

## Part 2 Organization

### **34A-1-201 Commissioner -- Appointment -- Removal -- Compensation -- Qualifications -- Responsibilities -- Reports.**

- (1)
  - (a) The chief administrative officer of the commission is the commissioner, who shall be appointed by the governor with the consent of the Senate.
  - (b) The commissioner shall serve at the pleasure of the governor.
  - (c) The commissioner shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
  - (d) The commissioner shall be experienced in administration, management, and coordination of complex organizations.
- (2)
  - (a) The commissioner shall serve full-time.
  - (b)
    - (i) Except as provided in Subsection (2)(b)(ii), the commissioner may not:
      - (A) hold any other office of this state, another state, or the federal government except in an ex officio capacity; or
      - (B) serve on any committee of any political party.
    - (ii) Notwithstanding Subsection (2)(b)(i), the commissioner may:
      - (A) hold a nominal position or title if it is required by law as a condition for the state participating in an appropriation or allotment of any money, property, or service that may be made or allotted for the commission; or
      - (B) serve as the chief administrative officer of any division, office, or bureau that is established within the commission.
    - (iii) If the commissioner holds a position as permitted under Subsection (2)(b)(ii), the commissioner may not be paid any additional compensation for holding the position.
- (3) Before beginning the duties as a commissioner, an appointed commissioner shall take and subscribe the constitutional oath of office and file the oath with the Division of Archives.
- (4) The commissioner shall:
  - (a) administer and supervise the commission in compliance with Title 67, Chapter 19, Utah State Personnel Management Act;
  - (b) approve the proposed budget of each division and the Appeals Board;
  - (c) approve all applications for federal grants or assistance in support of any commission program; and
  - (d) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title or Title 34, Labor in General.
- (5)
  - (a) The commissioner shall report annually to the Legislature and the governor concerning the operations of the commission and the programs that the commission administers.
  - (b) If federal law requires that a report to the governor or Legislature be given concerning the commission or a program administered by the commission, the commissioner or the commissioner's designee shall make that report.

Amended by Chapter 336, 2011 General Session

**34A-1-202 Divisions and office -- Creation -- Duties -- Labor Relations Board, Appeals Board, councils, and panel.**

- (1) There is created within the commission the following divisions and office:
  - (a) the Division of Industrial Accidents that shall administer the regulatory requirements of this title concerning industrial accidents and occupational disease;
  - (b) the Division of Occupational Safety and Health that shall administer the regulatory requirements of Chapter 6, Utah Occupational Safety and Health Act;
  - (c) the Division of Boiler and Elevator Safety that shall administer the regulatory requirements of Chapter 7, Safety;
  - (d) the Division of Antidiscrimination and Labor that shall administer the regulatory requirements of:
    - (i) Title 34, Labor in General, when specified by statute;
    - (ii) Chapter 5, Utah Antidiscrimination Act;
    - (iii) this title, when specified by statute; and
    - (iv) Title 57, Chapter 21, Utah Fair Housing Act;
  - (e) the Division of Adjudication that shall adjudicate claims or actions brought under this title; and
  - (f) the Utah Office of Coal Mine Safety created in Section 40-2-201.
- (2) In addition to the divisions created under this section, within the commission are the following:
  - (a) the Labor Relations Board created in Section 34-20-3;
  - (b) the Appeals Board created in Section 34A-1-205;
  - (c) the following program advisory councils:
    - (i) the workers' compensation advisory council created in Section 34A-2-107;
    - (ii) the Mine Safety Technical Advisory Council created in Section 40-2-203; and
    - (iii) the Coal Miner Certification Panel created in Section 40-2-204.
- (3) In addition to the responsibilities described in this section, the commissioner may assign to a division a responsibility granted to the commission by law.

Amended by Chapter 413, 2013 General Session

**34A-1-203 Commissioner -- Jurisdiction over division directors -- Authority.**

- (1) The commissioner has administrative jurisdiction over each division.
- (2) To effectuate greater efficiency and economy in the operations of the commission, the commissioner may:
  - (a) make changes in personnel and service functions in the divisions under the commissioner's administrative jurisdiction; and
  - (b) authorize designees to perform appropriate responsibilities.
- (3) To facilitate management of the commission, the commissioner may establish offices necessary to implement this title or to perform functions such as budgeting, planning, data processing, and personnel administration.

Enacted by Chapter 375, 1997 General Session

**34A-1-204 Division directors -- Appointment -- Compensation -- Qualifications.**

- (1) The chief officer of each division within the commission shall be a director, who shall serve as the executive and administrative head of the division.
- (2) A director shall be appointed by the commissioner with the concurrence of the governor and may be removed from that position at the will of the commissioner.

- (3) A director of a division shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.
- (4)
  - (a) A director of a division shall be experienced in administration and possess such additional qualifications as determined by the commissioner.
  - (b) In addition to the requirements imposed under Subsection (4)(a), the director of the Division of Adjudication shall be admitted to the practice of law in this state.

Enacted by Chapter 375, 1997 General Session

**34A-1-205 Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.**

- (1) There is created the Appeals Board within the commission consisting of three members. The board may call and preside at adjudicative proceedings to review an order or decision that is subject to review by the Appeals Board under this title.
- (2)
  - (a) The governor shall appoint the members with the consent of the Senate and in accordance with this section.
  - (b) One member of the board shall be appointed to represent employers, in making this appointment, the governor shall consider nominations from employer organizations.
  - (c) One member of the board shall be appointed to represent employees, in making this appointment, the governor shall consider nominations from employee organizations.
  - (d) No more than two members may belong to the same political party.
  - (e) The governor shall, at the time of appointment or reappointment, make appointments to the board so that at least two of the members of the board are members of the Utah State Bar in good standing or resigned from the Utah State Bar in good standing.
- (3)
  - (a) The term of a member shall be six years beginning on March 1 of the year the member is appointed, except that the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that one member is appointed every two years.
  - (b) The governor may remove a member only for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.
  - (c) A member shall hold office until a successor is appointed and has qualified.
- (4) A member shall be part-time and receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.
- (5)
  - (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.
  - (b) The governor shall appoint and may remove at will the chair from the position of chair.
- (6) A majority of the board shall constitute a quorum to transact business.
- (7)
  - (a) The commission shall provide the Appeals Board necessary staff support, except as provided in Subsection (7)(b).
  - (b) At the request of the Appeals Board, the attorney general shall act as an impartial aid to the Appeals Board in outlining the facts and the issues.

Amended by Chapter 428, 2013 General Session

