

## Chapter 11 Federal Social Security

### 67-11-1 Declaration of policy.

In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old-age and survivors insurance system embodied in the Social Security Act, it is hereby declared to be the policy of the Legislature, subject to the limitations of this act, that such steps be taken as to provide such protection to employees of the state and its political subdivisions within the limitations permitted under the Social Security Act.

Amended by Chapter 184, 1973 General Session

### 67-11-2 Definitions.

For the purposes of this chapter:

- (1) "Employee" includes an elective or appointive officer or employee of a state or political subdivision thereof.
- (2) "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except:
  - (a) service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act;
  - (b) service which under the Social Security Act may not be included in an agreement between the state and federal security administrator entered into under this chapter;
  - (c) services of an emergency nature, service in any class or classes of positions the compensation for which is on a fee basis:
    - (i) performed by employees of the state; or
    - (ii) if so provided in the plan submitted under Section 67-11-5, by a political subdivision of the state, by an employee of such subdivision;
  - (d) services performed by students employed by a public school, college, or university at which they are enrolled and which they are attending on a full-time basis;
  - (e) part-time services performed by election workers, i.e., judges of election and registrars; or
  - (f) services performed by voluntary firemen, except when such services are prescheduled for a specific period of duty.
- (3) "Federal Insurance Contributions Act" means Chapter 21 of the Internal Revenue Code as such Code may be amended.
- (4) "Federal security administrator" includes any individual to whom the federal security administrator has delegated any of his functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions.
- (5) "Political subdivision" includes:
  - (a) an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations of the instrumentality, if:
    - (i) the instrumentality is a juristic entity that is legally separate and distinct from the state or subdivision; and
    - (ii) the instrumentality's employees are not, due to their relation to the instrumentality, employees of the state or subdivision; and

- (b) special districts, special service districts, or authorities created by the Legislature or local governments, including mosquito abatement districts, sewer or water districts, and libraries.
- (6) "Sick pay" means payments made to employees on account of sickness or accident disability under a sick leave plan of the type outlined in 42 U.S.C. Secs. 409(a)(2) and (3) of the Social Security Act.
- (7) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such act has been and may from time to time be amended.
- (8) "State agency" means the Division of Finance, referred to herein as the state agency.
- (9) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include "sick pay" as that term is defined in this section and shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Amended by Chapter 16, 2023 General Session

**67-11-3 General powers of state agency and interstate instrumentalities.**

- (1) The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an agreement with the federal security administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute "employment" as defined in Section 67-11-2. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and federal security administrator shall agree upon. However, except as may be otherwise required or permitted by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:
  - (a) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act.
  - (b) The state will pay to the secretary of the treasury of the United States, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in Section 67-11-2, equal to the sum of the taxes which would be imposed by Sections 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act.
  - (c) The agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to January 1, 1951, and in no case prior to an employment period with reference to which said insurance coverage can be obtained under the provisions of the Social Security Act.
  - (d) All services which constitute employment as defined in Section 67-11-2 and are performed in the employ of the state by employees of the state, shall be covered by the agreement.
  - (e) All services which constitute employment as defined in Section 67-11-2, are performed in the employ of a political subdivision of the state, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under Section 67-11-5, shall be covered by the agreement.

- (2) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states:
  - (a) to enter into an agreement with the federal security administrator whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality;
  - (b) to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under Subsection 67-11-4(1) if they were covered by an agreement made pursuant to Subsection (1); and
  - (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements.
- (3) An agreement shall, to the extent practicable, be consistent with the terms and provisions of Subsections (1) and (2) and other provisions of this chapter.

Amended by Chapter 306, 2007 General Session

**67-11-4 Payments into Contribution Fund by employees.**

- (1) Every employee of the state whose services are covered by an agreement entered into under Section 67-11-3 shall be required to pay contributions for the period of such coverage, into the Contribution Fund established by Section 67-11-6 with respect to wages, as defined in Section 67-11-2, equal to the amount of tax which would be imposed by Section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act. This liability shall arise in consideration of the employee's retention in the service of the state, or his entry upon such service, after February 14, 1951.
- (2) The contribution imposed by this section shall be collected by the authorized state fiscal officers by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.
- (3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

Amended by Chapter 306, 2007 General Session

**67-11-5 Political subdivisions of state -- Planned participation.**

- (1) Each political subdivision of the state is hereby authorized to submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in rules of the state agency, except that no such plan shall be approved unless:
  - (a) it is in conformity with the requirements of the Social Security Act and with the agreement entered into under Section 67-11-3;
  - (b) it provides that all services which constitute employment as defined in Section 67-11-2 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;
  - (c) it specifies the source or sources from which the funds necessary to make the payments required by Subsections (3) and (4) are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

- (d) it provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;
  - (e) it provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and
  - (f) it authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by rules of the state agency and may be consistent with the provisions of the Social Security Act.
- (2) The state agency shall not finally refuse to approve a plan submitted by a political subdivision under Subsection (1), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.
- (3)
- (a) Each political subdivision as to which a plan has been approved under this section shall pay into the Contribution Fund, with respect to wages, as defined in Section 67-11-2, at such time or times as the state agency may by rule prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under Section 67-11-3.
  - (b) Each political subdivision required to make payment under Subsection (3)(a) shall, in consideration of the employees retention in, or entry upon, employment after enactment of this chapter, impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, as defined in Section 67-11-2, not exceeding the amount of tax which would be imposed by Section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the Contribution Fund in partial discharge of the liability of such political subdivision or instrumentality under this Subsection (3). Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.
- (4) Delinquent payments due under Subsection (3) may, with interest at the rate of 4% per annum, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other money payable to such subdivision by any department, agency, or fund of the state.

Amended by Chapter 306, 2007 General Session

**67-11-6 Establishment of Contribution Fund -- Powers, authority, and jurisdiction of state agency -- Withdrawals from fund -- Payments into United States Treasury.**

- (1) There is hereby established a special fund to be known as the Contribution Fund. Such fund shall consist of and there shall be deposited in such fund:
- (a) all contributions, interests, and penalties collected under Sections 67-11-4 and 67-11-5;
  - (b) all money appropriated thereto under this chapter;
  - (c) any property or securities and earnings thereof acquired through the use of money belonging to the fund;
  - (d) interest earned upon any money in the fund; and

- (e) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other money received from the fund from any other source.
- (2) All money in the fund shall be mingled and undivided. Subject to the provisions of this chapter, the state agency is vested with full power, authority, and jurisdiction over the fund, including all money and property or securities belonging to it, and may perform any and all acts whether or not specifically designated, which are necessary to the administration of the fund and are consistent with the provisions of this chapter.
- (3) The Contribution Fund shall be established and held separate and apart from any other funds or money of the state and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such fund shall be made for, and solely for:
  - (a) payment of amounts required to be paid to the secretary of the treasury of the United States pursuant to an agreement entered into under Section 67-11-3;
  - (b) payment of refunds provided for in Subsection 67-11-4(3); and
  - (c) refunds for overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.
- (4) The custodian of the Contribution Fund shall pay to the secretary of the treasury of the United States from the Contribution Fund such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under Section 67-11-3 and the Social Security Act.
- (5) The treasurer of the state shall be ex officio treasurer and custodian of the Contribution Fund and shall administer the fund in accordance with the provisions of this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such rules as the state agency may prescribe pursuant thereto.
- (6) In addition to the contributions collected and paid into the Contribution Fund under Sections 67-11-4 and 67-11-5, there shall be paid into the Contribution Fund such sums as are found to be necessary in order to make the payments to the secretary of the treasury which the state is obligated to make pursuant to an agreement entered into under Section 67-11-3. The amount which is necessary to make the portion of such additional payment to the secretary of the treasury which is attributable to the coverage of the employees of each department, commission, council, branch, agency, or other division or organization of the state which employs persons covered by the Social Security Act pursuant to an agreement entered into under Section 67-11-3 shall be paid from the funds which have been appropriated, authorized, or allocated to such department.

Amended by Chapter 306, 2007 General Session

**67-11-8 Utah State Social Security Agency -- Creation of -- Powers and prerogatives of.**

- (1) The state finance commission is hereby designated as the state agency authorized to administer this act, and for that purpose shall be known as the Utah State Social Security Agency.
- (2) The state agency shall have power to establish and maintain records, employ such personnel, accountants and attorneys and to do all things necessary to the proper administration of this act. It shall make and publish such rules and regulations, not inconsistent with the provisions of this act, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this act.

No Change Since 1953

**67-11-9 Studies by state agency.**

The state agency shall make studies concerning the problem of old-age and survivors insurance protection for employees of the state and local governments and their instrumentalities and concerning the operation of agreements made and plans approved under this chapter.

Amended by Chapter 135, 1997 General Session