Utah Constitutional Sovereignty Act

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

Sponsor:

LONG TITLE

General Description:

This bill enacts the Utah Constitutional Sovereignty Act.

Highlighted Provisions:

This bill:

- defines terms;
- establishes a framework for the Legislature, by concurrent resolution, to prohibit the enforcement of a federal directive within the state by government officers if the Legislature determines the federal directive violates the principles of state sovereignty;
- describes the ways in which a federal directive violates the principles of state sovereignty;
- limits the authority for requesting a concurrent resolution under the bill;
- requires the Legislature to consult with the Attorney General regarding the potential impact of a concurrent resolution on litigation;
- specifies the required contents of a concurrent resolution;
- clarifies the effect of a concurrent resolution upon adoption;
- establishes requirements for the termination of a concurrent resolution; and
- clarifies the effects of legislative inaction on a federal directive.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63G-16-201, as Utah Code Annotated 1953

63G-16-202, as Utah Code Annotated 1953

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

Section 1. Section **63G-16-201** is enacted to read:

Part 2. Utah Constitutional Soverignty Act

63G-16-201. Definitions.

As used in this part:

(1) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(2) "Federal agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

(3) "Federal directive" means:

(a) a statute passed by the United States Congress;

(b) an executive order by the president of the United States;

(c) a rule or regulation adopted by a federal agency; or

(d) an order or action by:

(i) a federal agency; or

(ii) an employee or official appointed by the president of the United States.

(4) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (4)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(5) "Local government" means:

(a) a county, city, town, or metro township;

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

Section 2. Section **63G-16-202** is enacted to read:

63G-16-202. Resolution of the Legislature invoking state sovereignty -- Requirements -- Effect upon passage and termination -- Relation to other law.

(1) The Legislature may, by concurrent resolution, prohibit a government officer from enforcing or assisting in the enforcement of a federal directive within the state if the Legislature determines the federal directive violates the principles of state sovereignty in accordance with Subsection (2).

(2) A federal directive violates the principles of state sovereignty if the federal directive restricts or infringes upon:

(a) a power or a right reserved to the state by the Tenth Amendment to the United States Constitution; or

(b) the state's rights or interests to provide for the health, safety, and welfare and promote the prosperity of the state's inhabitants.

(3) A request for a concurrent resolution under Subsection (1) may not be filed unless:

(a) the request is approved by the speaker of the House of Representatives and the president of the Senate; or

(b) while the Legislature is convened and conducting business on the floor, a motion to approve the request is made in each chamber of the Legislature and those motions are approved by a two-thirds majority of the members present in each chamber.

(4) The Legislature shall consult with and consider any recommendations provided by the attorney general concerning the potential impact that a concurrent resolution may have on current or anticipated litigation.

(5) A concurrent resolution under Subsection (1) shall:

(a) identify the federal directive the Legislature has determined violates the principles of state sovereignty under Subsection (2);

(b) include the information or findings upon which the Legislature has made the determination in Subsection (5)(a);

(c) specify the government officers to which the concurrent resolution applies;

(d) describe the effect the concurrent resolution will have regarding the applicability of the federal directive within the state, including any activities or forms of assistance a government officer described in Subsection (5)(c) is prohibited from conducting in connection with the enforcement of the federal directive; and

(e) describe any other requirements for a government officer described in Subsection (5)(c) to comply with the concurrent resolution.

(6) A concurrent resolution under Subsection (1):

(a) takes effect upon adoption and has the force of law; and

(b) after taking effect, may only be terminated by concurrent resolution.

(7) The requirements for filing a request for a concurrent resolution in Subsection (3) apply to a concurrent resolution described in Subsection (6)(b).

(8) The inaction of the Legislature in determining that a federal directive violates the principles of state sovereignty under this section:

(a) does not imply or create a presumption that the federal directive is lawful under the United States Constitution; and

(b) has no effect on the attorney general's authority to pursue any appropriate legal action to challenge the federal directive on the basis of state sovereignty.

(9) This section supersedes any conflicting provisions of Utah law.

Section 3. **Effective date.**

This bill takes effect on May 1, 2024.

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