

COUNTY PERSONNEL REQUIREMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill modifies provisions relating to a career service council.

Highlighted Provisions:

This bill:

- ▶ provides that under certain circumstances a career service council shall refer an appeal to an administrative law judge for a final decision.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-33-4, as last amended by Laws of Utah 2001, Chapter 241

17-33-4.5, as enacted by Laws of Utah 2001, Chapter 241

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

Section 1. Section **17-33-4** is amended to read:

17-33-4. Career service council -- Members and alternate members -- Powers and duties -- Appeals -- Time limit -- Qualifications, appointment, terms, and compensation of council members.

(1) (a) (i) There shall be in each county establishing a system a three-member bipartisan career service council appointed by the county executive. The members of the

30 council shall be persons in sympathy with the application of merit principles to public
31 employment.

32 (ii) (A) The county executive may appoint alternate members of the career service
33 council to hear appeals that one or more regular career service council members are unable to
34 hear.

35 (B) The term of an alternate member of the career service council may not exceed one
36 year.

37 (b) The council shall hear appeals not resolved at lower levels in the cases of career
38 service employees suspended, transferred, demoted, or dismissed as well in the cases of other
39 grievances not resolved by the grievance procedure at the division or departmental level.

40 (c) The career service council:

41 (i) may make an initial determination in each appeal whether the appeal is one of the
42 types of matters under Subsection (1)(b) over which the council has jurisdiction;

43 (ii) shall, subject to Section 17-33-4.5, review written appeals in cases of applicants
44 rejected for examination and report final binding appeals decisions, in writing, to the county
45 legislative body;

46 (iii) may not hear any other personnel matter; and

47 (iv) may affirm, modify, vacate, or set aside an order for disciplinary action.

48 (d) (i) A person adversely affected by a decision of the career service council may
49 appeal the decision to the district court.

50 (ii) An appeal to the district court under this Subsection (1)(d) is barred unless it is
51 filed within 30 days after the career service council issues its decision.

52 (iii) If there is a record of the career service council proceedings, the district court
53 review shall be limited to the record provided by the career service council.

54 (iv) In reviewing a decision of the career service council, the district court shall
55 presume that the decision is valid and may determine only whether the decision is arbitrary or
56 capricious.

57 (2) Each council member shall serve a term of three years to expire on June 30, three

58 years after the date of his or her appointment, except that original appointees shall be chosen as
59 follows: one member for a term expiring June 30, 1982; one member for a term expiring June
60 30, 1983; and one member for a term expiring June 30, 1984. Successors of original council
61 members shall be chosen for three-year terms. An appointment to fill a vacancy on the council
62 shall be for only the unexpired term of the appointee's successor. Each member of the board
63 shall hold office until his successor is appointed and confirmed. A member of the council may
64 be removed by the county executive for cause, after having been given a copy of the charges
65 against him or her and an opportunity to be heard publicly on the charges before the county
66 legislative body. Adequate annual appropriations shall be made available to enable the council
67 effectively to carry out its duties under this law.

68 (3) Members and alternates of the council shall be United States citizens and be actual
69 and bona fide residents of the state of Utah and the county from which appointed for a period
70 of not less than one year preceding the date of appointment and a member may not hold another
71 government office or be employed by the county.

72 (4) The council shall elect one of its members as chairperson, and two or more
73 members of the council shall constitute a quorum necessary for carrying on the business and
74 activity of the council.

75 (5) The council shall have subpoena power to compel attendance of witnesses, and to
76 authorize witness fees where it deems appropriate, to be paid at the same rate as in justice
77 courts.

78 (6) (a) (i) Council members shall receive compensation for each day or partial day they
79 are in session at a per diem rate determined by the county legislative body.

80 (ii) An alternate member shall receive compensation for each day or partial day that the
81 alternate member is required to replace a regular council member, at a per diem rate determined
82 by the county legislative body.

83 (b) The county legislative body may periodically adjust the compensation rate for
84 inflation.

85 Section 2. Section **17-33-4.5** is amended to read:

86 **17-33-4.5. Council may refer an appeal to an administrative law judge for a**
87 **recommendation -- Council action on recommendation.**

88 (1) (a) A county legislative body may appoint one or more administrative law judges to
89 hear appeals referred by a career service council under this section.

90 (b) Each administrative law judge shall be trained and experienced in personnel
91 matters.

92 ~~[(2)(a) If a career service council determines that it is in the county's best interest, it~~
93 ~~may initially refer an appeal to an administrative law judge who has been appointed under~~
94 ~~Subsection (1).]~~

95 (2) (a) A career service council may refer an appeal to an administrative law judge
96 appointed under Subsection (1) if the career service council determines that the referral is in the
97 parties' best interest.

98 (b) After holding a hearing on an appeal described in Subsection (2)(a), the
99 administrative law judge shall make findings of fact and a recommendation to the career
100 service council.

101 (c) After receiving the administrative law judge's recommendation, [a] the career
102 service council may request the administrative law judge to hold a further factual hearing
103 before the career service ~~[council's]~~ council issues a decision.

104 (d) [~~A~~] The career service council may adopt or reject [~~an~~] the administrative law
105 judge's recommendation, whether before or after a further hearing under Subsection (2)(c).

106 (3) (a) A career service council shall refer an appeal to an administrative law judge
107 appointed under Subsection (1) if the county employee or county official assigned by the
108 governing body to manage personnel functions requests that the appeal be referred.

109 (b) In an appeal described in Subsection (3)(a), the administrative law judge, not the
110 career service council, shall issue a final decision.