

1 INTERVENTION ~~§~~→ [AS A MATTER OF RIGHT] ←~~§~~ AMENDMENTS

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: J. Stuart Adams

5 House Sponsor: _____

6

7 LONG TITLE

8 General Description:

9 This bill provides the circumstances as to when the Legislature may intervene in
10 litigation.

11 Highlighted Provisions:

12 This bill:

13 ▶ provides that the Legislature may intervene as a matter of right in litigation under
14 certain circumstances;

14a ~~§~~→ ▶ addresses federal cases; ←~~§~~

15 ▶ requires the attorney general to provide notice to the legislative general counsel; and

16 ▶ makes technical changes.

17 Money Appropriated in this Bill:

18 None

19 Other Special Clauses:

20 None

21 Utah Code Sections Affected:

22 AMENDS:

23 36-12-7, as last amended by Laws of Utah 2009, Chapter 107

24 67-5-1, as last amended by Laws of Utah 2017, Chapters 295 and 387

25

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

27 Section 1. Section 36-12-7 is amended to read:



59 adjournment of the Legislature, the committee shall appoint an individual to fill the vacancy
 60 until such time as the person is approved or rejected by majority vote of the next session of the
 61 Legislature;

62 (b) develop policies for personnel management, compensation, and training of all
 63 professional legislative staff;

64 (c) develop a policy within the limits of legislative appropriation for the authorization
 65 and payment to legislators of compensation and travel expenses, including out-of-state travel;

66 (d) approve special study budget requests of the legislative directors; and

67 (e) assist the speaker-elect of the House of Representatives and the president-elect of
 68 the Senate, upon selection by their majority party caucus, to organize their respective houses of
 69 the Legislature and assume the direction of the operation of the Legislature in the forthcoming
 70 annual general session.

71 (4) (a) The Legislature delegates to the Legislative Management Committee the
 72 authority, by means of a majority vote of the committee, to direct the legislative general
 73 counsel in matters involving the Legislature's participation in litigation.

74 (b) The Legislature has an unconditional right to intervene in a ~~§~~→ state ←~~§~~ court action
 74a ~~§~~→ [when] if ←~~§~~ a
 75 party to that court action challenges:

76 (i) the constitutionality of a state statute;

77 (ii) the validity of legislation; or

78 (iii) any action of the Legislature.

78a ~~§~~→ (c) **For a federal court action that challenges the constitutionality of a state statute, the**
 78b **validity of legislation, or any action of the Legislature, the Legislature may seek permissive**
 78c **intervention in accordance with federal rules of procedure, or the ability to file an amicus brief**
 78d **in accordance with federal rules of procedure.** ←~~§~~

79 ~~§~~→ [(c)] (d) ←~~§~~ The attorney general shall notify the legislative general counsel of a claim
 79a ~~§~~→ [described]

80 ~~in Subsection (4)(b)]~~ ←~~§~~ in accordance with Subsection [67-5-1](#)(24).

81 Section 2. Section **67-5-1** is amended to read:

82 **67-5-1. General duties.**

83 The attorney general shall:

84 (1) perform all duties in a manner consistent with the attorney-client relationship under
 85 Section [67-5-17](#);

86 (2) except as provided in Sections [10-3-928](#) and [17-18a-403](#), attend the Supreme Court
 87 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
 88 defend all causes to which the state or any officer, board, or commission of the state in an
 89 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the

183 (24) notify the legislative general counsel in writing within three business days after
184 the day on which the attorney general ~~§~~→ [becomes aware] is officially notified ←~~§~~ of a claim ~~§~~→
184a [described in Subsection
185 36-12-7(4)(b)] , regardless of whether the claim is filed in state or federal court, that challenges:
185a (i) the constitutionality of a state statute;
185b (ii) the validity of legislation; or
185c (iii) any action of the Legislature ←~~§~~ .

Legislative Review Note
Office of Legislative Research and General Counsel