

LITIGATION FUNDING TRANSPARENCY ACT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Judicial Code to address disclosure of funding in certain lawsuits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides procedures for obtaining funding information regarding funding of certain lawsuits; and
- ▶ provides remedies.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-5-829, Utah Code Annotated 1953

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

Section 1. Section **78B-5-829** is enacted to read:

78B-5-829. Transparency in litigation funding.

(1) As used in this section:



28 (a) "Lawsuit" means an action against the state, a state agency, or a political
29 subdivision of the state, that impairs the health, safety, or welfare of the citizens of the state or
30 the political subdivision.

31 (b) "Political subdivision" means a county, city, town, metro township, local district,
32 special service district under Title 17D, Chapter 1, Special Service District Act, an entity
33 created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation
34 Act, or any other governmental entity designated in statute as a political subdivision of the
35 state.

36 (c) "State agency" means a department, commission, board, council, agency,
37 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
38 unit, bureau, panel, or other administrative unit of the executive branch of the state.

39 (d) "Third-party contributor" means each person who directly, through another person,
40 or through a series of persons:

41 (i) provides or is anticipated will provide 5% or more of the funding for a lawsuit; or

42 (ii) is a shareholder or member of an entity that files a lawsuit who provides the entity
43 5% or more of the entity's annual gross revenue.

44 (2) If a person sues the state, a state agency, or a political subdivision, the following
45 may request the disclosure of the name of each third-party contributor:

46 (a) if the lawsuit is against the state or a state agency and the attorney general
47 determines that the lawsuit is an action that impairs the health, safety, and welfare of the state,
48 the Office of the Attorney General may request the disclosure in writing; and

49 (b) if the lawsuit is against a political subdivision and the governing body of the
50 political subdivision adopts a resolution finding that the lawsuit is an action that impairs the
51 health, safety, and welfare of the political subdivision, the governing body of the political
52 subdivision may request the disclosure by resolution.

53 (3) If a plaintiff files a lawsuit that seeks to delay or stop the state, a state agency, or a
54 political subdivision from beginning or continuing a project or enforcing a statute or ordinance,
55 and the plaintiff has not provided the names of each third-party contributor, the state, state
56 agency, or political subdivision may file a motion with the court requesting that the plaintiff
57 disclose the names of each third-party contributor.

58 (4) The court may order that the plaintiff is required to disclose the names of each

59 third-party contributor if the court finds that the lawsuit impairs the ability of the state, or a
60 political subdivision of the state, to protect the health, safety, and welfare of Utah citizens.

61 (5) (a) The lawsuit is stayed beginning the day on which the motion described in
62 Subsection (3) is filed and ending the day on which:

63 (i) the plaintiff discloses the names of each third-party contributor; or

64 (ii) the court dismisses the motion.

65 (b) If a court denies a motion to disclose under Subsection (4), the defendant may
66 appeal the decision of the court in accordance with Utah Rules of Appellate Procedure, Rule 5.

67 (6) (a) If a plaintiff fails to disclose the names of each third-party contributor after a
68 court orders disclosure, the court may:

69 (i) hold the plaintiff in contempt; or

70 (ii) dismiss the lawsuit.

71 (b) If an action is dismissed for failure to disclose the names of each third-party
72 contributor, the court may order the plaintiff to pay attorney fees and costs incurred by the
73 state, state agency, or political subdivision.

74 (c) If there is more than one plaintiff and one or more of the plaintiffs refuses to
75 disclose the names of each third-party contributor after a court orders disclosure, the court may
76 sanction a plaintiff that refuses to make the disclosure in accordance with this Subsection (6).