

**EQUAL EMPLOYMENT OPPORTUNITY -
TECHNICAL CHANGES**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Eli H. Anderson

This act modifies provisions relating to equal employment opportunity. This act requires the Department of Human Resource Management to prepare an equal employment opportunity plan instead of an affirmative action plan and makes technical corrections.

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

AMENDS:

67-19-6, as last amended by Chapter 195, Laws of Utah 2002

67-19-6.3, as last amended by Chapter 375, Laws of Utah 1997

67-19-8, as last amended by Chapter 130, Laws of Utah 1995

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

Section 1. Section **67-19-6** is amended to read:

67-19-6. Responsibilities of director.

(1) The director shall:

(a) develop, implement, and administer a statewide program of personnel management

for state employees that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(c) perform duties assigned by the governor or statute;

(d) adopt rules for personnel management according to the procedures of Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

(e) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions,

payroll, and related matters concerning state personnel;

(f) in cooperation with other agencies, conduct research and planning activities to:

(i) determine and prepare for future state personnel needs;

(ii) develop methods for improving public personnel management; and

(iii) propose needed policy changes to the governor;

(g) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity [~~and affirmative action~~] in employment;

(h) when requested by counties, municipalities, and other political subdivisions of the state, provide technical service and advice on personnel management at a charge determined by the director;

(i) establish compensation policies and procedures for early voluntary retirement;

(j) confer with the heads of other agencies about human resource policies and procedures;

(k) submit an annual report to the governor and the Legislature; and

(l) (i) develop a procedure by which each agency will:

(A) identify funded vacant positions; and

(B) report those funded vacant positions to the department;

(ii) identify all funded employee positions in each agency that have been vacant for more than 180 consecutive days during the 18-month period prior to July 1 of each year; and

(iii) by no later than September 1 of each year, provide a report of all funded employee positions in each agency identified in Subsections (1)(l)(i) and (ii) to:

(A) the Governor's Office of Planning and Budget; and

(B) the Office of the Legislative Fiscal Analyst.

(2) (a) After consultation with the governor and the heads of other agencies, the director shall establish and coordinate statewide training programs.

(b) The programs developed under this Subsection (2) shall have application to more than one agency.

(c) The department may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(3) (a) (i) The department may collect fees for training as authorized by this Subsection (3).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

Section 2. Section **67-19-6.3** is amended to read:

67-19-6.3. Equal employment opportunity plan.

(1) In conjunction with the director's duties under Section 67-19-6, and notwithstanding the general prohibition in Subsection 34A-5-106(3)(c), the director shall prepare an [~~affirmative action~~] equal employment opportunity plan for state employment consistent with the guidelines provided in [~~Title VII of the Civil Rights Act, 42 U.S.C. 2000e et seq., as amended;~~] federal equal employment opportunity laws and in related federal regulations.

(2) The [~~affirmative action~~] equal employment opportunity plan required by this section applies only to state career service employees described in Section 67-19-15.

(3) The [~~affirmative action~~] Legislature shall review the equal employment opportunity plan required by this section [~~shall be reviewed by the Legislature~~] before [~~implementation~~] it may be implemented.

(4) Nothing [~~contained~~] in this section [~~shall require~~] requires the establishment of hiring

quotas or preferential treatment of any identifiable group.

Section 3. Section **67-19-8** is amended to read:

67-19-8. Functions of department not to be delegated.

The department shall perform the following functions and may not contract or otherwise delegate those functions to another state agency:

- (1) design and administration of the state pay plan;
- (2) design and administration of the state classification system and procedures for determining schedule assignments;
- (3) position classification studies, including periodic desk audits, except that an agency may conduct classification studies and desk audits as necessary under Subsection 67-19-9(2) consistent with a delegation agreement approved by the department;
- (4) monitoring of state agency personnel practices to determine compliance with state personnel guidelines, including equal employment opportunity [~~and affirmative action~~]; and
- (5) maintenance of central personnel records.