

SB0154S01 compared with SB0154

~~{deleted text}~~ shows text that was in SB0154 but was deleted in SB0154S01.

inserted text shows text that was not in SB0154 but was inserted into SB0154S01.

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Senator Michael K. McKell proposes the following substitute bill:

INDEPENDENT ENTITIES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: { } Michael K. McKell

House Sponsor: { } _____

LONG TITLE

General Description:

This bill addresses independent entities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires independent entities to utilize best practices tools provided by the Office of the Legislative Auditor General;
- ▶ requires ~~{a consensus group comprising }~~the Governor's Office of Planning and Budget~~{, the state auditor, and the Office of Legislative Research and General Counsel}~~ {office} to conduct an annual assessment of independent entities;
- ▶ requires the ~~{consensus group}~~{office} to provide reports to the Legislative Management Committee, governor, and an independent entity's governing body;

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- ▶ requires the Legislative Management Committee to assign each report from the ~~{consensus group}~~office to an interim committee for study and possible action; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63H-9-101, Utah Code Annotated 1953

63H-9-102, Utah Code Annotated 1953

63H-9-103, Utah Code Annotated 1953

63H-9-104, Utah Code Annotated 1953

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

Section 1. Section **63H-9-101** is enacted to read:

CHAPTER 9. OVERSIGHT OF INDEPENDENT ENTITIES

63H-9-101. Definitions.

As used in this chapter:

(1) "Best practices toolbox" means the collection of resources for governmental entities provided on the website of the Office of the Legislative Auditor General that includes a best practice self-assessment and other resources, tools, and reports designed to help government organizations better serve the citizens of the state.

~~{~~ (2) "Consensus group" means the Governor's Office of Planning and Budget, the state auditor, and the Office of Legislative Research and General Counsel.

~~†~~ (3) "Executive branch agency" means an agency or administrative subunit of state government that reports to the governor or lieutenant governor.

~~{4}~~ (3) (a) "Independent entity" means an entity that:

(i) has a public purpose relating to the state or its citizens;

(ii) is individually created by the state;

(iii) is separate from the judicial and legislative branches of state government; and

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(iv) is not under the direct supervisory control of the governor.

(b) "Independent entity" does not include an entity that is:

(i) a county;

(ii) a municipality as defined in Section 10-1-104;

(iii) an institution of higher education as defined in Section 53B-2-102;

(iv) a public school as defined in Section 53G-8-701;

(v) a special district as defined in Section 17B-1-102;

(vi) a special service district as defined in Section 17D-1-102;

(vii) created by an interlocal agreement as described in Section 11-13-203; or

(viii) an elective constitutional office, including the state auditor, the state treasurer,

and the attorney general.

(c) Independent entities that are subject to the provisions of this chapter include the:

(i) Career Service Review Office created in Section 67-19a-201;

(ii) Capitol Preservation Board created in Section 63C-9-201;

(iii) Colorado River Authority created in Section 63M-14-201;

(iv) Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(v) Military Installation Development Authority created in Section 63H-1-201;

(vi) Office of the Great Salt Lake Commissioner created in Section 73-32-301;

(vii) Office of Inspector General of Medicaid Services created in Section 63A-13-201;

(viii) Point of the Mountain State Land Authority created in Section 11-59-201;

(ix) Public Service Commission created in Section 54-1-1;

(x) School and Institutional Trust Fund Office created in Section 53C-1-201;

(xi) School and Institutional Trust Lands Administration created in Section 53D-1-201;

(xii) Utah Beef Council created in Section 4-21-103;

(xiii) Utah Capital Investment Corporation created in Section 63N-6-301;

(xiv) Utah Communications Authority created in Section 63H-7a-201;

(xv) Utah Dairy Commission created in Section 4-22-103;

(xvi) Utah Education and Telehealth Network created in Section 53B-17-105;

(xvii) Utah Housing Corporation created in Section 63H-8-201;

(xviii) Utah Inland Port Authority created in Section 11-58-201;

(xix) Utah Innovation Lab created in Section 63N-20-201;

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(xx) Utah Lake Authority created in Section 11-65-201;

(xxi) Utah Retirement Systems created in Section 49-11-201; and

(xxii) Utah State Fair Park Authority created in Section 11-68-201.

(4) "Office" means the Governor's Office of Planning and Budget.

Section 2. Section **63H-9-102** is enacted to read:

63H-9-102. Independent entity best practices.

(1) An independent entity listed in Subsection 63H-9-101(4)(c) shall:

(a) use the best practices toolbox to assess the independent entity at least once each year;

(b) report the results of the assessment described in Subsection (1)(a) to the ~~consensus group~~ office by December 31 of each year; and

(c) cooperate with the ~~consensus group~~ office and, upon request from the ~~consensus group~~ office, provide information and material pertaining to an assessment described in Section 63H-9-103.

(2) An independent entity may request best practice training from the Office of the Legislative Auditor General.

Section 3. Section **63H-9-103** is enacted to read:

63H-9-103. ~~Consensus group -- Duties~~ Assessment -- Reports.

(1) Subject to available work capacity, the ~~consensus group~~ office shall:

(a) each year, conduct an assessment of one or more independent entities to determine the state's exposure to risk from each independent entity;

(b) by August 1 of each year, provide a report on each assessment conducted under Subsection (1)(a)(i) to the Legislative Management Committee, the governor, and the governing body of the entity that is the subject of the assessment; and

(c) upon request, consult with interim committees that the Legislative Management Committee assigns to review assessment reports under Section 63H-9-104.

(2) An assessment described in Subsection (1)(a):

(a) shall include an evaluation and analysis of an independent entity's:

(i) public purpose;

(ii) relative proximity to or independence from the state;

(iii) governance structure;

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(iv) financial risks and controls, so far as they pertain to state funds;

(v) oversight structure; and

(vi) exemptions from state policies, procedures, and use of resources;

(b) shall include consideration of an executive branch agency to which an independent entity may be accountable for the purposes of:

(i) mitigating risks identified through the {consensus group}'s office's assessment; and

(ii) improving the independent entity's compliance with applicable state policies and procedures.

(3) The {consensus group} office shall determine which independent entity or entities to assess each year based on a consideration of:

(a) information provided in each independent entity's assessment report under Section 63H-9-102;

(b) estimated exposure to risk from each independent entity;

(c) how recently each independent entity has been reviewed by the {consensus group} office, the state auditor, the Office of the Legislative Auditor General, or the Retirement and Independent Entities Interim Committee; and

(d) any other factor the {consensus group} office determines relevant.

(4) The {consensus group} office shall:

(a) review each newly created entity that meets the definition of independent entity in Subsection 63H-9-101(4)(a) to determine if the entity should be subject to the provisions of this chapter;

(b) when possible, review a proposal to create a new entity that meets the definition of independent entity to determine if the proposed entity should be subject to the provisions of this chapter;

(c) make recommendations to the Legislature and governor concerning which entities should be subject to the provisions of this chapter; and

(d) make recommendations to the Legislature and governor concerning any need to modify the {consensus group process or the } provisions of this chapter.

(5) To fulfill the {consensus group}'s office's duties under this section{:

~~(a) }, the {Governor's Office of Planning and Budget is responsible for:~~

~~(i) overseeing the work of the consensus group;~~

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~~(ii) analyzing possible ways to mitigate risks identified through the assessment process; and~~
~~(iii) preparing and presenting reports and recommendations required under this section;~~
~~(b) } office may consult with the state auditor } ~~is responsible for providing input on the consensus group's processes in assessing risk to the state; and~~
~~(c) }, the Office of the Legislative Auditor General, or the Office of Legislative Research and General Counsel } ~~is responsible for providing research and analysis concerning relevant statutes concerning an independent entity and how comparable entities are structured in other jurisdictions}.~~~~~~

Section 4. Section **63H-9-104** is enacted to read:

63H-9-104. Assignment and study of reports.

(1) By September 1 of each year, the Legislative Management Committee shall assign each report provided pursuant to Section 63H-9-103 to an interim committee.

(2) An interim committee that is assigned a report under Subsection (1) shall:

(a) study the report during the interim committee's September interim meeting; and

(b) determine, by motion and majority vote, whether to open a committee bill file to address issues related to the independent entity that is the subject of the report.

Section 5. **Effective date.**

This bill takes effect on May 1, 2024.