

SB0154S02 compared with SB0154

~~{deleted text}~~ shows text that was in SB0154 but was deleted in SB0154S02.

inserted text shows text that was not in SB0154 but was inserted into SB0154S02.

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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;
- ▶ upon designation by the Legislative Management Committee, requires independent entities to utilize best practices tools provided by the Office of the Legislative Auditor General~~;~~

~~requires}~~, and provide the results to the governor and a consensus group comprising~~{ the Governor's Office of Planning and Budget, the state auditor, and}~~ the Office of Legislative Research and General Counsel~~{ to conduct an annual assessment of independent entities}~~, the Office of the Legislative Auditor General.

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and the Office of the Legislative Fiscal Analyst;

- ▶ requires the consensus group to provide reports on independent entities' assessments to the Legislative Management Committee, ~~{governor, and an independent entity's governing body;~~

→ ~~requires~~ the Legislative Audit Subcommittee, and the Executive Appropriations Committee;

- ▶ allows the Legislative Management Committee ~~{to assign each report}~~, the Legislative Audit Subcommittee, and the Executive Appropriations Committee to each take action based on reports from the consensus group ~~{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, surveys, and reports designed to help government organizations better serve the citizens of the state.

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~~(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), the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst.~~

(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

(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;

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- (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;
- (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.

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

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

(1) ~~Am~~ By May 1 of each year, the Legislative Management Committee may designate one or more of the independent ~~entity~~ entities listed in Subsection 63H-9-101(4)(c) for legislative study.

(2) An independent entity designated for legislative study under Subsection (1) shall:

(a) use ~~all designated material in~~ the best practices toolbox to ~~assess~~ conduct a self-assessment of the independent entity ~~at least once each year~~;

(b) report the results of the assessment described in Subsection ~~(1)(2)~~(a) to the consensus group ~~and the governor~~ by ~~December 31 of each year~~ June 30; and

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

~~(2)3~~ 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 ~~Reports~~.

(1) ~~Subject to available work capacity~~ (a) By September 1 of each year, the consensus group shall ~~;~~

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~~— (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 of the assessment ~~conducted}~~ results provided under Subsection 63H-9-102(~~1~~2)(~~a~~)(~~i~~b) 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}~~ Legislative Audit Subcommittee, and the Executive Appropriations Committee.

(b) For each report described in Subsection (1)(a)~~};~~

~~— (a) shall include an evaluation and analysis of an}~~ the consensus group may consider the independent entity's:

(i) public purpose;

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

(iii) governance structure;

(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 assessment; and~~

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

~~— (3) The consensus group 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, the state auditor, the Office of the Legislative Auditor General, or the Retirement and~~

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Independent Entities Interim Committee; and

~~— (d) any other factor the consensus group determines relevant.~~

~~— (4) The consensus group 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 duties under this section:~~

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

~~— (i) overseeing};~~

(2) To facilitate the work of the consensus group};

~~— (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) the state auditor is responsible for providing input on}; pursuant to Section 36-12-18,
the consensus {group's processes in assessing risk to the state; and~~

~~— (c) 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} group may request, and shall be provided upon request, any document, reports, or information available to a department, division, commission, agency, or other instrumentality of state government.~~

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(3) After receiving a report from the consensus group, the Legislative Management Committee ~~shall assign each report provided pursuant to Section 63H-9-103 to~~, the Legislative Audit Subcommittee, and the Executive Appropriations Committee may each take any action in accordance with their respective duties, authority, and powers, which may include:

(a) requiring an audit;

(b) requiring review by 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} for potential legislative action; or~~

(c) requesting review by an appropriations subcommittee for potential fiscal action.

Section 4. Effective date.

This bill takes effect on May 1, 2024.