

1 **WORKFORCE SERVICES AMENDMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Scott K. Jenkins**

5 **This act modifies provisions related to the Employment Security Act by removing the**
6 **part-time employee limitation on the chair of the Workforce Appeals Board. The act**
7 **modifies the definition of employer to be consistent with state and federal withholding**
8 **requirements and also makes certain technical changes.**

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

10 AMENDS:

11 **35A-1-205**, as last amended by Chapter 116, Laws of Utah 1998

12 **35A-4-203**, as renumbered and amended by Chapter 240, Laws of Utah 1996

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

14 Section 1. Section **35A-1-205** is amended to read:

15 **35A-1-205. Workforce Appeals Board -- Chair -- Appointment -- Compensation**
16 **-- Qualifications.**

17 (1) There is created the Workforce Appeals Board within the department consisting of
18 one or more panels to hear and decide appeals from the decision of an administrative law
19 judge.

20 (2) (a) A panel shall consist of three impartial members appointed by the governor as
21 follows:

22 (i) the board chair, appointed in accordance with Subsection (5);

23 (ii) one member appointed to represent employers[-]; and in making this appointment,
24 the governor shall consider nominations from employer organizations; and

25 (iii) one member appointed to represent employees[-]; and in making this appointment,
26 the governor shall consider nominations from employee organizations.

27 (b) No more than two members of a panel may belong to the same political party.



28 (3) (a) (i) The term of a member shall be six years beginning on March 1 of the year
29 the member is appointed, except ~~[that the]~~ as otherwise provided in Subsection (3)(a)(ii).

30 (ii) The governor shall, at the time of appointment or reappointment, adjust the length
31 of terms to ensure that the terms of members are staggered so that approximately one third of
32 the members are appointed every two years.

33 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
34 appointed for the unexpired term.

35 (c) The governor may remove a member ~~[only]~~ for inefficiency, neglect of duty,
36 malfeasance or misfeasance in office, or other good and sufficient cause.

37 (d) A member shall hold office until a successor is appointed and has qualified.

38 (4) (a) Except as provided in Subsection (4)(c), a member of the board may not receive
39 compensation for the member's services, but may receive per diem and expenses incurred in the
40 performance of the member's official duties at the rates established by the Division of Finance
41 under Sections 63A-3-106 and 63A-3-107.

42 (b) A member may decline to receive per diem and expenses for the member's service.

43 (c) The member appointed as board chair in accordance with Subsection (5) shall be ~~[a~~
44 ~~part-time employee designated under Subsection 67-19-15(1)(q) and]~~ compensated ~~[for up to~~
45 ~~40 hours of work in a two-week pay period]~~ at an hourly rate determined by the Department of
46 Human Resource Management in accordance with Title 67, Chapter 19, Utah State Personnel
47 Management Act.

48 (5) (a) The chief officer of the board shall be the chair, who shall serve as the executive
49 and administrative head of the board.

50 (b) The chair shall be appointed by the governor to represent the public and may be
51 removed from that position at the will of the governor.

52 (c) The chair shall be experienced in administration and possess any additional
53 qualifications determined by the governor.

54 (6) (a) The chair shall designate an alternate from a panel appointed under this section:

55 (i) in the absence of a regular member or the chair; or

56 (ii) if the regular member or the chair has a conflict of interest.

57 (b) Each case shall be decided by a full three-member panel.

58 (7) The department shall provide the Workforce Appeals Board necessary staff

59 support, except, the board may employ, retain, or appoint legal counsel.

60 Section 2. Section **35A-4-203** is amended to read:

61 **35A-4-203. Definition of employer.**

62 As used in this chapter "employer" means:

63 (1) an individual or employing unit [~~that paid wages during a calendar quarter in either~~
64 ~~the current or preceding calendar year for employment amounting to \$140 or more and an~~
65 ~~employing unit subject to the Federal Unemployment Tax Act] which employs one or more
66 individuals for some portion of a day during a calendar year, or that, as a condition for approval
67 of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax
68 Act, is required, under the act, to be an employer;~~

69 (2) an employing unit that, having become an employer under Subsection (1), has not,
70 under Sections 35A-4-303 and 35A-4-310, ceased to be an employer subject to this chapter; or

71 (3) for the effective period of its election under Subsection 35A-4-310(3), an
72 employing unit that has elected to become fully subject to this chapter.

Legislative Review Note
as of 11-20-02 4:14 PM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-02 2:05 PM

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.

Fiscal Note
Bill Number SB0015

Workforce Services Amendments

09-Jan-03

5:11 PM

State Impact

Provisions of this bill is estimated to cost about \$39,300 from the Employment Security Administration funds.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Employment Security Admin	\$39,300	\$39,300	\$39,300	\$39,300
TOTAL	\$39,300	\$39,300	\$39,300	\$39,300

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst