

COUNTY PERSONNEL MANAGEMENT ACT

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies provisions of the County Personnel Management Act.

Highlighted Provisions:

This bill:

▶ adds an exception to tenured positions included within the career service system for persons appointed by an elected county officer to ~~§~~ **[supervise or oversee departmental or] administer** ~~←§~~ division functions in furtherance of the performance of the elected officer's professional duties;

▶ clarifies that a person currently serving in a nonexempt position does not lose that status because of the enactment of the provision adding an exception;

▶ requires elected county officers to work with the office of personnel management to develop incentives to encourage certain nonexempt employees to convert voluntarily to exempt status; and

▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

~~§~~ **[None] This bill coordinates with H.B. 235, County Merit System Amendments, by providing which technical amendments supersede and by substantively and technically merging the amendments contained in H.B. 235 with the amendments contained in this bill.** ~~←§~~

Utah Code Sections Affected:



S.B. 78

28 AMENDS:

29 **17-33-1**, as last amended by Laws of Utah 2002, Chapter 83

30 **17-33-8**, as last amended by Laws of Utah 2007, Chapter 211

31

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

33 Section 1. Section **17-33-1** is amended to read:

34 **17-33-1. Title -- Establishment of merit system -- Separate systems for peace**
35 **officers and firemen recognized -- Options of small counties.**

36 (1) This chapter shall be known and may be cited as the "County Personnel
37 Management Act."

38 (2) A merit system of personnel administration for the counties of the state of Utah,
39 their departments, offices, and agencies, except as otherwise specifically provided, is
40 established.

41 (3) This chapter recognizes the existence of the merit systems for peace officers of the
42 several counties as provided for in Chapter 30, Deputy Sheriffs - Merit System, and for firemen
43 of the several counties as provided for in Chapter 28, Firemen's Civil Service Commission, and
44 is intended to give county commissions the option of using the provisions of this chapter as a
45 single merit system for all county employees or in combination with these existing systems for
46 firemen and peace officers.

47 (4) On or after May 6, 2002, any county that has fewer than 200 employees not covered
48 by other merit systems or not exempt under Subsections 17-33-8(1)(b)(i) through ~~[(6)]~~ (vii)
49 may, at its option, comply with the provisions of this chapter.

50 (5) Notwithstanding the provisions of Subsection (4), any county which was in
51 compliance with the provisions of this chapter prior to May 6, 2002, shall continue to comply
52 with the provisions of this chapter even though the county may not thereafter meet or exceed
53 the threshold requirements of Subsection (4).

54 Section 2. Section **17-33-8** is amended to read:

55 **17-33-8. Career service -- Exempt positions.**

56 (1) The career service ~~[shall be]~~:

57 (a) is a permanent service to which this ~~[law shall apply]~~ chapter applies; and ~~[shall~~
58 ~~comprise]~~

59 (b) comprises all tenured county positions in the public service [~~now existing or~~
60 ~~hereafter established~~], except [~~the following~~]:

61 [~~(1) The~~] (i) subject to Subsection (2):

62 (A) the county executive, members of the county legislative body, and other elected
63 officials[-]; and

64 (B) each major department [~~heads~~] head charged directly by the county legislative
65 body, or by a board appointed by the county legislative body, with the responsibility of
66 assisting [~~in the formulation and carrying~~] to formulate and carry out [~~of~~] policy matters [~~of~~
67 policy; and if it is sought that any position which differs from its present status be exempted or
68 tenured after the effective date of this act, a public hearing on the proposed exemption or tenure
69 shall be held upon due notice and the concurrence of the council.];

70 [~~(2) One~~] (ii) one confidential secretary for each elected county officer and major
71 department head, if [~~one~~] a confidential secretary is assigned[-];

72 [~~(3) An~~] (iii) an administrative assistant to the county executive, each member of the
73 county legislative body, and [~~to~~] each elected official, if [~~one~~] an administrative assistant is
74 assigned[-];

75 [~~(4) The~~] (iv) the duly appointed chief deputy of any elected county officer who
76 [~~would take~~] takes over and [~~discharge~~] discharges the duties of the elected county officer in
77 the absence or disability of the [~~originally responsible~~] elected county officer[-];

78 (v) subject to Subsection (3), a person who is:

79 (A) appointed by an elected county officer to ~~§~~→ [~~supervise or oversee departmental or~~
79a ~~administer~~ ←~~§~~
80 division functions in furtherance of the performance of the elected officer's professional duties;

81 (B) in a confidential relationship with the elected county officer; and

82 (C) not in a law enforcement rank position of captain or below;

83 [~~(5) Persons~~] (vi) a person employed to make or conduct a temporary and special
84 inquiry, investigation, or examination on behalf of the county legislative body or one of its
85 committees[-];

86 [~~(6) Noncareer employees~~] (vii) a noncareer employee:

87 (A) compensated for [~~their~~] the employee's services on a seasonal or contractual basis
88 [~~who are~~]; and

89 (B) hired on emergency or seasonal appointment basis, as approved by the council[-];

90 and];

91 (viii) a provisional [employees] employee, as defined by the county's policies and
 92 procedures or its rules and regulations[-];

93 [(7) Part-time employees] (ix) a part-time employee, as defined by the county's
 94 policies and procedures or its rules and regulations[-];

95 [(8) Employees] (x) an employee appointed to perform:

96 [(a)] (A) work that does not exceed three years in duration; or

97 [(b)] (B) work with limited funding[-]; and

98 [(9) Positions which] (xi) a position that, by [their] its confidential or key
 99 policy-determining nature [==confidential or key policy-determining or both==], cannot or
 100 should not be appropriately included in the career service. [All positions]

101 (2) Before a position under Subsection (1)(b)(i) may be changed from its current status
 102 to exempt or tenured, the ~~§~~ **→ [county legislative body] career service council ←** ~~§~~ shall, after
 102a giving due notice, hold a public
 103 hearing on the proposed change of status.

104 (3) (a) Subsection (1)(b)(v) may not be construed to cause a person serving as a
 105 nonexempt employee on May 5, 2008 in a position described in that subsection from losing the
 106 nonexempt status.

107 (b) The elected county officer in a supervisory position over an employee described in
 108 Subsection (3)(a) shall work with the county's office of personnel management to develop
 109 financial and other incentives to encourage a nonexempt employee to convert voluntarily to
 110 exempt status.

111 (4) (a) Each position designated as being exempt under [this] Subsection (1)(b)(xi)
 112 shall be listed in the rules and regulations promulgated under this [act] chapter by:

113 (i) job title; and

114 (ii) department, office, or agency[-, and any].

115 (b) A change in exempt status [shall constitute] of a position designated as being
 116 exempt under Subsection (1)(b)(xi) constitutes an amendment to the rules and regulations
 117 promulgated under this chapter.

117a **§ → Section 3. Coordinating S.B. 78 with H.B. 235 -- Technically superseding amendments --**
 117b **Substantively and technically merging the amendments.**

117c **If this S.B. 78 and H.B. 235, County Merit System Amendments, both pass, it is the**
 117d **intent of the Legislature that when the Office of Legislative Research and General Counsel**
 117e **prepares the Utah Code database for publication:**

117f **(1) the amendments to Section 17-33-1 in this bill supersede the amendments to Section**
 117g **17-33-1 in H.B. 235; and**

117h **(2) merge the amendments in this bill to Section 17-33-8 with the amendments in ←§**

117i **§→ H.B. 235 so that Section 17-33-8 reads:**

117j **17-33-8. Career service -- Exempt positions.**

117k **(1) The career service {shall be} :**

117l **(a) is a permanent service to which this {law shall apply and shall**

117m **comprise} chapter applies; and**

117n **(b) comprises all tenured county positions in the public service {now existing or**

117o **hereafter established} , except {the following} :**

117p **(i) subject to Subsection (2):**

117q **[~~(1) The~~] (A) the county executive, members of the county legislative body, other**

117r **elected officials {,} ; and**

117s **(B) each major department {heads} head charged directly by the county legislative**

117t **body, or by a board appointed by the county legislative body, with the responsibility of**

117u **assisting {in the formulation and carrying out of matters of policy; and if it is sought that**

117v **any position which differs from its present status be exempted or tenured after the effective**

117w **date of this act, a public hearing on the proposed exemption or tenure shall be held upon due**

117x **notice and the concurrence of the council.} to formulate and carry out policy matters;**

117y **[~~(2) One~~] (ii) one confidential secretary for each elected county officer and major**

117z **department head, if {one} a confidential secretary is assigned {,} ;**

117aa **[~~(3) An~~] (iii) an administrative assistant to the county executive, each member of the**

117ab **county legislative body, and {to} each elected official, if {one} an administrative**

117ac **assistant is assigned {,} ;**

117ad **[~~(4) The~~] (iv) each duly appointed chief deputy of any elected county officer who**

117ae **[would take] takes over and {discharge} discharges the duties of the elected county officer**

117af **in the absence or disability of the {originally responsible} elected county officer {,} ;**

117ag **(v) subject to Subsection (3), a person who is:**

117ah **(A) appointed by an elected county officer to administer division functions in**

117ai **furtherance of the performance of the elected officer's professional duties;**

117aj **(B) in a confidential relationship with the elected county officer; and**

117ak **(C) not in a law enforcement rank position of captain or below;**

117al **[~~(5) Persons~~] (iv) each person employed to make or conduct a temporary and**

117am **special inquiry, investigation, or examination on behalf of the county legislative body or one of**

117an **its committees {,} ;**

117ao **[~~(6) Noncareer employees~~] (vii) each noncareer employee:**

117ap **(A) compensated for {their} the employee's services on a seasonal or contractual**

117aq **basis {who are} ; and**

117ar **(B) hired on emergency or seasonal appointment basis, as approved by the council ←§ {-**

117as ~~§~~ → , and } ; and
 117at (vii) each provisional {employees} employee, as defined by the county's policies
 117au and procedures or its rules and regulations { } ;
 117av [~~(7) Part-time employees~~] (ix) each part-time employee, as defined by the
 117aw county's policies and procedures or its rules and regulations { } ;
 117ax [~~(8) Employees~~] (x) each employee appointed to perform:
 117ay [(a)] (A) work that does not exceed three years in duration; or
 117az [(b)] (B) work with limited funding { } ; and
 117ba [~~(9) Positions which by their nature --~~]
 117bb (xi) each position that, by its confidential or key policy-determining {or both--} nature,
 117bc cannot or should not be appropriately included in the career service. {All positions designated as
 117bd being exempt under this Subsection shall be listed in the rules }
 117be (2) Before a position under Subsection (1)(b)(i) may be changed from its current status
 117bf to exempt or tenured, the career service council shall, after giving due notice, hold a public
 117bg hearing on the proposed change of status.
 117bh (3) (a) Subsection (1)(b)(v) may not be construed to cause a person serving as a
 117bi nonexempt employee on May 5, 2008 in a position described in that subsection to lose the
 117bj nonexempt status.
 117bk (b) The elected county officer in a supervisory position over an employee described in
 117bl Subsection (3)(a) shall work with the county's office of personnel management to develop
 117bm financial and other incentives to encourage a nonexempt employee to convert voluntarily to
 117bn exempt status.
 117bo (4) (a) Rules and regulations promulgated under this {act} chapter shall list by
 117bp job title and department, office or agency, {and any} each position designated as exempt
 117bq under Subsection (1)(b)(xi).
 117br (b) A change in exempt status {shall constitute} of a position designated as being
 117bs exempt under Subsection (1)(b)(xi) constitutes an amendment to the rules and
 117bt regulations promulgated under this chapter ←§ .

Legislative Review Note
as of 1-10-08 6:46 AM

Office of Legislative Research and General Counsel

S.B. 78 - County Personnel Management Act Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
