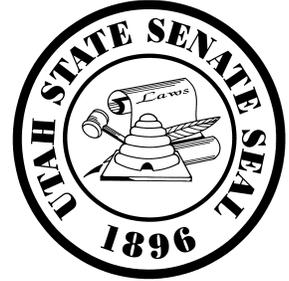




**Performance Note**  
**HB0283 - Workplace Protection**  
**Amendments**  
Sponsor: Rep. Edwards, Rebecca  
P.



Performance Note Report

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Author: Christopher Hill  
Agency: Labor Commission

Funding For:

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Serving a New or Larger Population

Public Benefit:

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**Purpose:** The purposes and duties of this new bill will dramatically affect the Labor Commission. Currently, the Utah Antidiscrimination Act ("Act") specifically lists the employers covered by the Act as employers with 15 or more employees. Currently, in the State of Utah, as of September, 2017, according to the Department of Workforce Services (DWS), there are 17,984 employers with 15 or more employees. This bill will add employers which have between 1 and 14 employees to be covered by the Act. Currently, in the State of Utah, there are 69,195 employers with between 1 and 14 employees. This information came from DWS for the same time period.

**Services:** The process for the Employment Discrimination section of the Utah Antidiscrimination and Labor Division (UALD) will be slightly different for the employers with between 1 and 14 employers. The process will be that an employee will be able to file a claim of discrimination with UALD. The claim will be verified by support staff and a determination will be made as to whether the claim meets the prima facie elements of employment discrimination. If so, the case will then be assigned to the Mediation unit of UALD and scheduled for mediation. If mediation fails or the parties opt out of mediation, the claim will then be transferred directly to the Adjudication division (Adjudication) within the Labor Commission for the formal hearing process. This new process is different than currently used with employers with 15 or more attorneys because the new process will remove the entire investigation stage and the issuance of a Determination and Order by UALD prior to the case transferring to Adjudication.

**Expected Outcome:** The expected outcomes of this program are that employers with between 1 and 14 employees will now be covered by the Utah Antidiscrimination Act.

**Implementations and Resources:** The bill would be implemented by the Employment Discrimination section of UALD, the Mediation section of UALD and the Adjudication divisions of the Labor Commission. The Labor Commission does not have the number of employees necessary to implement this change, nor does it have the space to house the number of new employees it would take to implement the changes. The Labor Commission estimates that this increase in the volume of claims of discrimination, charges, mediations, and cases to Adjudication will require at least 19 new FTEs and new office space.

**How:** The proposed activities will cause a large increase in the amount of work performed by UALD and by Adjudication. An additional 19 employees, at least, will be necessary to make this program work.

Additionally, with substantially increasing the amount of cases going to the Adjudication division for hearing, there would logically be a similar increase to the number of Adjudications decisions which are appealed to the Labor Commissioner/Board of Appeals. This would increase the workload of the Administration division of the Labor Commission. Currently, there is one attorney and one support staff which perform legal work and advice to the Labor Commissioner/Board of Appeals on the appealed cases after the Adjudication division makes its decision.

Performance Measures

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Goal

Title: The goal is for employment discrimination cases dealing with employers with between 1 and 14 employees to be completely through the mediation process within 90 days in 75% of cases.

Description: The process will be that an employee will be able to file a claim of discrimination with UALD. The claim will be verified by support staff and a determination will be made as to whether the claim meets the prima facie elements employment discrimination. If so, the case will then be assigned to the Mediation unit of UALD and scheduled for mediation. If mediation fails or the parties opt out of mediation, the claim will then be transferred directly to the Adjudication division (Adjudication) within the Labor Commission for the formal hearing process. The goal will be to get all of the cases with employers of 1-14 employees through the mediation process within 90 days.

Collection Method: The performance information will be collected by the Employment Discrimination section of UALD and the Mediation section of UALD and will ensure reliability by being able to accurately measure the percentage of cases through the mediation process within 90 days. The goal is for 75% of cases to be through mediation within 90 days for this program. It is impossible to come up with a realistic baseline because this is a completely new program with new processes.

	2018	2019	2020
Percent of cases through mediation within 90 days	75.00	75.00	75.00
None	0.00	0.00	0.00

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By rule, performance notes are provided by the governmental entity that will supervise the new agency or administer the new program. Performance notes are not written by the Office of the Legislative Fiscal Analyst.