

**VOLUNTEER WORKERS AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott K. Jenkins**

House Sponsor: Richard A. Greenwood

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**LONG TITLE**

**General Description:**

This bill modifies general government provisions and provisions related to state officers and employees to limit the liability of volunteers and volunteer facilitators.

**Highlighted Provisions:**

This bill:

- ▶ defines "volunteer facilitator";
- ▶ limits the liability of volunteer facilitators under the Immunity for Persons

Performing Voluntary Services Act;

- ▶ limits the liability of volunteer facilitators under the Volunteer Government

Workers Act; and

- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63G-8-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

**63G-8-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

**67-20-2**, as last amended by Laws of Utah 2011, Chapter 248

**67-20-3**, as last amended by Laws of Utah 2011, Chapter 248

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

31 Section 1. Section **63G-8-102** is amended to read:

32 **63G-8-102. Definitions.**

33 As used in this act:

34 [~~2~~] (1) "Compensation" means payment for services in any form whatsoever, whether  
35 per diem or otherwise, except where the payment is solely for the purpose of paying  
36 subsistence, travel, or other expenses incurred by the person performing those services.

37 [~~1~~] (2) "Public entity" means the state or any political subdivision of it, or any office,  
38 department, division, board, agency, commission, council, authority, institution, hospital,  
39 school, college, university, or other instrumentality of the state or any political subdivision.

40 (3) "Volunteer facilitator" is as defined in Section 67-20-2.

41 Section 2. Section **63G-8-201** is amended to read:

42 **63G-8-201. Voluntary services -- Immunity from liability -- Exceptions.**

43 [~~Any~~] (1) A person performing services on a voluntary basis, without compensation,  
44 under the general supervision of, and on behalf of any public entity, [~~shall be~~] is immune from  
45 liability with respect to any decisions or actions, other than in connection with the operation of  
46 a motor vehicle, taken during the course of those services, unless it is established that such  
47 decisions or actions were grossly negligent, not made in good faith, or were made maliciously.

48 (2) A volunteer facilitator is immune from liability to the extent provided in Subsection  
49 67-20-3(4).

50 Section 3. Section **67-20-2** is amended to read:

51 **67-20-2. Definitions.**

52 As used in this chapter:

53 (1) "Agency" means:

54 (a) a department, institution, office, college, university, authority, division, board,  
55 bureau, commission, council, or other agency of the state;

56 (b) a county, city, town, school district, or special improvement or taxing district; or

57 (c) any other political subdivision.

58 (2) "Compensatory service worker" means a person who performs a public service with  
59 or without compensation for an agency as a condition or part of the person's:

- 60 (a) incarceration;
- 61 (b) plea;
- 62 (c) sentence;
- 63 (d) diversion;
- 64 (e) probation; or
- 65 (f) parole.

66 (3) (a) "Volunteer" means a person who donates service without pay or other  
67 compensation except expenses actually and reasonably incurred as approved by the supervising  
68 agency.

69 (b) "Volunteer" does not include:

- 70 (i) a person participating in human subjects research to the extent that the participation  
71 is governed by federal law or regulation inconsistent with this chapter; or
- 72 (ii) a compensatory service worker.

73 (c) "Volunteer" includes a juror or potential juror appearing in response to a summons  
74 for a trial jury or grand jury.

75 (4) "Volunteer facilitator" means a business or nonprofit organization that, from  
76 individuals who have a relationship with the business or nonprofit organization, such as  
77 membership or employment, provides volunteers to an agency or facilitates volunteers  
78 volunteering with an agency.

79 [~~4~~] (5) "Volunteer safety officer" means an individual who:

- 80 (a) provides services as a volunteer under the supervision of an agency; and
- 81 (b) at the time the individual provides the services to the supervising agency described  
82 in Subsection [~~4~~] (5)(a), the individual is:
  - 83 (i) exercising peace officer authority as provided in Section 53-13-102; or
  - 84 (ii) if the supervising agency described in Subsection [~~4~~] (5)(a) is a fire department:
    - 85 (A) on the rolls of the supervising agency as a firefighter;

86 (B) not regularly employed as a firefighter by the supervising agency; and  
87 (C) acting in a capacity that includes the responsibility for the extinguishment of fire.

88 [~~5~~] (6) "Volunteer search and rescue team member" means an individual who:

89 (a) provides services as a volunteer under the supervision of a county sheriff; and  
90 (b) at the time the individual provides the services to the county sheriff described in

91 Subsection [~~5~~] (6)(a), is:

92 (i) certified as a member of the county sheriff's search and rescue team; and  
93 (ii) acting in the capacity of a member of the search and rescue team of the supervising  
94 county sheriff.

95 Section 4. Section **67-20-3** is amended to read:

96 **67-20-3. Purposes for which a volunteer is considered a government employee --**  
97 **Limitations of liability for volunteer facilitators.**

98 (1) Except as provided in Subsection (2) or (3), a volunteer is considered a government  
99 employee for purposes of:

100 (a) receiving workers' compensation medical benefits, which shall be the exclusive  
101 remedy for all injuries and occupational diseases as provided under Title 34A, Chapter 2,  
102 Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;

103 (b) the operation of a motor vehicle or equipment if the volunteer is properly licensed  
104 and authorized to do so; and

105 (c) liability protection and indemnification normally afforded paid a government  
106 employee.

107 (2) (a) A supervising agency shall provide workers' compensation benefits for a  
108 volunteer safety officer as provided in Section 67-20-7.

109 (b) A volunteer safety officer is considered an employee of the supervising agency of  
110 the volunteer safety officer for purposes of Subsections (1)(b) and (c).

111 (3) (a) The county of a county sheriff that certifies and supervises a volunteer search  
112 and rescue team member shall provide workers' compensation benefits for the volunteer search  
113 and rescue team member as provided in Section 67-20-7.5.

114 (b) For purposes of Subsections (1)(b) and (c), a volunteer search and rescue team  
115 member is considered an employee of the county of the county sheriff that certifies and  
116 supervises the volunteer search and rescue team member.

117 (4) A volunteer facilitator is immune from liability for damages or injuries arising out  
118 of or related to the volunteer service of a volunteer provided by the volunteer facilitator to an  
119 agency, unless:

120 (a) an action or omission of the volunteer facilitator is grossly negligent, not made in  
121 good faith, or made maliciously, and causes harm to a person or property; or

122 (b) the volunteer facilitator fails to exercise due diligence in determining the fitness of  
123 a volunteer to provide voluntary service to the agency under circumstances that make the  
124 volunteer facilitator's failure to exercise due diligence grossly negligent, not in good faith, or  
125 malicious.