

1                                   **COUNTY DIRECTOR OF PERSONNEL**

2                                   **MANAGEMENT AMENDMENTS**

3                                   2006 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Thomas V. Hatch**

6                                   House Sponsor: Brad L. Dee

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8 **LONG TITLE**

9 **General Description:**

10           This bill modifies provisions of the County Personnel Management Act.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ modifies provisions relating to the selection of a county director of personnel
- 14 management;
- 15           ▶ provides an alternative method of selecting a county director of personnel
- 16 management;
- 17           ▶ authorizes a county executive to choose to appoint a director of personnel
- 18 management, with the advice and consent of the county legislative body;
- 19           ▶ provides that the position of a director of personnel management chosen under the
- 20 alternative method is a merit exempt position and that the director may be
- 21 terminated by the county executive with the consent of the county legislative body;
- 22 and
- 23           ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **17-33-5**, as last amended by Chapters 73 and 241, Laws of Utah 2001



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

33 Section 1. Section **17-33-5** is amended to read:

34 **17-33-5. Office of personnel management -- Director -- Appointment and**  
35 **responsibilities -- Personnel rules.**

36 (1) (a) (i) Each county executive shall:

37 ~~[(i)]~~ (A) create an office of personnel management, administered by a director of  
38 personnel management; and

39 ~~[(ii)]~~ (B) ensure that the director is a person with proven experience in personnel  
40 management.

41 ~~[(b) The]~~ (ii) Except as provided in Subsection (1)(b), the position of director of  
42 personnel management shall be:

43 ~~[(i)]~~ (A) a merit position; and

44 ~~[(ii)]~~ (B) filled as provided in Subsection (1)~~[(c)]~~ (a)(iii).

45 ~~[(c) The]~~ (iii) Except as provided in Subsection (1)(b), the career service council shall:

46 ~~[(i)]~~ (A) advertise and recruit for the director position in the same manner as for merit  
47 positions;

48 ~~[(ii)]~~ (B) select three names from a register; and

49 ~~[(iii)]~~ (C) submit those names as recommendations to the county legislative body.

50 ~~[(d) The]~~ (iv) Except as provided in Subsection (1)(b), the county legislative body  
51 shall select a person to serve as director of the office of personnel management from the names  
52 submitted to it by the career service council.

53 (b) (i) As an alternative to the procedure under Subsections (1)(a)(ii), (iii), and (iv) and  
54 at the county executive's discretion, the county executive may appoint a director of personnel  
55 management with the advice and consent of the county legislative body.

56 (ii) The position of each director of personnel management appointed under this  
57 Subsection (1)(b) shall be a merit exempt position.

58 (iii) A director of personnel management appointed under this Subsection (1)(b) may

59 be terminated by the county executive with the consent of the county legislative body.

60 (2) The director of personnel management shall:

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

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

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

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

69 (e) establish and maintain records of all employees in the county service, setting forth  
70 as to each employee class, title, pay or status, and other relevant data;

71 (f) make an annual report to the county legislative body and county executive regarding  
72 the work of the department; and

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

75 (3) (a) (i) The director shall recommend personnel rules for the county.

76 (ii) The county legislative body may approve, amend, or reject those rules before they  
77 are adopted.

78 (b) The rules shall provide for:

79 (i) recruiting efforts to be planned and carried out in a manner that assures open  
80 competition, with special emphasis to be placed on recruiting efforts to attract minorities,  
81 women, persons with a disability as defined by and covered under the Americans with  
82 Disabilities Act of 1990, 42 U.S.C. 12102, or other groups that are substantially  
83 underrepresented in the county work force to help assure they will be among the candidates  
84 from whom appointments are made;

85 (ii) the establishment of job related minimum requirements wherever practical, that all  
86 successful candidates shall be required to meet in order to be eligible for consideration for  
87 appointment or promotion;

88 (iii) selection procedures that include consideration of the relative merit of each  
89 applicant for employment, a job related method of determining the eligibility or ineligibility of

90 each applicant, and a valid, reliable, and objective system of ranking eligible applicants  
91 according to their qualifications and merit;

92 (iv) certification procedures that insure equitable consideration of an appropriate  
93 number of the most qualified eligible applicants based on the ranking system;

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

97 (vi) noncompetitive appointments in the occasional instance where there is evidence  
98 that open or limited competition is not practical, such as for unskilled positions that have no  
99 minimum job requirements;

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

103 (viii) permanent appointment for entry to the career service that shall be contingent  
104 upon satisfactory performance by the employee during a period of six months, with the  
105 probationary period extendable for a period not to exceed six months for good cause, but with  
106 the condition that the probationary employee may appeal directly to the council any undue  
107 prolongation of the period designed to thwart merit principles;

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

111 (x) lists of eligible applicants normally to be used, if available, for filling temporary  
112 positions, and short term emergency appointments to be made without regard to the other  
113 provisions of law to provide for maintenance of essential services in an emergency situation  
114 where normal procedures are not practical, these emergency appointments not to exceed 90  
115 days, with that period extendable for a period not to exceed an additional 90 days for good  
116 cause;

117 (xi) promotion and career ladder advancement of employees to higher level positions  
118 and assurance that all persons promoted are qualified for the position;

119 (xii) recognition of the equivalency of other merit processes by waiving, at the  
120 discretion of the director, the open competitive examination for placement in the career service

121 positions of those who were originally selected through a competitive examination process in  
122 another governmental entity, the individual in those cases, to serve a probationary period;

123 (xiii) preparation, maintenance, and revision of a position classification plan for all  
124 positions in the career service, based upon similarity of duties performed and responsibilities  
125 assumed, so that the same qualifications may reasonably be required for, and the same schedule  
126 of pay may be equitably applied to, all positions in the same class, the compensation plan, in  
127 order to maintain a high quality public work force, to take into account the responsibility and  
128 difficulty of the work, the comparative pay and benefits needed to compete in the labor market  
129 and to stay in proper alignment with other similar governmental units, and other factors;

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

134 (xv) establishment of a plan governing layoffs resulting from lack of funds or work,  
135 abolition of positions, or material changes in duties or organization, and governing  
136 reemployment of persons so laid off, taking into account with regard to layoffs and  
137 reemployment the relative ability, seniority, and merit of each employee;

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

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

143 (xviii) establishment of a procedure for employee development and improvement of  
144 poor performance;

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

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

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

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**Legislative Review Note**

**as of 2-2-06 5:53 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**