

Representative Brady Brammer proposes the following substitute bill:

RISK MANAGEMENT SETTLEMENT AUTHORITY

AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions relating to the authority of the state's risk manager.

Highlighted Provisions:

This bill:

▶ modifies language relating to the claims that the state's risk manager may compromise and settle;

▶ modifies the dollar amount limits relating to the authority of the risk manager to compromise and settle claims and relating to the settlement of claims requiring the approval of the attorney general and the executive director of the Department of Administrative Services or of the governor; and

▶ requires the risk manager to communicate to the legislative general counsel regarding settlement negotiations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



27 **63G-10-503**, as enacted by Laws of Utah 2015, Chapter 355

28

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

30 Section 1. Section **63G-10-503** is amended to read:

31 **63G-10-503. Risk manager's authority to settle a claim -- Additional approvals**
32 **required.**

33 (1) The risk manager may compromise and settle any claim [~~against the state~~] for which
34 the risk management fund may be liable:

35 [~~(1)~~] (a) on the risk manager's own authority, if the settlement amount is [~~[\$50,000]~~
36 \$100,000 or less;

37 [~~(2)~~] (b) upon the approval of the attorney general, or the attorney general's
38 representative, and the executive director, if the settlement amount is more than [~~[\$50,000]~~
39 \$100,000 but not more than [~~[\$200,000]~~ \$250,000;

40 [~~(3)~~] (c) upon the governor's approval, if the settlement amount is more than [~~[\$200,000]~~
41 \$250,000 but not more than \$500,000;

42 [~~(4)~~] (d) upon the Legislative Management Committee's approval, if the settlement
43 amount is more than \$500,000 but not more than \$1,000,000; and

44 [~~(5)~~] (e) upon the Legislature's approval, if the settlement amount is more than
45 \$1,000,000.

46 (2) (a) The risk manager shall:

47 (i) as soon as reasonably possible after negotiations begin, notify legislative general
48 counsel of negotiations that the risk manager reasonably believes to have the potential to lead to
49 a settlement requiring approval under Subsection (1)(d) or (e); and

50 (ii) continue to keep legislative general counsel informed of material developments in
51 the negotiation process.

52 (b) The information that the risk manager shall provide to legislative general counsel
53 under Subsection (2)(a) includes:

54 (i) the nature of the claim that is the subject of the settlement negotiations;

55 (ii) the known facts that support the claim and the known facts that controvert the claim;

56 and

57 (iii) the risk manager's assessment of the potential liability under the claim.

58 (c) A document, paper, electronic data, communication, or other material that the risk

59 manager provides to legislative general counsel in the discharge of the risk manager's
60 responsibility under Subsection (2) may not be considered to be a record, as defined in Section
61 63G-2-103.

62 (d) Information provided by the risk manager to legislative general counsel under
63 Subsection (2)(a) and a communication between the risk manager and legislative general counsel
64 under Subsection (2)(a) shall be considered to be evidence that is subject to Rule 408 of the
65 Utah Rules of Evidence to the fullest extent possible.

66 (e) Subsections (2)(c) and (d) apply regardless of whether:

67 (i) the risk manager acts personally under this section or through counsel or another
68 individual acting under the risk manager's direction; or

69 (ii) other individuals under the direction of legislative general counsel are involved in
70 the process described in this section.