

Senate Judiciary Law Enforcement, and Criminal Justice Committee
February 18th, 2025

Bill: 3rd substitute SB 154 – Legislative Audit Amendments

Sponsor: Senator Brady Brammer

Floor Sponsor:

UASD Position: Oppose

This Bill enacts provisions related to certain information provided to the legislative auditor general.

Discussion: The sponsor spoke about the 3rd substitute and Amendment 1 to the Bill, both of which were adopted by the Committee. He explained that this Bill addresses Article VI, Section 33 of the state constitution, which outlines the constitutional powers and duties of state auditors. Recently, the sponsor stated that the misuse of privilege claims has hindered the auditing process, particularly in the audit involving the State Attorney General's Office, raising significant transparency concerns. The sponsor expressed strong concerns about privilege claims being used to obstruct legislative oversight and argued that the legislature should have authority over this issue. To address these concerns, as presented by the sponsor, the 3rd substitute establishes a process for a neutral third-party arbitrator to conduct expedited reviews of privilege claims. The sponsor emphasized that this Bill aims to improve transparency and accountability in government audits by ensuring that privilege claims do not unduly delay or obstruct the auditing process.

Kade Minchey, the Legislative Auditor General, spoke in favor of the Bill, noting that privilege disputes have significantly lengthened the time required to conduct audits. Senator Weiler raised concerns about the sponsor's earlier remark that withholding travel records was not a significant issue. He argued that the Attorney General's frequent travel was interfering with his duties. The sponsor acknowledged that some travel was concerning but maintained that work-related travel, such as attending conferences, was justified. Senator Weiler also asked whether there was a standard for selecting an arbitrator. The sponsor responded that the arbitrator should ideally be legally trained and impartial.

Senator Musselman inquired about the process for submitting items to the Legislative Auditor's Office. The sponsor explained that privileged logs typically list details of communications, and attorney involved communications can be claimed as privileged. However, while legal advice is protected, using an attorney to conceal information creates complications, which is where arbitration would come into play. Senator Musselman then asked why it is necessary to explicitly justify privilege claims. The sponsor explained that providing justification ensures that privilege is not misused to obstruct oversight. When asked whether the Bill weakens attorney client privilege, the sponsor acknowledged that earlier versions of the Bill may have done so, but the revised version reduces this concern. He added that the Bill does not eliminate privilege but accelerates the resolution of privilege disputes compared to traditional court proceedings. Senator Weiler asked Mr. Minchey whether the Legislative Auditor's Office had shared information with legislators before completing an audit, as he had heard reports of this

happening. Mr. Minchey stated that he was unaware of any such occurrences. Senator Weiler expressed concerns about this potential issue. Senator Escamilla spoke in support of the Bill.

The Deputy Attorney General and Stan Purser from the Utah Attorney General's Office supported the changes made through Amendment 1 and the 1st substitute but expressed lingering concerns about the Bill. Specifically, they highlighted issues with lines 166-167, which favor disclosure, and the seven-day deadline for entities to provide documents to the arbitrator. The Utah League of Cities and Towns voiced similar concerns and expressed interest in continuing discussions with the sponsor. The Utah State Bar Association supported the revisions in the 1st substitute and Amendment 1, but remained opposed to the Bill as a whole, arguing that an established process already exists for accessing the information in question.

Senator Weiler then asked Mr. Minchey if his Office had an assigned assistant Attorney General. Mr. Minchey confirmed that the Office of Legislative Research and General Counsel serves as their legal counsel. Senator Weiler also inquired about the number of subpoenas issued by the Office in the past year, to which Mr. Minchey responded that there had been two to four. Senator Weiler asked whether the sponsor had considered specifying that the arbitrator should be a retired judge. The sponsor replied that he personally opposed this preference but remained open to selecting an experienced attorney. Regarding public concerns about the language on line 167, Senator Weiler asked whether the sponsor would consider removing it. The sponsor firmly opposed any changes to that line. Senator Weiler then asked whether the arbitrator had discretion to allocate only part of their fees or if it was an all or nothing determination. The sponsor clarified that while discretion exists, the preference is for an all or nothing approach. Finally, Senator Weiler asked whether the sponsor would consider extending the seven-day document submission deadline, as suggested by the Utah Attorney General's Office. The sponsor stated that he opposed an extension, as the goal is to expedite the process, but he would consider allowing up to ten days if absolutely necessary. No further discussion followed.

Yeas: 6
Nays: 0
N/V: 3

Outcome: 3rd substitute SB 154 passed out of the Committee with a favorable recommendation.

Bill: 1st substitute HB 150 – Emergency Communications Modifications

Sponsor: Representative David Shallenberger

Floor Sponsor: Senator Wayne A. Harper

UASD Position: Support

This Bill modifies provisions related to public safety answering point qualifications for proportionate share funding.

Discussion: The Bill was not heard.

Yeas:

Nays:
N/V:

Outcome: The Bill was not heard in the Committee.

Bill: SB 144 – Sexual Crimes Amendments

Sponsor: Senator Karen Kwan

Floor Sponsor:

UASD Position: Support

This Bill addresses sexual crimes and the sentencing for sexual crimes.

Discussion: The Bill was not heard.

Yeas:
Nays:
N/V:

Outcome: The Bill was not heard in the Committee.

UASD