

**Senator Daniel R. Liljenquist** proposes the following substitute bill:

**STATE PERSONNEL MANAGEMENT ACT**

**AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel R. Liljenquist**

House Sponsor: Brad L. Dee

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**LONG TITLE**

**General Description:**

This bill eliminates the reappointment register from which certain career service employees must be rehired.

**Highlighted Provisions:**

This bill:

- ▶ eliminates the reappointment register for:
  - a career service employee appointed to an exempt position who is not retained by the appointing authority; and
  - a career service employee separated in a reduction in force;
- ▶ allows for preferential consideration for a career service employee separated in a reduction in force who applies for another career service position;
- ▶ removes from the remedies available to the Career Service Review Board the ability to place an employee on the reappointment register; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **67-19-18**, as last amended by Laws of Utah 2006, Chapter 139

30 **67-19a-408**, as last amended by Laws of Utah 2006, Chapter 14

31 REPEALS:

32 **67-19-17**, as last amended by Laws of Utah 2006, Chapter 139



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

35 Section 1. Section **67-19-18** is amended to read:

36 **67-19-18. Dismissals and demotions -- Grounds -- Disciplinary action --**

37 **Procedure -- Reductions in force.**

38 (1) [~~Career~~] A career service [~~employees~~] employee may be dismissed or demoted:

39 (a) to advance the good of the public service; or

40 (b) for just causes [~~such as~~], including inefficiency, incompetency, failure to maintain  
41 skills or adequate performance levels, insubordination, disloyalty to the orders of a superior,  
42 misfeasance, malfeasance, or nonfeasance in office.

43 (2) [~~Employees~~] An employee may not be dismissed because of race, sex, age,  
44 disability, national origin, religion, political affiliation, or other nonmerit factor including the  
45 exercise of rights under this chapter.

46 (3) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
47 Act, the executive director shall establish rules governing the procedural and documentary  
48 requirements of disciplinary dismissals and demotions.

49 (4) If an agency head finds that a career service employee is charged with aggravated  
50 misconduct or that retention of a career service employee would endanger the peace and safety  
51 of others or pose a grave threat to the public interest, the employee may be suspended pending  
52 the administrative appeal to the department head as provided in Subsection (5).

53 (5) (a) A career service employee may not be demoted or dismissed unless the  
54 department head or designated representative has complied with this subsection.

55 (b) The department head or designated representative notifies the employee in writing  
56 of the reasons for the dismissal or demotion.

57 (c) The employee has no less than five working days to reply and have the reply  
58 considered by the department head.

59 (d) The employee has an opportunity to be heard by the department head or designated  
60 representative.

61 (e) Following the hearing, the employee may be dismissed or demoted if the  
62 department head finds adequate cause or reason.

63 (6) (a) Reductions in force required by inadequate funds, change of workload, or lack  
64 of work are governed by retention [~~rosters~~] points established by the executive director.

65 (b) Under those circumstances:

66 (i) The agency head shall designate the category of work to be eliminated, subject to  
67 review by the executive director.

68 (ii) Temporary and probationary employees shall be separated before any career service  
69 employee.

70 (iii) (A) Career service employees shall be separated in the order of their retention  
71 points, the employee with the lowest points to be discharged first.

72 (B) Retention points for each career service employee shall be computed according to  
73 rules established by the executive director, allowing appropriate consideration for proficiency  
74 and [~~for~~] seniority in state government, including any active duty military service fulfilled  
75 subsequent to original state appointment.

76 [~~(iv) A career service employee who is separated in a reduction in force shall be:~~]

77 [~~(A) placed on the reappointment roster provided for in Subsection 67-19-17(2); and]~~

78 [~~(B) reappointed without examination to any vacancy for which the employee is  
79 qualified which occurs within one year of the date of the separation.]~~

80 (c) (i) A career service employee who is separated in a reduction in force under this  
81 section shall be given preferential consideration when applying for a career service position.

82 (ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former  
83 career service employee accepts a career service position.

84 (iii) The executive director shall make rules in accordance with Title 63G, Chapter 3,  
85 Utah Administrative Rulemaking Act, concerning the manner of granting preferential  
86 consideration under Subsection (6)(c)(i).

87 [~~(e)~~] (d) (i) An employee separated due to a reduction in force may appeal to the

88 department head for an administrative review.

89 (ii) The notice of appeal must be submitted within 20 working days after the  
90 employee's receipt of written notification of separation.

91 (iii) The employee may appeal the decision of the department head according to the  
92 grievance and appeals procedure of this act.

93 Section 2. Section **67-19a-408** is amended to read:

94 **67-19a-408. Career Service Review Board hearing -- Evidentiary and procedural**  
95 **rules.**

96 (1) The board shall:

97 (a) hold a hearing to review the hearing officer's decision not later than 30 days after it  
98 receives the official transcript and the briefs;

99 (b) review the decision of the hearing officer by considering the official record of that  
100 hearing and the briefs of the parties; and

101 (c) issue its written decision addressing the hearing officer's decision within 40  
102 working days after the record for its proceeding is closed.

103 [~~(2) In addition to whatever other remedy the board grants, it may order that the~~  
104 ~~employee be placed on the reappointment roster provided for by Section 67-19-17 for~~  
105 ~~assignment to another agency.]~~

106 [(~~3~~)] (2) If the board does not issue its written decision within 40 working days after  
107 closing the record, the agency that is a party to the grievance is not liable for any claimed back  
108 wages or benefits after the date the decision is due.

109 [(~~4~~)] (3) The board may not award attorneys' fees or costs to either party.

110 [(~~5~~)] (4) The board may close a hearing by complying with the procedures and  
111 requirements of Title 52, Chapter 4, Open and Public Meetings Act.

112 [(~~6~~)] (5) The board may seal the file and the evidence produced at the hearing if the  
113 evidence raises questions about an employee's character, professional competence, or physical  
114 or mental health.

115 Section 3. **Repealer.**

116 This bill repeals:

117 Section **67-19-17, Reappointment of employees not retained in exempt position.**

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**S.B. 126 1st Sub. (Green) - State Personnel Management Act Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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