

**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, or county mayors jointly comply



28 with this title in working with the executive director of the department regarding regional  
29 workforce services areas; and

30 (b) (i) that existed as of July 1, 1997; or  
31 (ii) that is created on or after July 1, 1997, with the approval of the executive director.

32 (3) "Department" means the Department of Workforce Services created in Section  
33 35A-1-103.

34 (4) "Employment assistance" means services or benefits provided by the department under:

35 (a) Chapter 3, Employment Support Act; and

36 (b) Chapter 5, Training and Workforce Improvement Act.

37 (5) "Employment center" is a location in a regional workforce services area where the  
38 services provided by a regional workforce services area under Section 35A-2-201 may be accessed  
39 by a client.

40 (6) "Employment counselor" means an individual responsible for developing an  
41 employment plan and coordinating the services and benefits under this title in accordance with  
42 Chapter 2, Regional Workforce Services Areas.

43 (7) "Employment plan" means a written agreement between the department and a client  
44 that describes:

45 (a) the relationship between the department and the client;

46 (b) the obligations of the department and the client; and

47 (c) the result if an obligation is not fulfilled by the department or the client.

48 (8) "Executive director" means the executive director of the department appointed under  
49 Section 35A-1-201.

50 (9) "Public assistance" means:

51 (a) services or benefits provided under Chapter 3, Employment Support Act;

52 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

53 (c) foster care maintenance payments provided [~~with~~ from] the General Fund or under  
54 Title IV-E of the Social Security Act;

55 (d) food stamps; and

56 (e) any other public funds expended for the benefit of a person in need of financial,  
57 medical, food, housing, or related assistance.

58 (10) "Regional workforce services area" means a regional workforce services area

59 established in accordance with Chapter 2, Regional Workforce Services Areas.

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

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

64 **35A-1-104. Department authority.**

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

66 (1) adopt rules when authorized by this title, in accordance with the procedures of Title  
67 63, Chapter 46a, Utah Administrative Rulemaking Act;

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

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

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

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

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

78 [~~6~~] (7) acquire, manage, and dispose of any real or personal property needed or owned  
79 by the department, not inconsistent with state law;

80 [~~7~~] (8) receive gifts, grants, devises, and donations or [~~the~~] their proceeds [~~thereof~~],  
81 crediting the program designated by the donor, and using the gift, grant, devise, or donation for the  
82 purposes requested by the donor, as long as the request conforms to state and federal policy;

83 [~~8~~] (9) accept and employ volunteer labor or services;

84 [~~9~~] (10) reimburse volunteers for necessary expenses, when the department considers that  
85 reimbursement to be appropriate;

86 [~~10~~] (11) carry out the responsibility assigned by the State Workforce Services Plan  
87 developed by the State Council on Workforce Services;

88 [~~11~~] (12) provide training and educational opportunities for its staff;

89 [~~12~~] (13) examine and audit the expenditures of any public funds provided to a local

90 authority, agency, or organization that contracts with or receives funds from those authorities or  
91 agencies;

92 ~~[(13)]~~ (14) accept and administer grants from the federal government and from other  
93 sources, public or private;

94 ~~[(14)]~~ (15) employ and determine the compensation of clerical, legal, technical,  
95 investigative, and other employees necessary to carry out its policymaking, regulatory, and  
96 enforcement powers, rights, duties, and responsibilities under this title;

97 ~~[(15)]~~ (16) establish and conduct free employment agencies, and bring together employers  
98 seeking employees and working people seeking employment, and make known the opportunities  
99 for employment in this state;

100 ~~[(16)]~~ (17) collect, collate, and publish statistical and other information relating to  
101 employees, employers, employments, and places of employment, and other statistics as it considers  
102 proper;

103 ~~[(17)]~~ (18) encourage the expansion and use of apprenticeship programs meeting state or  
104 federal standards for apprenticeship programs;

105 ~~[(18)]~~ (19) develop processes to ensure that the department responds to the full range of  
106 employee and employer clients; and

107 ~~[(19)]~~ (20) carry out the responsibilities assigned to it by statute.

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

109 **35A-2-103. Regional council on workforce services -- Appointment -- Membership**  
110 **-- Terms of members -- Compensation.**

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

114 (2) A regional council on workforce services shall:

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

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

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

- 121 (i) the implementation of Chapters 2, 3, and 5; and  
122 (ii) coordination of apprenticeship training.
- 123 [~~(2)~~] (3) Unless otherwise specified in this Subsection [~~(2)~~] (3), members of a regional  
124 council on workforce services shall be appointed by the consortium of counties that covers the  
125 same geographic area as the regional council in the regional workforce services area, in  
126 consultation with the regional director, and shall consist of the following:
- 127 (a) the voting members who are:
- 128 (i) eight representatives of private sector small employers as defined by rule by the  
129 department;
- 130 (ii) eight representatives of private sector large employers as defined by rule by the  
131 department;
- 132 (iii) two representatives of employees, including employee organizations and including  
133 at least one representative from nominees suggested by public employees organizations in the  
134 region;
- 135 (iv) two representatives of clients, including community-based organizations;
- 136 (v) one representative from organized labor not representing public employees;
- 137 (vi) three [~~county commissioners~~] representatives of county government consisting of  
138 county commissioners, county council members, or county mayors from the counties in the  
139 regional workforce services area;
- 140 (vii) a representative of public education appointed jointly by the school district  
141 superintendents in the region;
- 142 (viii) a representative of higher education appointed jointly by the presidents of the  
143 institutions of higher education in the region;
- 144 (ix) a representative of veterans;
- 145 (x) a representative of the Office of Rehabilitation; and
- 146 (xi) an individual who works for or is a member of an economic development board or  
147 committee of the state or one of its political subdivisions; and
- 148 (b) ex officio nonvoting members who are:
- 149 (i) a representative of applied technology;
- 150 (ii) a representative of the Department of Human Services; and
- 151 (iii) a representative of the Department of Health.

152           ~~[(3)]~~ (4) The director of the regional workforce services area shall be a nonvoting ex  
153 officio member of the council and provide any necessary staff support for the council.

154           ~~[(4)]~~ (5) (a) The consortium of counties in the regional workforce services area that  
155 appoints the council shall, in consultation with the regional director, appoint a member of the  
156 council to be the chair of the council to serve no more than two one-year terms.

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

158           ~~[(5)]~~ (6) (a) (i) Except as provided in Subsection ~~[(5)]~~ (6)(a)(ii), as terms of council  
159 members expire, the consortium of counties in the regional workforce services area that appoints  
160 the council shall, in consultation with the regional director, appoint each new member or  
161 reappointed member to a four-year term.

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

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

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

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

174           (d) A member is eligible for reappointment.

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

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

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

182           ~~[(6)]~~ (7) (a) A majority of the voting members constitutes a quorum for the transaction of

183 business.

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

186 [~~(7)~~] (8) (a) (i) A public member may not receive compensation for the member's services,  
187 but may receive per diem and expenses incurred in the performance of the member's official duties  
188 at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

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

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

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

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

199 (c) A higher education member who does not receive salary, per diem, or expenses from  
200 the entity that the member represents for the member's service may receive per diem and expenses  
201 incurred in the performance of the member's official duties from the council at the rates established  
202 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

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

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

209 [~~(8)~~] (9) The regional council shall annually provide the consortium of counties that  
210 appoints the council a written report that shall include the information concerning the elements of  
211 the regional plan described in Subsection 35A-2-102(4)(b).

212 [~~(9)~~] (10) The regional councils on workforce services shall:

213 (a) determine the locations of employment centers in accordance with Section 35A-2-203;

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

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

225 **35A-3-111. Collection -- Office of Recovery Services.**

226 (1) The division, through the Office of Recovery Services as provided in Section  
227 35A-1-107, is responsible for collecting all funds due or that become due to the state under Section  
228 [~~62A-11-111~~] 62A-11-110.

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

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

232 **35A-3-306. Limits on eligibility.**

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

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

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

240 (i) the parent client received cash assistance in this or another state; and

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

243 (b) The division may not count toward the 36-month time limit in Subsection (2) or the  
244 24-month time period in Subsection (4) any time during which a person 18 years of age or older



245 received cash assistance as a minor child and not as a parent.

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

248 (i) during the previous month, the parent client was employed for no less than 80 hours;  
249 and

250 (ii) during at least six of the previous 24 months the parent client was employed for no less  
251 than 80 hours a month.

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

255 (i) by reason of a hardship; or

256 (ii) if the family includes an individual who has been battered or subjected to extreme  
257 cruelty.

258 (c) For up to 20% of the average monthly number of families who receive cash assistance  
259 under this part, the division may provide cash assistance to a family beyond the additional  
260 24-month time period in Subsection (4)(a):

261 (i) by reason of a hardship; or

262 (ii) if the family includes an individual who has been battered or subjected to extreme  
263 cruelty.

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

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**Legislative Review Note**  
**as of 11-15-01 9:13 AM**

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

**Office of Legislative Research and General Counsel**

**Committee Note**

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.