

**Representative Jon Hawkins** proposes the following substitute bill:

**GOVERNMENTAL IMMUNITY ACT AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jon Hawkins**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Governmental Immunity Act of Utah.

**Highlighted Provisions:**

This bill:

- ▶ modifies a provision relating to an undertaking that a plaintiff is required to file in an action under the Governmental Immunity Act of Utah;
- ▶ authorizes a court to order the filing of an undertaking if the plaintiff fails to file within the required time; and
- ▶ provides that a defendant waives a defense based on a plaintiff's failure to file an undertaking if the failure is not raised in the defendant's initial responsive pleading.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63G-7-601**, as last amended by Laws of Utah 2017, Chapter 300

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

27 Section 1. Section **63G-7-601** is amended to read:

28 **63G-7-601. Actions governed by Utah Rules of Civil Procedure -- Undertaking**  
29 **required.**

30 (1) An action brought under this chapter shall be governed by the Utah Rules of Civil  
31 Procedure to the extent that they are consistent with this chapter.

32 [~~(2) At the time the action is filed, the]~~

33 (2) (a) A plaintiff who files an action under this chapter shall file an undertaking within  
34 30 days after commencement of the action:

35 (a) in the amount of \$300, unless otherwise ordered by the court; and

36 (b) conditioned upon payment by the plaintiff of taxable costs incurred by the  
37 governmental entity in the action if the plaintiff fails to prosecute the action or fails to recover  
38 judgment.

39 (3) If a plaintiff does not file an undertaking as required in Subsection (2), a court may,  
40 sua sponte or pursuant to a motion, order the plaintiff to file an undertaking in an amount and  
41 by a deadline that the court establishes.

42 (4) A defendant waives a defense based on the plaintiff's failure to file an undertaking  
43 under this section if the defendant does not raise the plaintiff's failure to file an undertaking as  
44 an affirmative defense in the defendant's initial responsive pleading.