

1                                   **WORKERS' COMPENSATION BENEFITS FOR**  
2                                   **VOLUNTEER SAFETY OFFICERS**

3                                   2002 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Neil A. Hansen**

6   **This act modifies the Volunteer Government Workers Act to address workers' compensation**  
7   **coverage of voluntary firefighters and auxiliary police officers and to make conforming and**  
8   **technical changes.**

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

10  AMENDS:

11           **67-20-2**, as last amended by Chapter 79, Laws of Utah 1999

12           **67-20-3**, as last amended by Chapter 13, Laws of Utah 1998

13           **67-20-7**, as last amended by Chapter 240, Laws of Utah 1996

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

15           Section 1. Section **67-20-2** is amended to read:

16           **67-20-2. Definitions.**

17           As used in this chapter:

18           (1) "Agency" means:

19           (a) any department, institution, office, college, university, authority, division, board,  
20  bureau, commission, council, or other agency of the state;

21           (b) any county, city, town, school district, or special improvement or taxing district; or

22           (c) any other political subdivision.

23           (2) "Compensatory service worker" means:

24           (a) any person who has been convicted of a criminal offense;

25           (b) any youth who has been adjudged delinquent; or

26           (c) any person or youth who:

27           (i) has been diverted from the criminal or juvenile justice system; and



28 (ii) performs a public service for an agency as a condition of the person or youth's:

29 (A) sentence;

30 (B) diversion;

31 (C) probation; or

32 (D) parole.

33 (3) (a) "Volunteer" means any person who donates service without pay or other  
34 compensation except expenses actually and reasonably incurred as approved by the supervising  
35 agency.

36 (b) "Volunteer" does not include:

37 (i) any person participating in human subjects research to the extent that the participation  
38 is governed by federal law or regulation inconsistent with this chapter; or

39 (ii) compensatory service workers.

40 (c) "Volunteer" includes a juror or potential juror appearing in response to a summons for  
41 a trial jury or grand jury.

42 (4) "Volunteer safety officer" means an individual who:

43 (a) (i) is an auxiliary police officer as provided in Section 53-13-112; or

44 (ii) (A) is on the rolls of a fire department as a firefighter; and

45 (B) is not regularly employed as a firefighter; and

46 (b) is a volunteer when serving as a firefighter.

47 Section 2. Section **67-20-3** is amended to read:

48 **67-20-3. Purposes for which volunteer considered a government employee.**

49 [~~A~~] Except for a volunteer safety officer as provided in Section 67-20-7, a volunteer is  
50 considered a government employee for purposes of:

51 (1) receiving workers' compensation medical benefits, which shall be the exclusive remedy  
52 for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers'  
53 Compensation Act, and Chapter 3, Utah Occupational Disease Act;

54 (2) the operation of motor vehicles or equipment if the volunteer is properly licensed and  
55 authorized to do so; and

56 (3) liability protection and indemnification normally afforded paid government employees.

57 Section 3. Section **67-20-7** is amended to read:

58 **67-20-7. Workers' compensation benefits for volunteer safety officers.**

59 (1) In addition to the purposes set out in Subsections 67-20-3(2) and (3), a volunteer  
60 ~~[firefighter, as defined in Section 49-5-103;]~~ safety officer is considered an ~~[agency]~~ employee of  
61 an agency for the purpose of receiving workers' compensation benefits under Title ~~[35A]~~ 34A,  
62 Chapter ~~[3]~~ 2, Workers' Compensation Act, and Chapter ~~[3a]~~ 3, Utah Occupational Disease Act.

63 (2) ~~[These]~~ (a) In accordance with Section 34A-2-105, the workers' compensation benefits  
64 described in Subsection (1) are the exclusive remedy against the agency, or an officer, agent, or  
65 employee of the agency, for all injuries and occupational diseases resulting from [his] the volunteer  
66 safety officer's services for the agency as a volunteer [firefighter] safety officer. [Compensation]

67 (b) For purposes of Subsection (2)(a), the agency for whom the volunteer safety officer  
68 provides services as a volunteer safety officer is considered the employer of the volunteer safety  
69 officer.

70 (3) (a) Subject to Subsections (3)(b) and (c), to compute the workers' compensation  
71 benefits for a volunteer safety officer, the average weekly wage of the volunteer safety officer shall  
72 be computed [as indicated in Section 49-5-802] by multiplying the state's average weekly wage  
73 by 105%.

74 (b) Beginning on January 1, 2004, the Labor Commission shall every two years:

75 (i) review:

76 (A) the percentage under this Subsection (3) that is multiplied by the state's average  
77 weekly wage; and

78 (B) the lowest monthly salary in a city of the first class for a:

79 (I) firefighter; or

80 (II) police officer; and

81 (ii) may by rule increase the percentage that is multiplied by the state's average weekly  
82 wage if the Labor Commission determines that an increase is necessary to make that percentage  
83 comparative to the salaries described in Subsection (3)(b)(i)(B).

84 (c) If, pursuant to Subsection (3)(b), the Labor Commission by rule increases the  
85 percentage that is multiplied by the state's average weekly wage, the Labor Commission may  
86 increase or decrease the percentage set out in rule after a review required by Subsection (3)(b),  
87 except that the percentage may not decrease below 105%.

**Legislative Review Note**  
**as of 11-28-01 1:00 PM**

Under the current provisions of the Volunteer Government Workers Act, volunteer firefighters receive greater workers' compensation benefits than do other volunteers. This bill extends the differential treatment to volunteer auxiliary police officers. Under equal protection principles of the Constitution of the United States and the uniform operation of the laws provisions of the Utah Constitution, there are limits on a legislature's ability to establish classifications and then treat members of the classes differently. In addition, because of the exclusive remedy element of workers' compensation, the open courts provision of the Utah Constitution may be implicated if the remedies provided under workers' compensation are found inadequate. In examining the permissibility of classes, courts look to factors such as the relationship between the class and the legislative objective being pursued.

**Office of Legislative Research and General Counsel**