

1 **OUTSIDE EMPLOYMENT FOR MENTAL**

2 **HEALTH ADVISOR**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Margaret Dayton**

6 AN ACT RELATING TO THE BOARD OF PARDONS AND PAROLE; MODIFYING
7 OUTSIDE EMPLOYMENT RESTRICTIONS ON THE MENTAL HEALTH ADVISOR;
8 AND MAKING TECHNICAL CORRECTIONS.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **77-27-2**, as last amended by Chapter 308, Laws of Utah 1997

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

13 Section 1. Section **77-27-2** is amended to read:

14 **77-27-2. Board of Pardons and Parole -- Creation -- Compensation -- Functions.**

15 (1) There is created the Board of Pardons and Parole. The board shall consist of five
16 full-time members and five pro tempore members to be appointed by the governor with the advice
17 and consent of the Senate as provided in this section. The members of the board shall be resident
18 citizens of the state. The governor shall establish salaries for the members of the board within the
19 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

20 (2) (a) (i) The full-time board members shall serve terms of five years. The terms of the
21 full-time members shall be staggered so one board member is appointed for a term of five years
22 on March 1 of each year.

23 (ii) The pro tempore members shall serve terms of five years. The two pro tempore
24 members added by Subsection (1) shall be appointed to terms that both commence on May 1,
25 1996, and respectively end on February 28, 1999, and February 29, 2000. These terms are reduced
26 by two and one years respectively so that the appointment of one pro tempore member expires
27 every year beginning in 1996. Terms previously set to expire will now expire the last day of

1 February of their respective years.

2 (b) All vacancies occurring on the board for any cause shall be filled by the governor with
3 the advice and consent of the Senate pursuant to this section for the unexpired term of the vacating
4 member.

5 (c) The governor may at any time remove any member of the board for inefficiency,
6 neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

7 (d) A member of the board may not hold any other office in the government of the United
8 States, this state or any other state, or of any county government or municipal corporation within
9 a state. A member may not engage in any occupation or business inconsistent with his duties.

10 (e) A majority of the board constitutes a quorum for the transaction of business, including
11 the holding of hearings at any time or any place within or without the state, or for the purpose of
12 exercising any duty or authority of the board. Action taken by a majority of the board regarding
13 whether parole, pardon, commutation, termination of sentence, or remission of fines or forfeitures
14 may be granted or restitution ordered in individual cases is deemed the action of the board. A
15 majority vote of the five full-time members of the board is required for adoption of rules or
16 policies of general applicability as provided by statute. However, a vacancy on the board does not
17 impair the right of the remaining board members to exercise any duty or authority of the board as
18 long as a majority of the board remains.

19 (f) Any investigation, inquiry, or hearing that the board has authority to undertake or hold
20 may be conducted by any board member or an examiner appointed by the board. When any of
21 these actions are approved and confirmed by the board and filed in its office, they are considered
22 to be the action of the board and have the same effect as if originally made by the board.

23 (g) When a full-time board member is absent or in other extraordinary circumstances the
24 chair may, as dictated by public interest and efficient administration of the board, assign a pro
25 tempore member to act in the place of a full-time member. Pro tempore members shall receive a
26 per diem rate of compensation as established by the Division of Finance and all actual and
27 necessary expenses incurred in attending to official business.

28 (h) The chair may request staff and administrative support as necessary from the
29 Department of Corrections.

30 (3) (a) Except as provided in Subsection (3)(c), the Commission on Criminal and Juvenile
31 Justice shall:

1 (i) recommend five applicants to the governor for appointment to the Board of Pardons
2 and Parole; and

3 (ii) consider applicants' knowledge of the criminal justice system, state and federal
4 criminal law, judicial procedure, corrections policies and procedures, and behavioral sciences.

5 (b) The procedures and requirements of Subsection (3)(a) do not apply if the governor
6 appoints a sitting board member to a new term of office.

7 (4) (a) The board shall appoint an individual to serve as its mental health adviser and may
8 appoint other staff necessary to aid it in fulfilling its responsibilities under Title 77, Chapter 16a,
9 Commitment and Treatment of Mentally Ill Persons. The adviser shall prepare reports and
10 recommendations to the board on all persons adjudicated as guilty and mentally ill, in accordance
11 with Title 77, Chapter 16a.

12 (b) The mental health adviser shall possess the qualifications necessary to carry out the
13 duties imposed by the board and may not be employed by the Department of Corrections[~~the~~
14 ~~Department of Human Services, or a local mental health authority~~] or the Utah State Hospital.

15 (i) The Board of Pardons and Parole may review outside employment by the mental health
16 advisor.

17 (ii) The Board of Pardons and Parole shall develop rules governing employment with
18 entities other than the board by the mental health advisor for the purpose of prohibiting a conflict
19 of interest.

20 (c) The mental health adviser shall:

21 (i) act as liaison for the board with the Department of Human Services and local mental
22 health authorities;

23 (ii) educate the members of the board regarding the needs and special circumstances of
24 mentally ill persons in the criminal justice system;

25 (iii) in cooperation with the Department of Corrections, monitor the status of persons in
26 the prison who have been found guilty and mentally ill;

27 (iv) monitor the progress of other persons under the board's jurisdiction who are mentally
28 ill;

29 (v) conduct hearings as necessary in the preparation of reports and recommendations; and

30 (vi) perform other duties as assigned by the board.

Legislative Review Note
as of 11-25-97 5:47 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel