

**WORKFORCE SERVICES AMENDMENTS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Beverly Ann Evans**

**This act modifies provisions relating to Workforce Services. The act modifies the definition of consortium of counties and the membership of regional councils on workforce services. The act authorizes the Department of Workforce Services to administer oaths, certify to official acts, and issue subpoenas and makes certain technical changes.**

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

AMENDS:

**35A-1-102**, as last amended by Chapter 21, Laws of Utah 1999

**35A-1-104**, as last amended by Chapter 132, Laws of Utah 1999

**35A-2-103**, as last amended by Chapter 1, Laws of Utah 1998

**35A-3-111**, as renumbered and amended by Chapter 174, Laws of Utah 1997

**35A-3-306**, as last amended by Chapter 80, Laws of Utah 2000

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

Section 1. Section **35A-1-102** is amended to read:

**35A-1-102. Definitions.**

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

- (a) Chapter 3, Employment Support Act; and
- (b) Chapter 5, Training and Workforce Improvement Act.

(2) "Consortium of counties" means an organization composed of all the counties within a regional workforce services area designated under Section 35A-2-101:

(a) in which [~~all of the county commissions~~] representatives of county government consisting of county commissioners, county council members, county executives, or county mayors jointly comply with this title in working with the executive director of the department regarding regional workforce services areas; and

- (b) (i) that existed as of July 1, 1997; or
- (ii) that is created on or after July 1, 1997, with the approval of the executive director.
- (3) "Department" means the Department of Workforce Services created in Section 35A-1-103.
- (4) "Employment assistance" means services or benefits provided by the department under:
  - (a) Chapter 3, Employment Support Act; and
  - (b) Chapter 5, Training and Workforce Improvement Act.
- (5) "Employment center" is a location in a regional workforce services area where the services provided by a regional workforce services area under Section 35A-2-201 may be accessed by a client.
- (6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Regional Workforce Services Areas.
- (7) "Employment plan" means a written agreement between the department and a client that describes:
  - (a) the relationship between the department and the client;
  - (b) the obligations of the department and the client; and
  - (c) the result if an obligation is not fulfilled by the department or the client.
- (8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.
- (9) "Public assistance" means:
  - (a) services or benefits provided under Chapter 3, Employment Support Act;
  - (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;
  - (c) foster care maintenance payments provided [~~with~~] from the General Fund or under Title IV-E of the Social Security Act;
  - (d) food stamps; and
  - (e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(10) "Regional workforce services area" means a regional workforce services area established in accordance with Chapter 2, Regional Workforce Services Areas.

(11) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

Section 2. Section **35A-1-104** is amended to read:

**35A-1-104. Department authority.**

Within all other authority or responsibility granted to it by law, the department may:

(1) adopt rules when authorized by this title, in accordance with the procedures of Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

(2) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(3) conduct adjudicative proceedings in accordance with the procedures of Title 63, Chapter 46b, Administrative Procedures Act;

(4) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(5) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and the production of books, accounts, documents, and other records necessary as evidence;

~~[(6)]~~ (7) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

~~[(7)]~~ (8) receive gifts, grants, devises, and donations or ~~[the]~~ their proceeds ~~[thereof]~~, crediting the program designated by the donor, and using the gift, grant, devise, or donation for the purposes requested by the donor, as long as the request conforms to state and federal policy;

~~[(8)]~~ (9) accept and employ volunteer labor or services;

~~[(9)]~~ (10) reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

~~[(10)]~~ (11) carry out the responsibility assigned by the State Workforce Services Plan developed by the State Council on Workforce Services;

~~[(11)]~~ (12) provide training and educational opportunities for its staff;

~~[(12)]~~ (13) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

~~[(13)]~~ (14) accept and administer grants from the federal government and from other sources, public or private;

~~[(14)]~~ (15) employ and determine the compensation of clerical, legal, technical, investigative, and other employees necessary to carry out its policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title;

~~[(15)]~~ (16) establish and conduct free employment agencies, and bring together employers seeking employees and working people seeking employment, and make known the opportunities for employment in this state;

~~[(16)]~~ (17) collect, collate, and publish statistical and other information relating to employees, employers, employments, and places of employment, and other statistics as it considers proper;

~~[(17)]~~ (18) encourage the expansion and use of apprenticeship programs meeting state or federal standards for apprenticeship programs;

~~[(18)]~~ (19) develop processes to ensure that the department responds to the full range of employee and employer clients; and

~~[(19)]~~ (20) carry out the responsibilities assigned to it by statute.

Section 3. Section **35A-2-103** is amended to read:

**35A-2-103. Regional council on workforce services -- Appointment -- Membership -- Terms of members -- Compensation.**

(1) The executive director shall jointly with all of the consortium of counties in the regional workforce services area, establish one or more regional councils on workforce services in each regional workforce services area.

(2) A regional council on workforce services shall:

(a) perform the functions described in Subsection [~~(9)~~] (10);

(b) work with the regional director, the department, the consortium of counties, and the State Council on Workforce Services on issues requested by the director of the regional workforce services area or the department; and

(c) make recommendations to the regional workforce services area and department regarding:

(i) the implementation of Chapters 2, 3, and 5; and

(ii) coordination of apprenticeship training.

[~~(2)~~] (3) Unless otherwise specified in this Subsection [~~(2)~~] (3), members of a regional council on workforce services shall be appointed by the consortium of counties that covers the same geographic area as the regional council in the regional workforce services area, in consultation with the regional director, and shall consist of the following:

(a) the voting members who are:

(i) eight representatives of private sector small employers as defined by rule by the department;

(ii) eight representatives of private sector large employers as defined by rule by the department;

(iii) two representatives of employees, including employee organizations and including at least one representative from nominees suggested by public employees organizations in the region;

(iv) two representatives of clients, including community-based organizations;

(v) one representative from organized labor not representing public employees;

(vi) three [~~county commissioners~~] representatives of county government consisting of county commissioners, county council members, county executives, or county mayors from the counties in the regional workforce services area;

(vii) a representative of public education appointed jointly by the school district superintendents in the region;

(viii) a representative of higher education appointed jointly by the presidents of the

institutions of higher education in the region;

(ix) a representative of veterans;

(x) a representative of the Office of Rehabilitation; and

(xi) an individual who works for or is a member of an economic development board or committee of the state or one of its political subdivisions; and

(b) ex officio nonvoting members who are:

(i) a representative of applied technology;

(ii) a representative of the Department of Human Services; and

(iii) a representative of the Department of Health.

~~[(3)]~~ (4) The director of the regional workforce services area shall be a nonvoting ex officio member of the council and provide any necessary staff support for the council.

~~[(4)]~~ (5) (a) The consortium of counties in the regional workforce services area that appoints the council shall, in consultation with the regional director, appoint a member of the council to be the chair of the council to serve no more than two one-year terms.

(b) The chair shall be a representative of private sector employers.

~~[(5)]~~ (6) (a) (i) Except as provided in Subsection ~~[(5)]~~ (6)(a)(ii), as terms of council members expire, the consortium of counties in the regional workforce services area that appoints the council shall, in consultation with the regional director, appoint each new member or reappointed member to a four-year term.

(ii) Notwithstanding the requirements of Subsection ~~[(5)]~~ (6)(a)(i), the consortium of counties in the regional workforce services area that appoints the council shall, in consultation with the regional director, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately one half of the council is appointed every two years.

(iii) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) At the expiration of the term of a council member or if a vacancy occurs on the council, the consortium of counties in the regional workforce services area shall appoint a replacement to the

council, in consultation with the regional director.

(c) A member shall continue to serve as a member until the member's successor has been appointed and qualified.

(d) A member is eligible for reappointment.

(e) The consortium of counties in the regional workforce services area that appoints the council shall appoint, in consultation with the regional director, an individual to replace a council member for the remainder of the term of the council member being replaced if the council member:

(i) ceases to be representative as designated by the original appointment; or

(ii) fails to attend three council meetings, if each of the three absences are not excused by the chair prior to or during the meeting.

~~[(6)]~~ (7) (a) A majority of the voting members constitutes a quorum for the transaction of business.

(b) Notwithstanding Subsection ~~[(6)]~~ (7)(a), a majority of the private sector representatives shall be present for business to be transacted.

~~[(7)]~~ (8) (a) (i) A public member may not receive compensation for the member's services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A public member may decline to receive per diem and expenses for the member's service.

(b) (i) A state government member who does not receive salary, per diem, or expenses from the state for the member's service may receive per diem and expenses incurred in the performance of the member's official duties as a member at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A state government member who is a member because of the member's state government position may not receive per diem or expenses for the member's service.

(iii) A state government member may decline to receive per diem and expenses for the member's service.

(c) A higher education member who does not receive salary, per diem, or expenses from the

entity that the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(d) (i) A local government member who does not receive salary, per diem, or expenses from the entity that the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A local government member may decline to receive per diem and expenses for the member's service.

~~[(8)]~~ (9) The regional council shall annually provide the consortium of counties that appoints the council a written report that shall include the information concerning the elements of the regional plan described in Subsection 35A-2-102(4)(b).

~~[(9)]~~ (10) The regional councils on workforce services shall:

- (a) determine the locations of employment centers in accordance with Section 35A-2-203;
- (b) develop a regional workforce services plan in accordance with Section 35A-1-207;
- (c) develop training priorities for the region;
- (d) work cooperatively with the State Council on Workforce Services to oversee regional workforce services areas operations and to ensure that services are being delivered in accordance with regional workforce services plans;
- (e) address concerns within the regional workforce services area related to apprenticeship training coordination;
- (f) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and
- (g) report annually to the State Council on Workforce Services.

Section 4. Section **35A-3-111** is amended to read:

**35A-3-111. Collection -- Office of Recovery Services.**

(1) The division, through the Office of Recovery Services as provided in Section 35A-1-107, is responsible for collecting all funds due or that become due to the state under Section ~~[62A-11-111]~~



(2) Excess property liens required in the various programs not transferred to the federal government shall remain a condition of eligibility in public assistance programs.

Section 5. Section **35A-3-306** is amended to read:

**35A-3-306. Limits on eligibility.**

(1) For purposes of this section, "battered or subjected to extreme cruelty" is defined in Section 103(a)(1) of P.L. 104-193 or 42 U.S.C. Sec. 608(a)(7)(C)(iii), The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) Except as provided in Subsection (4), the division may not provide cash assistance to a family who has received cash assistance for 36 months or more.

(3) (a) The division shall count toward the 36-month time limit in Subsection (2) any time after January 1, 1997, during which:

- (i) the parent client received cash assistance in this or another state; and
- (ii) the parent client is disqualified from receiving cash assistance and the parent client's income and assets are counted in determining eligibility for the family in this or another state.

(b) The division may not count toward the 36-month time limit in Subsection (2) or the 24-month time period in Subsection (4) any time during which a person 18 years of age or older received cash assistance as a minor child and not as a parent.

(4) (a) On a month-to-month basis for up to 24 months, the division may provide cash assistance to a family beyond the 36-month time limit in Subsection (2) if:

- (i) during the previous month, the parent client was employed for no less than 80 hours; and
- (ii) during at least six of the previous 24 months the parent client was employed for no less than 80 hours a month.

(b) For up to 20% of the average monthly number of families who receive cash assistance under this part, the division may provide cash assistance to a family beyond the 36-month time limit in Subsection (2):

- (i) by reason of a hardship; or
- (ii) if the family includes an individual who has been battered or subjected to extreme

cruelty.

(c) For up to 20% of the average monthly number of families who receive cash assistance under this part, the division may provide cash assistance to a family beyond the additional 24-month time period in Subsection (4)(a):

- (i) by reason of a hardship; or
- (ii) if the family includes an individual who has been battered or subjected to extreme cruelty.

(d) Except as provided in Subsection (4)~~(c)~~(b), the division may not provide cash assistance to a family who has received 60 months of cash assistance after October 1, 1996.