

1                   **COUNTY SERVICE PERSONNEL MANAGEMENT**

2                                   **AMENDMENTS**

3   1999 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: R. Mont Evans**

6 AN ACT RELATING TO COUNTIES; MODIFYING COUNTY PERSONNEL MANAGEMENT  
7 PROVISIONS; MODIFYING DEFINITIONS; MODIFYING THE RESPONSIBILITIES OF THE  
8 CAREER SERVICE COUNCIL; MODIFYING REQUIRED ELEMENTS OF COUNTY  
9 PERSONNEL RULES; MODIFYING DUTIES OF COUNTY AGENCIES, DEPARTMENTS,  
10 OR OFFICES; MODIFYING COMPENSATION OF CAREER SERVICE COUNCIL;  
11 AUTHORIZING THE COUNTY LEGISLATIVE BODY TO DETERMINE AND ADJUST  
12 RATE OF COMPENSATION; AND MAKING TECHNICAL CHANGES.

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

14 AMENDS:

15           **17-33-2**, as last amended by Chapters 12 and 146, Laws of Utah 1994

16           **17-33-4**, as last amended by Chapter 146, Laws of Utah 1994

17           **17-33-5**, as last amended by Chapter 146, Laws of Utah 1994

18           **17-33-7**, as last amended by Chapter 275, Laws of Utah 1992

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

20           Section 1. Section **17-33-2** is amended to read:

21           **17-33-2. Definitions.**

22           As used in this chapter:

23           (1) "Career service position" means any position in the county service except those  
24 exempted under Section 17-33-8.

25           ~~[(2) "Certification" means referral of names of the most qualified eligible applicants~~  
26 ~~certified by the director of personnel management to the agency for appointment.]~~

27           ~~[(3)]~~ (2) "Council" means the career service council, a three-member appeals and

28 personnel advisory board.

29 [(4)] (3) "Director" means the director of personnel management.

30 [(5)] (4) "Eligible applicant" means any applicant that meets the job related minimum  
31 requirements established for a position in the career service.

32 [(6)] (5) "Eligible list" means a list of eligible applicants ranked in order of relative  
33 knowledge, skill, ability and merit.

34 [(7)] (6) "Exempt positions" means those positions which are not in the career service as  
35 specified in Section 17-33-8.

36 [(8)] (7) "Merit system" means a system of personnel administration based on the  
37 principles set forth in Section 17-33-3.

38 [(9)] (8) "Position classification" means a grouping of positions under the same title which  
39 are sufficiently similar to be compensated at the same salary range and to which the same tests of  
40 ability can be applied.

41 [(10)] (9) "Provisional appointment" means an appointment to fill a position pending the  
42 establishment of a register for such position.

43 Section 2. Section **17-33-4** is amended to read:

44 **17-33-4. Career service council -- Powers and duties -- Qualifications, appointment,**  
45 **terms, compensation.**

46 (1) (a) There shall be in each county establishing a system a three-member bipartisan  
47 career service council appointed by the county legislative body. The members of the council shall  
48 be persons in sympathy with the application of merit principles to public employment.

49 (b) The council shall hear appeals not resolved at lower levels in the cases of career service  
50 employees [suspended, transferred, demoted, or dismissed as well in the cases of other grievances  
51 not resolved by the grievance procedure at the division or departmental level; it] regarding  
52 suspensions, demotions, promotions, dismissals, written warnings, written reprimands, violations  
53 of a personnel policy, issues regarding the equitable administration of compensation policies and  
54 practices, the equitable administration of benefits policies and practices, a reduction in force,  
55 discrimination and reprisal, transfers made for reprisal, resignation by absence, and violations of  
56 any other policies that protect employee rights, status, or privileges.

57 (c) The career service council:

58 (i) may make an initial determination in each appeal whether the appeal is one of the types

59 of matters under Subsection (1)(b) over which the council has jurisdiction;

60 (ii) shall review written appeals in cases of applicants rejected for examination[;] and  
61 [shall] report final binding appeals decisions, in writing, to the county legislative body[-  
62 However]; and

63 (iii) may not hear any other personnel matter.

64 (d) Notwithstanding the other provisions of this Subsection (1), a right of appeal to the  
65 district court under the provisions of the Utah Rules of Civil Procedure shall not be abridged.

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

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

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

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

86 (6) Council members shall receive compensation for each day or partial day they are in  
87 session at [~~the rate of \$50~~] a per diem [~~for each day or part thereof they are in session; except that~~]  
88 rate determined by the county legislative body. The county legislative body may periodically  
89 adjust the compensation rate [~~may be adjusted periodically~~] for inflation [~~by the county legislative~~

90 body].

91 Section 3. Section **17-33-5** is amended to read:

92 **17-33-5. Office of personnel management -- Director -- Appointment and**  
93 **responsibilities -- Personnel rules.**

94 (1) (a) Each county legislative body shall:

95 (i) create an office of personnel management, administered by a director of personnel  
96 management; and

97 (ii) ensure that the director is a person with proven experience in personnel management.

98 (b) (i) Beginning July 1, 1993, the county legislative body shall appoint a director of  
99 personnel management to serve a four-year term.

100 (ii) At the expiration of any four-year term, the county legislative body may reappoint that  
101 director to another four-year term or may appoint a new director.

102 (iii) If the position of director of personnel management becomes vacant for any reason  
103 before the four-year term expires, the county legislative body shall appoint a person to complete  
104 the unexpired term by following the procedures and requirements of this section.

105 (c) The career service council shall:

106 (i) advertise and recruit for the director position in the same manner as for merit positions;

107 (ii) select three names from a register; and

108 (iii) submit those names as recommendations to the county legislative body.

109 (d) The county legislative body shall select a person to serve as director of the office of  
110 personnel management from the names submitted to it by the career service council.

111 (2) The director of personnel management shall:

112 (a) encourage and exercise leadership in the development of expertise in personnel  
113 administration within the several departments, offices, and agencies in the county service and make  
114 available the facilities of the office of personnel management to this end;

115 (b) advise the county legislative and executive bodies on the use of human resources;

116 (c) develop and implement programs for the improvement of employee effectiveness, such  
117 as training, safety, health, counseling, and welfare;

118 (d) investigate periodically the operation and effect of this law and of the policies made  
119 under it and report findings and recommendations to the county legislative body;

120 (e) establish and maintain records of all employees in the county service, setting forth as

121 to each employee class, title, pay or status, and other relevant data;

122 (f) make an annual report to the county legislative body regarding the work of the  
123 department; and

124 (g) apply and carry out this law and the policies under it and perform any other lawful acts  
125 that are necessary to carry out the provisions of this law.

126 (3) (a) (i) The director shall issue personnel rules for the county.

127 (ii) The county legislative body may approve, amend, or reject those rules before they are  
128 implemented.

129 (b) The rules shall provide for:

130 (i) recruiting efforts to be planned and carried out in a manner that assures open  
131 competition, with special emphasis to be placed on recruiting efforts to attract minorities, women,  
132 handicapped, or other groups that are substantially underrepresented in the county work force to  
133 help assure they will be among the candidates from whom appointments are made;

134 (ii) the establishment of job related minimum requirements wherever practical, which all  
135 successful candidates shall be required to meet in order to be eligible for consideration for  
136 appointment or promotion;

137 (iii) selection procedures that include consideration of the relative merit of each applicant  
138 for employment, a job related method of determining the eligibility or ineligibility of each  
139 applicant, and a valid, reliable, and objective system of ranking eligibles according to their  
140 qualifications and merit;

141 (iv) certification procedures that insure equitable consideration of an appropriate number  
142 of the most qualified eligibles based on the ranking system;

143 (v) appointments to positions in the career service by selection from the most qualified  
144 eligibles certified on eligible lists established in accordance with Subsections (3)(b)(iii) and (iv);

145 (vi) noncompetitive appointments in the occasional instance where there is evidence that  
146 open or limited competition is not practical, such as for unskilled positions for which there are no  
147 minimum job requirements;

148 (vii) limitation of competitions at the discretion of the director for appropriate positions  
149 to facilitate employment of qualified applicants with a substantial physical or mental impairment,  
150 or other groups protected by Title VII of the Civil Rights Act;

151 (viii) permanent appointment for entry to the career service which shall be contingent upon

152 satisfactory performance by the employee during a period of six months, with the probationary  
153 period extendable for a period not to exceed six months for good cause, but with the condition that  
154 the probationary employee may appeal directly to the council any undue prolongation of the period  
155 designed to thwart merit principles;

156 (ix) temporary, provisional, or other noncareer service appointments, which may not be  
157 used as a way of defeating the purpose of the career service and may not exceed 90 days, with the  
158 period extendable for a period not to exceed an additional 90 days for good cause;

159 (x) lists of eligibles normally to be used, if available, for filling temporary positions, and  
160 short term emergency appointments to be made without regard to the other provisions of law to  
161 provide for maintenance of essential services in an emergency situation where normal procedures  
162 are not practical, these emergency appointments not to exceed 90 days, with that period extendable  
163 for a period not to exceed an additional 90 days for good cause;

164 (xi) promotion and career ladder advancement of employees to higher level positions [in  
165 such a manner that eligible permanent career service employees are considered and it is adequately  
166 assured] and assurance that all persons promoted are qualified for the position;

167 (xii) recognition of the equivalency of other merit processes by waiving, at the discretion  
168 of the director, the open competitive examination for placement in the career service positions who  
169 were originally selected through a competitive examination process in another governmental entity,  
170 the individual in those cases, to serve a probationary period;

171 (xiii) preparation, maintenance, and revision of a position classification plan for all  
172 positions in the career service, based upon similarity of duties performed and responsibilities  
173 assumed, so that the same qualifications may reasonably be required for, and the same schedule  
174 of pay may be equitably applied to, all positions in the same class, the compensation plan, in order  
175 to maintain a high quality public work force, to take into account the responsibility and difficulty  
176 of the work, the comparative pay and benefits needed to compete in the labor market and to stay  
177 in proper alignment with other similar governmental units [~~in the state~~], and other factors;

178 (xiv) keeping records of performance on all employees in the career service and requiring  
179 consideration of performance records in determining salary increases, any benefits for meritorious  
180 service, promotions, the order of layoffs and reinstatements, demotions, discharges, and transfers;

181 (xv) establishment of a plan governing layoffs resulting from lack of funds or work,  
182 abolition of positions, or material changes in duties or organization, and governing reemployment

183 of persons so laid off, taking into account with regard to layoffs and reemployment the relative  
184 ability, seniority, and merit of each employee;

185 (xvi) establishment of a plan for resolving employee grievances and complaints with final  
186 and binding decisions;

187 (xvii) establishment of disciplinary measures such as suspension, demotion in rank or  
188 grade, or discharge, such measures to provide for presentation of charges, hearing rights, and  
189 appeals for all permanent employees in the career service to the career service council;

190 (xviii) establishment of a procedure for employee development and improvement of poor  
191 performance;

192 (xix) establishment of hours of work, holidays, and attendance requirements in various  
193 classes of positions in the career service;

194 (xx) establishment and publicizing of fringe benefits such as insurance, retirement, and  
195 leave programs; and

196 (xxi) any other requirements not inconsistent with this law that are proper for its  
197 enforcement.

198 Section 4. Section **17-33-7** is amended to read:

199 **17-33-7. Functions of county office of personnel management -- Personnel functions**  
200 **of county agencies, departments, or offices.**

201 (1) (a) The county office of personnel management shall perform the functions required  
202 by this Subsection (1).

203 (b) The county executive, county legislative body, and county office of personnel  
204 management may not delegate those functions to a separate county agency, office, or department.

205 (c) The county office of personnel management shall:

206 (i) design and administer a county pay plan that includes salaries, wages, incentives,  
207 bonuses, leave, insurance, retirement, and other benefits;

208 (ii) design and administer the county classification plan and grade allocation system,  
209 including final decisions on position classification and grade allocation;

210 (iii) conduct position classification studies, including periodic desk audits, except that an  
211 agency, department, or office may submit classification recommendations to the county office of  
212 personnel management;

213 (iv) maintain registers of publicly recruited applicants and certification of top-ranking

- 214 eligible applicants;
- 215 (v) monitor county agency, department, or office personnel practices to determine  
216 compliance with equal opportunity and affirmative action guidelines; and
- 217 (vi) maintain central personnel records.
- 218 (d) The county legislative body may approve, amend, or reject the pay plan.
- 219 (2) County agencies, departments, or offices shall:
- 220 (a) establish initial job descriptions;
- 221 (b) recommend position classifications and grade allocations;
- 222 (c) make final selections [~~from lists of certified eligibles~~] for appointments and promotions  
223 to vacant positions;
- 224 (d) conduct performance evaluations;
- 225 (e) discipline employees; and
- 226 (f) perform other functions approved by the legislative body, and agreed to by the county  
227 agency, office, or department.

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**Legislative Review Note**  
**as of 2-10-99 10:12 AM**

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

**Office of Legislative Research and General Counsel**