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Legislative Review Note
Office of Legislative Research and General Counsel