

1 **STATE OFFICERS AND EMPLOYEES -**
2 **PERSONNEL MANAGEMENT AMENDMENTS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Neal B. Hendrickson**

6 AN ACT RELATING TO STATE OFFICERS AND EMPLOYEES; PROVIDING FOR PAY
7 EQUITY IN HIRING PRACTICES; REQUIRING CHANGES IN METHOD FOR
8 DETERMINING PAY PLANS; MAKING CHANGES TO MARKET COMPARABILITY
9 ADJUSTMENT PERCENTAGES; PROVIDING ADDITIONAL DEFINITIONS; AND MAKING
10 TECHNICAL CHANGES.

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13 **67-19-3**, as last amended by Chapter 192, Laws of Utah 1996

14 **67-19-12**, as last amended by Chapters 10, 202 and 213, Laws of Utah 1997

15 **49-8-401**, as last amended by Chapter 360, Laws of Utah 1998

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

17 Section 1. Section **49-8-401** is amended to read:

18 **49-8-401. Group insurance division -- Powers and duties.**

19 (1) The group insurance division of the retirement office shall:

20 (a) act as a self-insurer of employee group benefit plans and administer those plans;

21 (b) enter into contracts with private insurers to underwrite employee group benefit plans
22 and to reinsure any appropriate self-insured plans;

23 (c) publish and disseminate descriptions of all employee benefit plans under this chapter
24 in cooperation with the Department of Human Resource Management and political subdivisions;

25 (d) administer the process of claims administration of all employee benefit plans under this
26 chapter or enter into contracts, after competitive bids are taken, with other benefit administrators
27 to provide for the administration of the claims process;

28 (e) obtain an annual actuarial evaluation of all self-insured benefit plans and prepare an
29 annual report for the governor and the Legislature describing the employee benefit plans being
30 administered by the retirement office detailing historical and projected program costs and the status
31 of reserve funds;

32 (f) consult with the Department of Human Resource Management and the executive bodies
33 of other political subdivisions to evaluate employee benefit plans and develop recommendations
34 for new or improved benefit plans;

35 (g) submit annually a budget which includes total projected benefit and administrative
36 costs;

37 (h) maintain reserves sufficient to liquidate the unrevealed claims liability and other
38 liabilities of the self-funded employee group benefit plans as estimated by the board's consulting
39 actuary;

40 (i) submit its recommended benefit adjustments for state employees upon approval of the
41 board to the director of the Department of Human Resource Management. The Department of
42 Human Resource Management shall include the benefit adjustments in the [~~total compensation~~
43 plan] benefit package recommended to the governor required by [~~Subsection~~] Section
44 67-19-12[(6)(a)];

45 (j) adjust benefits, upon approval of the board, and upon appropriate notice to the state,
46 its educational institutions, and political subdivisions;

47 (k) for the purposes of stimulating competition, establishing better geographical
48 distribution of medical care services, and providing alternative health and dental plan coverage for
49 both active and retired employees, request proposals for alternative health and dental coverage at
50 least once every three years, proposals which meet the criteria specified in the request shall be
51 offered to active and retired state employees and may be offered to active and retired employees
52 of political subdivisions at the option of the political subdivision; and

53 (l) perform the same functions established in Subsections (1)(a), (b), (d), and (g) for the
54 Department of Health if the group insurance division provides program benefits to children
55 enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40.

56 (2) Funds budgeted and expended shall accrue from premiums paid by the various
57 employers. Administrative costs may not exceed that percentage of premium income which is
58 recommended by the board and approved by the governor and the Legislature.

59 Section 2. Section **67-19-3** is amended to read:

60 **67-19-3. Definitions.**

61 As used in this chapter:

62 (1) "Agency" means any department or unit of Utah state government with authority to
63 employ personnel.

64 (2) "Average salary" means the average salary paid in a salary range to an employee in
65 public and private service.

66 (3) "Benefit" means any of the following offered to a state employee as inducement to
67 work for the state:

68 (a) paid leave;

69 (b) the following types of insurance:

70 (i) health;

71 (ii) dental; or

72 (iii) life;

73 (c) retirement; and

74 (d) any other benefits.

75 ~~[(2)]~~ (4) "Career service" means positions under Schedule B as defined in Section
76 67-19-15.

77 ~~[(3)]~~ (5) "Career service employee" means an employee who has successfully completed
78 a probationary period of service in a position covered by the career service.

79 ~~[(4)]~~ (6) "Career service status" means status granted to employees who successfully
80 complete probationary periods for competitive career service positions.

81 ~~[(5)]~~ (7) "Classified service" means those positions subject to the classification and
82 compensation provisions of Section 67-19-12.

83 ~~[(6)]~~ (8) "Committee" means the Human Resources Advisory Committee created by this
84 chapter.

85 (9) "Compensation" means any of the following offered to a state employee as an
86 inducement to work for the state:

87 (a) salary;

88 (b) a bonus; and

89 (c) a benefit.

90 [(7)] (10) "Controlled substance" means controlled substance as defined in Section
91 58-37-2.

92 [(8)] (11) "Department" means the Department of Human Resource Management.

93 [(9)] (12) "Disability" means a physical or mental disability as defined and protected under
94 the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

95 [(10)] (13) "Employee" means any individual in a paid status covered by the career service
96 or classified service provisions of this chapter.

97 [(11)] (14) "Examining instruments" means written or other types of proficiency tests.

98 [(12)] (15) "Executive director," except where otherwise specified, means the executive
99 director of the department.

100 [(13)] (16) (a) "Market comparability adjustment" means a salary range adjustment;

101 (i) determined necessary through a market survey of salary ranges of a reasonable cross
102 section of comparable benchmark positions in private and public employment[-]; and

103 (ii) based on the salary market survey completed annually by the department.

104 (b) A market comparability adjustment may not exclude employees that have longevity
105 status.

106 [(14)] (17) "Probationary employee" means an employee serving a probationary period in
107 a career service position but who does not have career service status.

108 [(15)] (18) "Probationary period" means that period of time determined by the department
109 that an employee serves in a career service position as part of the hiring process before career
110 service status is granted to the employee.

111 [(16)] (19) "Probationary status" means the status of an employee between the employee's
112 hiring and the granting of career service status.

113 ~~[(17) "Total compensation" means salaries and wages, bonuses, paid leave, group~~
114 ~~insurance plans, retirement, and all other benefits offered to state employees as inducements to~~
115 ~~work for the state.]~~

116 (20) "Salary" means any salary or bonus offered to a state employee as inducement to work
117 for the state.

118 (21) "Salary market survey" means the salary survey completed each year by the
119 department on the pay ranges of the state pay plan.

120 Section 3. Section **67-19-12** is amended to read:

121 **67-19-12. State pay plans -- Applicability of section -- Exemptions from section --**
122 **Duties of director.**

123 (1) (a) This section, and the rules adopted by the department to implement this section,
124 apply to each career and noncareer state employee not specifically exempted under Subsection (2).

125 (b) If not exempted under Subsection (2), a state employee is considered to be in classified
126 service.

127 (2) The following state employees are exempt from this section:

128 (a) members of the Legislature and legislative employees;

129 (b) members of the judiciary and judicial employees;

130 (c) elected members of the executive branch and their direct staff who meet career service
131 exempt criteria as defined in Subsection 67-19-15(1)(k);

132 (d) certificated employees of the State Board of Education;

133 (e) officers, faculty, and other employees of state institutions of higher education;

134 (f) employees in any position that is determined by statute to be exempt from this
135 Subsection (2);

136 (g) attorneys in the Office of the Attorney General;

137 (h) department heads and other persons appointed by the governor pursuant to statute;

138 (i) employees of the Department of Community and Economic Development whose
139 positions are designated as executive/professional positions by the executive director of the
140 Department of Community and Economic Development with the concurrence of the director; and

141 (j) employees of the Medical Education Council.

142 (3) (a) The director shall prepare, maintain, and revise a position classification plan for
143 each employee position not exempted under Subsection (2) to provide equal pay for equal work.

144 **(b) A newly hired employee may not be given a salary step above any current employee**
145 **in the same job title, unless it can be proven that the newly hired employee has experience or**
146 **educational background that is more directly related to the job title than the experience or**
147 **educational background of the current employee in the same job title.**

148 **(c) A newly hired employee may not be given an initial salary step above any current**
149 **employee based solely on market forces, unless all employees in the job title are moved up the**
150 **same number of steps from the starting step as the newly hired employee.**

151 [(b)] (d) Classification of positions shall be based upon similarity of duties performed and

152 responsibilities assumed, so that the same job requirements and the same salary range may be
153 applied equitably to each position in the same class.

154 ~~[(c)]~~ (e) The director shall allocate or reallocate the position of each employee in classified
155 service to one of the classes in the classification plan.

156 ~~[(d)]~~ (f) (i) The department shall conduct periodic studies and desk audits to provide that
157 the classification plan remains reasonably current and reflects the duties and responsibilities
158 assigned to and performed by employees.

159 (ii) ~~[The]~~ With input from the agencies and employees, the director shall determine the
160 schedule for studies and desk audits after considering factors such as changes in duties and
161 responsibilities of positions or agency reorganizations.

162 (4) (a) ~~[With the approval of the governor, the]~~ The director shall develop and adopt pay
163 plans for each position in classified service.

164 (b) The director shall design each pay plan to achieve~~[- to the degree that funds permit,]~~
165 comparability ~~[of]~~ between:

166 (i) state salary ranges ~~[to]~~ and the average salary of each range; and

167 (ii) the salary ranges and the average salary of each range used for similar work by:

168 (A) private enterprise; and

169 (B) other public employment ~~[for similar work]~~.

170 (c) The director shall adhere to the following in developing each pay plan:

171 (i) Each pay plan shall:

172 (A) consist of sufficient salary ranges to permit adequate salary differential among the
173 various classes of positions in the classification plan~~[-];~~ and

174 (B) take into account the average salary of ranges from private enterprise and other public
175 employment.

176 (ii) The director shall assign each class of positions in the classification plan to a salary
177 range and shall set the width of the salary range to reflect the normal growth and productivity
178 potential of employees in that class. The width of the ranges need not be uniform for all classes
179 of positions in the plan, but each range shall contain merit steps in increments of 2.75% salary
180 increases.

181 (iii) (A) The director shall issue rules for the administration of pay plans and for the
182 determination of salary adjustments.

183 (B) The rules described in Subsection (4)(c)(iii) may provide for:

184 (I) exceptional performance increases; and [for]

185 (II) a program of incentive awards for cost-saving suggestions and other commendable acts
186 of employees[. ~~The director shall issue rules providing for salary adjustments.~~; and

187 (C) shall be published and distributed to state employees.

188 (iv) [Merit] A merit step [increases] increase shall be granted[~~, if funds are available,~~] each
189 year to [employees] an employee who [receive] receives a rating of "successful" or higher in [an]
190 the annual evaluation of [their] the employee's productivity and performance.

191 (v) By October 15 of each year, the director shall submit the salary range market
192 comparability adjustments to the state budget officer [~~for consideration to~~] which shall be included
193 as part of the affected agency's base budgets.

194 (vi) By October 31 of each year, the director shall recommend a [compensation] salary
195 package and a benefit package to the governor.

196 (vii) [Adjustments] (A) The pay plan adjustments shall incorporate the results of [a total
197 compensation] the salary market survey of salary ranges and [benefits] the average salaries within
198 those ranges of a reasonable cross section of comparable benchmark positions in private and public
199 employment [in] within and outside the state.

200 (B) The salary market survey may [also] study comparable unusual positions requiring
201 recruitment outside Utah in the surrounding western states.

202 (C) The director may cooperate with other public and private employers in conducting the
203 salary market survey.

204 (viii) Market comparability adjustments shall be based on the state salary market survey
205 completed each year. If the state salary market survey shows that either a salary range or the
206 average salary for a specific range is out of adjustment by 2.75%, the salary range and the average
207 salary shall be adjusted.

208 (A) For each 2.75% the range or average salary is below the market, the range shall be
209 moved that many steps upward.

210 (B) For each 2.75% the range or average salary is below the market, all employees within
211 the salary range shall be moved the same number of steps upward as the salary range.

212 [(viii)] (ix) (A) The director shall:

213 (I) establish criteria to assure the adequacy and accuracy of the salary market survey; and

214 [shall]

215 (II) use methods and techniques in the salary market survey similar to and consistent with
216 those used in private sector surveys.

217 (B) Except as provided under Section 67-19-12.3, the survey shall include a reasonable
218 cross section of employers~~[-]~~ from within and outside the state.

219 (C) If the salary market survey results for a specific job title are predominantly determined
220 by the state contracting with the survey employers, the director shall look outside the state for its
221 survey material.

222 (D) The director may cooperate with or participate in any survey conducted by other public
223 and private employers.

224 [~~(ix)~~] (x) The establishing of a salary range;

225 (A) is a nondelegable activity subject to Subsection 67-19-8(1); and

226 (B) is not appealable under the grievance procedures of Sections 67-19-30 through
227 67-19-32, Title 67, Chapter 19a, Grievance and Appeal Procedures, or otherwise.

228 [~~(x)~~] (xi) The governor shall:

229 (A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing
230 the executive budget and shall recommend the method of distributing the adjustments;

231 (B) submit compensation recommendations to the Legislature; [and]

232 (C) support the recommendation with schedules indicating the cost to individual
233 departments and the source of funds~~[-]~~;

234 (D) consider the director's proposals in preparing budget recommendations for the
235 Legislature; and

236 (E) include a specific recommendation on state employee salaries and benefits in the
237 governor's budget proposals to the Legislature.

238 [~~(xi)~~] (xii) If funding is approved by the Legislature in a general appropriations act, the
239 adjustments shall take effect on the July 1 following the enactment.

240 (5) (a) The director shall regularly evaluate the [~~total compensation~~] benefit program of
241 state employees in the classified service.

242 (b) The department shall determine if employee benefits are comparable to those offered
243 by other private and public employers using information from:

244 (i) the most recent edition of the Employee Benefits Survey Data conducted by the [~~U.S.~~]

245 United States Chamber of Commerce Research Center; or

246 (ii) the most recent edition of a nationally recognized benefits survey.

247 ~~[(6) (a) The director shall submit proposals for a state employee compensation plan to the~~
248 ~~governor by October 31 of each year, setting forth findings and recommendations affecting state~~
249 ~~employee compensation.]~~

250 ~~[(b) The governor shall consider the director's proposals in preparing budget~~
251 ~~recommendations for the Legislature.]~~

252 ~~[(c) The governor's budget proposals to the Legislature shall include a specific~~
253 ~~recommendation on state employee compensation.]~~

Legislative Review Note
as of 2-18-99 11:22 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel