

1 **EXECUTIVE COMPENSATION AMENDMENTS**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: David Clark

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the process for setting salary ranges for department and other agency
10 heads.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ creates a single salary range for all "appointed executives";
- 14 ▶ bases that range on the salaries of the deputies to the appointed executives who are
15 not medical doctors; and
- 16 ▶ makes conforming and technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides an immediate effective date.

21 This bill coordinates with H.B. 2, Executive Compensation Revisions, by providing
22 superseding amendments.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **67-8-1**, as enacted by Chapter 267, Laws of Utah 1981

26 **67-8-4**, as last amended by Chapter 220, Laws of Utah 2001

27 **67-8-5**, as last amended by Chapter 139, Laws of Utah 2006

28 **67-19-15**, as last amended by Chapter 139, Laws of Utah 2006

29 **67-22-2**, as last amended by Chapters 123, 128, 139 and 338, Laws of Utah 2006

30

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

32 Section 1. Section **67-8-1** is amended to read:

33 **67-8-1. Short title.**

34 This act shall be known and may be cited as the "Utah [~~Executive~~] Elected Official and
35 Judicial Salary Act."

36 Section 2. Section **67-8-4** is amended to read:

37 **67-8-4. State Executive and Judicial Compensation Commission created --**
38 **Composition -- Appointment -- Terms -- Organization -- Vacancies -- Quorum --**
39 **Compensation -- Secretary.**

40 (1) There is created a state [~~Executive~~] Elected Official and Judicial Compensation
41 Commission comprised of six members, not more than three of whom may be from the same
42 political party, appointed as follows:

- 43 (a) one member appointed by the governor;
- 44 (b) one member appointed by the president of the Senate;
- 45 (c) one member appointed by the speaker of the House of Representatives;
- 46 (d) two members appointed by the other three appointed members; and
- 47 (e) one member appointed by the State Bar Commission.

48 (2) (a) Except as required by Subsection (2)(b), all persons appointed to the
49 commission shall serve four-year terms or until their successors are duly appointed and
50 qualified.

51 (b) Notwithstanding the requirements of Subsection (2)(a), the appointing authority
52 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the
53 terms of commission members are staggered so that approximately half of the commission is
54 appointed every two years.

55 (3) (a) The commission shall select a chair and a vice chair from opposite political
56 parties at its first meeting.

57 (b) Four members of the commission shall constitute a quorum.

58 (c) The commission shall take no action nor make any determination without the
59 concurrence of a majority of its members being present.

60 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
61 appointed for the unexpired term.

62 (5) No member or employee of the legislative, judicial, or executive branch of
63 government is eligible for appointment to the commission. The legislative fiscal analyst shall
64 serve as an ex officio, nonvoting secretary of the commission.

65 (6) (a) Members shall receive no compensation or benefits for their services, but may
66 receive per diem and expenses incurred in the performance of the member's official duties at
67 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

68 (b) Legislators on the committee shall receive compensation and expenses as provided
69 by law and legislative rule.

70 Section 3. Section **67-8-5** is amended to read:

71 **67-8-5. Duties of commission -- Salary recommendations.**

72 (1) ~~[(a)]~~ The commission shall recommend to the Legislature salaries for:

73 ~~[(i)]~~ (a) the governor, the lieutenant governor, the attorney general, the state auditor,
74 and the state treasurer; and

75 ~~[(ii)]~~ (b) justices of the Supreme Court and judges of the constitutional and statutory
76 courts of record.

77 ~~[(b) The commission shall recommend to the Legislature salary ranges for the other
78 state officers referred to in Article VII, Section 18, and enumerated in Title 67, Chapter 22,
79 State Officer Compensation.]~~

80 ~~[(2) As used in this section and for the purposes of compensation in Title 67, Chapter
81 22, State Officer Compensation, "state officer" means an individual at the executive level in
82 state government. The term includes:]~~

83 ~~[(a) the governor, the lieutenant governor, the attorney general, the state auditor, and
84 the state treasurer;]~~

85 ~~[(b) justices of the Supreme Court and judges of all constitutional and statutory courts~~

86 of record; and]

87 [~~(c) full-time commissioners and executive directors of executive branch departments~~
88 ~~appointed by the governor or with his approval, who report directly to the governor, and who~~
89 ~~are enumerated in Section 67-22-2.]~~

90 [~~(3)~~] (2) The commission shall:

91 (a) make studies and formulate recommendations concerning the wage and salary
92 classification plan based upon factors such as educational requirements, experience,
93 responsibility, accountability for funds and staff, comparisons with wages paid in other
94 comparable public and private employment within this state, and other states similarly situated,
95 and any other factors generally used in similar comprehensive wage and salary classification
96 plans so that the plan and its administration reflect current conditions at all times;

97 (b) consult and advise with, and make recommendation to, the Department of Human
98 Resource Management regarding the plan, its administration, and the position of any ~~[officer]~~
99 elected official and judge covered by the plan;

100 (c) submit to the Executive Appropriations Committee not later than 60 days before
101 commencement of each annual general session:

102 (i) a report briefly summarizing its activities during the calendar year immediately
103 preceding the session;

104 (ii) recommendations concerning revisions, modifications, or changes, if any, which
105 should be made in the plan, its administration, or in the classification of any officer under the
106 plan; and

107 (iii) specific recommendations regarding the office of governor, lieutenant governor,
108 attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be
109 made in the salary or other emoluments of office so that all ~~[executive]~~ elected and judicial
110 ~~[officers, elected or appointed;]~~ officials receive equitable and consistent treatment regardless
111 of whether salaries are fixed by the Legislature or by the Department of Human Resource
112 Management; and

113 (d) conduct a comprehensive review of judicial salary levels and make

114 recommendations for judicial salaries in a report to the president of the Senate, the speaker of
115 the House of Representatives, and the governor by November 1, prior to the convening of the
116 general session of the Legislature in each odd-numbered year.

117 ~~[(4)]~~ (3) (a) The recommendation under Subsection ~~[(3)]~~ (2)(d) shall be based upon
118 consultation with the Judicial Council and upon consideration for the career status of judges. It
119 shall be based upon comparisons with salaries paid in other states and in comparable public
120 and private employment within this state.

121 (b) In even-numbered years, the commission shall update its prior report, based upon
122 the Consumer Price Index and other relevant factors, and shall forward its updated
123 recommendations as prescribed in this section.

124 ~~[(5)]~~ (4) The Judicial Council shall cooperate with the commission in providing
125 information on the judicial branch of government and on the individual levels of court as
126 requested. The director of personnel from the Office of the Court Administrator shall provide
127 the salary comparison data referred to in this section to the legislative fiscal analyst and shall
128 provide other staff assistance and support as requested by the legislative fiscal analyst.

129 Section 4. Section **67-19-15** is amended to read:

130 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
131 **positions -- Coverage of career service provisions.**

132 (1) Except as otherwise provided by law or by rules and regulations established for
133 federally aided programs, the following positions are exempt from the career service provisions
134 of this chapter:

135 (a) the governor, members of the Legislature, and all other elected state officers,
136 designated as Schedule AA;

137 (b) ~~[the agency heads]~~ appointed executives and board or commission executives
138 enumerated in Section 67-22-2, and commissioners designated as Schedule AB;

139 (c) all employees and officers in the office and at the residence of the governor,
140 designated as Schedule AC;

141 (d) employees who are in a confidential relationship to an agency head or

- 142 commissioner and who report directly to, and are supervised by, a department head,
143 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;
- 144 (e) unskilled employees in positions requiring little or no specialized skill or training,
145 designated as Schedule AE;
- 146 (f) part-time professional noncareer persons who are paid for any form of medical and
147 other professional service and who are not engaged in the performance of administrative duties,
148 designated as Schedule AF;
- 149 (g) attorneys in the attorney general's office who are under their own career service pay
150 plan, designated as Schedule AG;
- 151 (h) teaching staff of all state institutions and patients and inmates employed in state
152 institutions, designated as Schedule AH;
- 153 (i) persons appointed to a position vacated by an employee who has a right to return
154 under federal or state law or policy, designated as Schedule AI;
- 155 (j) noncareer employees compensated for their services on a seasonal or contractual
156 basis who are hired for limited periods of less than nine consecutive months or who are
157 employed on less than 1/2 time basis, designated as Schedule AJ;
- 158 (k) those employees in a personal and confidential relationship to elected officials,
159 designated as Schedule AK;
- 160 (l) employees appointed to perform work of a limited duration not exceeding two years
161 or to perform work with time-limited funding, designated as Schedule AL;
- 162 (m) employees of the Department of Community and Culture whose positions are
163 designated as executive/professional positions by the executive director of the Department of
164 Community and Culture with the concurrence of the executive director, and employees of the
165 Governor's Office of Economic Development whose positions are designated as
166 executive/professional positions by the director of the office, designated as Schedule AM;
- 167 (n) employees of the Legislature, designated as Schedule AN;
- 168 (o) employees of the judiciary, designated as Schedule AO;
- 169 (p) all judges in the judiciary, designated as Schedule AP;

170 (q) members of state and local boards and councils appointed by the governor and
171 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,
172 faculty, and other employees of state universities and other state institutions of higher
173 education, designated as Schedule AQ;

174 (r) employees who make statewide policy, designated as Schedule AR;

175 (s) any other employee whose appointment is required by statute to be career service
176 exempt, designated as Schedule AS; and

177 (t) employees of the Department of Technology Services, designated as
178 executive/professional positions by the executive director of the Department of Technology
179 Services with the concurrence of the executive director, designated as Schedule AT.

180 (2) The civil service shall consist of two schedules as follows:

181 (a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).

182 (ii) Removal from any appointive position under Schedule A, unless otherwise
183 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

184 (b) Schedule B is the competitive career service schedule, consisting of all positions
185 filled through competitive selection procedures as defined by the executive director.

186 (3) (a) The executive director, after consultation with the heads of concerned executive
187 branch departments and agencies and with the approval of the governor, shall allocate positions
188 to the appropriate schedules under this section.

189 (b) Agency heads shall make requests and obtain approval from the executive director
190 before changing the schedule assignment and tenure rights of any position.

191 (c) Unless the executive director's decision is reversed by the governor, when the
192 executive director denies an agency's request, the executive director's decision is final.

193 (4) (a) Compensation for employees of the Legislature shall be established by the
194 directors of the legislative offices in accordance with Section 36-12-7.

195 (b) Compensation for employees of the judiciary shall be established by the state court
196 administrator in accordance with Section 78-3-24.

197 (c) Compensation for officers, faculty, and other employees of state universities and

198 institutions of higher education shall be established as provided in Title 53B, Chapters 1,
199 Governance, Powers, Rights, and Responsibilities, and 2, Institutions of Higher Education.

200 (d) Unless otherwise provided by law, compensation for all other Schedule A
201 employees shall be established by their appointing authorities, within ranges approved by, and
202 after consultation with the executive director of the Department of Human Resource
203 Management.

204 (5) All employees of the Office of State Auditor, the Office of State Treasurer, the
205 Office of the Attorney General, excluding attorneys who are under their own career service
206 system, and employees who are not exempt under this section are covered by the career service
207 provisions of this chapter.

208 Section 5. Section ~~67-22-2~~ is amended to read:

209 **67-22-2. Compensation -- Other state officers.**

210 [~~(1) (a) The governor shall establish salaries for the following state officers within the~~
211 ~~following salary ranges fixed by the Legislature:]~~

[_____ State Officer _____]	Salary Range]
[Commissioner of Agriculture and Food _____]	\$66,800 - \$90,600]
[Commissioner of Insurance _____]	\$66,800 - \$90,600]
[Commissioner of the Labor Commission _____]	\$66,800 - \$90,600]
[Director, Alcoholic Beverage Control]	
[_____ Commission _____]	\$66,800 - \$90,600]
[Members, Board of Pardons and Parole _____]	\$66,800 - \$90,600]
[Executive Director, Department	
[_____ of Commerce _____]	\$66,800 - \$90,600]
[Executive Director, Commission on]	
[_____ Criminal and Juvenile Justice _____]	\$66,800 - \$90,600]
[Adjutant General _____]	\$66,800 - \$90,600]
[Chair, Tax Commission _____]	\$72,400 - \$97,600]
[Commissioners, Tax Commission _____]	\$72,400 - \$97,600]

226 [~~Executive Director, Department of~~
227 [~~Community and Culture~~ \$72,400 - \$97,600]
228 [~~Executive Director, Tax Commission~~ \$72,400 - \$97,600]
229 [~~Chair, Public Service Commission~~ \$72,400 - \$97,600]
230 [~~Commissioners, Public Service~~
231 [~~Commission~~ \$72,400 - \$97,600]
232 [~~Executive Director, Department~~
233 [~~of Corrections~~ \$78,700 - \$106,200]
234 [~~Commissioner, Department of Public Safety~~ \$78,700 - \$106,200]
235 [~~Executive Director, Department of~~
236 [~~Natural Resources~~ \$78,700 - \$106,200]
237 [~~Director, Governor's Office of Planning~~
238 [~~and Budget~~ \$78,700 - \$106,200]
239 [~~Executive Director, Department of~~
240 [~~Administrative Services~~ \$78,700 - \$106,200]
241 [~~Executive Director, Department of~~
242 [~~Human Resource Management~~ \$78,000 - \$106,200]
243 [~~Executive Director, Department of~~
244 [~~Environmental Quality~~ \$78,700 - \$106,200]
245 [~~Director, Governor's Office~~
246 [~~of Economic Development~~ \$78,700 - \$106,200]
247 [~~Executive Director, Utah Science~~
248 [~~Technology and Research~~
249 [~~Governing Authority~~ \$78,700 - \$106,200]
250 [~~Executive Director, Department of~~
251 [~~Workforce Services~~ \$85,700 - \$115,700]
252 [~~Executive Director, Department of~~
253 [~~Health, Nonphysician~~ \$85,700 - \$115,700]

254 ~~[Executive Director, Department]~~
 255 ~~[of Human Services \$85,700 - \$115,700]~~
 256 ~~[Executive Director, Department]~~
 257 ~~[of Transportation \$85,700 - \$115,700]~~
 258 ~~[Executive Director, Department]~~
 259 ~~[of Information Technology]~~
 260 ~~[Services \$85,700 - \$115,700]~~

261 ~~[(b) If the executive director of the Department of Health is a physician, the governor~~
 262 ~~shall establish a salary within the highest physician salary range established by the Department~~
 263 ~~of Human Resource Management.]~~

264 ~~[(c) The governor shall establish the salary for the commissioner of the Department of~~
 265 ~~Financial Institutions to be no less than 110% and no more than 120% of the highest salary~~
 266 ~~paid to any other employee of the Department of Financial Institutions.]~~

- 267 (1) As used in this section:
 268 (a) "Appointed executive" means the:
 269 (i) Commissioner of the Department of Agriculture and Food;
 270 (ii) Commissioner of the Insurance Department;
 271 (iii) Commissioner of the Labor Commission;
 272 (iv) Director, Alcoholic Beverage Control Commission;
 273 (v) Commissioner of the Department of Financial Institutions;
 274 (vi) Executive Director, Department of Commerce;
 275 (vii) Executive Director, Commission on Criminal and Juvenile Justice;
 276 (viii) Adjutant General;
 277 (ix) Executive Director, Department of Community and Culture;
 278 (x) Executive Director, Department of Corrections;
 279 (xi) Commissioner, Department of Public Safety;
 280 (xii) Executive Director, Department of Natural Resources;
 281 (xiii) Director, Governor's Office of Planning and Budget;

- 282 (xiv) Executive Director, Department of Administrative Services;
- 283 (xv) Executive Director, Department of Human Resource Management;
- 284 (xvi) Executive Director, Department of Environmental Quality;
- 285 (xvii) Director, Governor's Office of Economic Development;
- 286 (xviii) Executive Director, Utah Science Technology and Research Governing

287 Authority;

- 288 (xix) Executive Director, Department of Workforce Services;
- 289 (xx) Executive Director, Department of Health, Nonphysician;
- 290 (xxi) Executive Director, Department of Human Services;
- 291 (xxii) Executive Director, Department of Transportation; and
- 292 (xxiii) Executive Director, Department of Technology Services.

293 (b) "Board or commission executive" means:

- 294 (i) Members, Board of Pardons and Parole;
- 295 (ii) Chair, State Tax Commission;
- 296 (iii) Commissioners, State Tax Commission;
- 297 (iv) Executive Director, State Tax Commission;
- 298 (v) Chair, Public Service Commission; and
- 299 (vi) Commissioners, Public Service Commission.

300 (c) "Deputy" means the person who acts as the appointed executive's second in
301 command as determined by the Department of Human Resource Management.

302 (2) (a) The executive director of the Department of Human Resource Management
303 shall:

304 (i) before October 31 of each year, recommend to the governor a compensation plan for
305 the appointed executives and the board or commission executives; and

306 (ii) base those recommendations on market salary studies conducted by the Department
307 of Human Resource Management.

308 (b) (i) The Department of Human Resource Management shall determine the salary
309 range for the appointed executives by:

310 (A) identifying the salary range assigned to the appointed executive's deputy;
311 (B) designating the lowest minimum salary from those deputies' salary ranges as the
312 minimum salary for the appointed executives' salary range; and
313 (C) designating 105% of the highest maximum salary range from those deputies' salary
314 ranges as the maximum salary for the appointed executives' salary range.
315 (ii) If the deputy is a medical doctor, the Department of Human Resource Management
316 may not consider that deputy's salary range in designating the salary range for appointed
317 executives.
318 (c) In establishing the salary ranges for board or commission executives, the
319 Department of Human Resource Management shall set the maximum salary in the salary range
320 for each of those positions at 90 percent of the salary for district judges as established in the
321 annual appropriation act under Section 67-8-2.
322 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a
323 specific salary for each appointed executive within the range established under Subsection
324 (2)(b).
325 (ii) If the executive director of the Department of Health is a physician, the governor
326 shall establish a salary within the highest physician salary range established by the Department
327 of Human Resource Management.
328 (iii) The governor may provide salary increases for appointed executives within the
329 range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).
330 (b) The governor shall apply the same overtime regulations applicable to other FLSA
331 exempt positions.
332 (c) The governor may develop standards and criteria for reviewing the appointed
333 executives.
334 (4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are
335 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary
336 Act, shall be established as provided in Section 67-19-15.
337 ~~[(2)]~~ (5) (a) The Legislature fixes benefits for the [state officers outlined in Subsection

338 ~~(†)~~ appointed executives and the board or commission executives as follows:

339 (i) the option of participating in a state retirement system established by Title 49, Utah
340 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered
341 by the State Retirement Office in accordance with the Internal Revenue Code and its
342 accompanying rules and regulations;

343 (ii) health insurance;

344 (iii) dental insurance;

345 (iv) basic life insurance;

346 (v) unemployment compensation;

347 (vi) workers' compensation;

348 (vii) required employer contribution to Social Security;

349 (viii) long-term disability income insurance;

350 (ix) the same additional state-paid life insurance available to other noncareer service
351 employees;

352 (x) the same severance pay available to other noncareer service employees;

353 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
354 follows:

355 (A) sick leave;

356 (B) converted sick leave if accrued prior to January 1, 2014;

357 (C) educational allowances;

358 (D) holidays; and

359 (E) annual leave except that annual leave shall be accrued at the maximum rate
360 provided to Schedule B state employees;

361 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
362 provided by law or rule upon resignation or retirement according to the same criteria and
363 procedures applied to Schedule B state employees;

364 (xiii) the option to purchase additional life insurance at group insurance rates according
365 to the same criteria and procedures applied to Schedule B state employees; and

366 (xiv) professional memberships if being a member of the professional organization is a
367 requirement of the position.

368 (b) Each department shall pay the cost of additional state-paid life insurance for its
369 executive director from its existing budget.

370 ~~[(3)]~~ (6) The Legislature fixes the following additional benefits:

371 (a) for the executive director of the State Tax Commission a vehicle for official and
372 personal use;

373 (b) for the executive director of the Department of Transportation a vehicle for official
374 and personal use;

375 (c) for the executive director of the Department of Natural Resources a vehicle for
376 commute and official use;

377 (d) for the Commissioner of Public Safety:

378 (i) an accidental death insurance policy if POST certified; and

379 (ii) a public safety vehicle for official and personal use;

380 (e) for the executive director of the Department of Corrections:

381 (i) an accidental death insurance policy if POST certified; and

382 (ii) a public safety vehicle for official and personal use;

383 (f) for the Adjutant General a vehicle for official and personal use; and

384 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
385 official use.

386 ~~[(4) (a) The governor has the discretion to establish a specific salary for each office
387 listed in Subsection (1), and, within that discretion, may provide salary increases within the
388 range fixed by the Legislature.]~~

389 ~~[(b) The governor shall apply the same overtime regulations applicable to other FLSA
390 exempt positions.]~~

391 ~~[(c) The governor may develop standards and criteria for reviewing the performance of
392 the state officers listed in Subsection (1).]~~

393 ~~[(5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which~~

394 ~~are not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial~~
395 ~~Salary Act, shall be established as provided in Section 67-19-15.]~~

396 Section 6. **Effective date.**

397 If approved by two-thirds of all the members elected to each house, this bill takes effect
398 upon approval by the governor, or the day following the constitutional time limit of Utah
399 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
400 the date of veto override.

401 Section 7. **Coordinating S.B. 196 with H.B. 2.**

402 If this S.B. 196 and H.B. 2, Executive Compensation Revisions, both pass, it is the
403 intent of the Legislature that the amendments to Section 67-22-2 in this bill supersede the
404 amendments to Section 67-22-2 in H.B. 2 when the Office of Legislative Research and General
405 Counsel prepares the Utah Code database for publication.