

CAREER SERVICE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions of the Utah State Personnel Management Act related to positions exempt from the career service provisions of the Act and the transitioning of the Career Service Review Board.

Highlighted Provisions:

This bill:

- ▶ exempts employees of the Department of Workforce Services, designated as schedule AW, from the career service provisions of the Utah State Personnel Management Act;
 - ▶ changes the repeal date of the transition clause for the Career Service Review Board;
 - ▶ authorizes the Career Service Review Board to continue to exist for another year;
- and
- ▶ grants the Career Service Review Office jurisdiction to hear certain grievances remanded for further proceedings.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-267, as last amended by Laws of Utah 2010, Chapter 249

30 67-19-15, as last amended by Laws of Utah 2010, Chapters 103 and 249

31 67-19a-101.5, as enacted by Laws of Utah 2010, Chapter 249



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

34 Section 1. Section 63I-2-267 is amended to read:

35 **63I-2-267. Repeal dates -- Title 67.**

36 Section 67-19a-101.5 is repealed July 1, [~~2011~~] 2012.

37 Section 2. Section 67-19-15 is amended to read:

38 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
39 **positions -- Coverage of career service provisions.**

40 (1) Except as otherwise provided by law or by rules and regulations established for
41 federally aided programs, the following positions are exempt from the career service provisions
42 of this chapter and are designated under the following schedules:

43 (a) schedule AA includes the governor, members of the Legislature, and all other
44 elected state officers;

45 (b) schedule AB includes appointed executives and board or commission executives
46 enumerated in Section 67-22-2;

47 (c) schedule AC includes all employees and officers in:

48 (i) the office and at the residence of the governor;

49 (ii) the Utah Science Technology and Research Initiative (USTAR);

50 (iii) the Public Lands Policy Coordinating Council;

51 (iv) the Office of the State Auditor; and

52 (v) the Office of the State Treasurer;

53 (d) schedule AD includes employees who:

54 (i) are in a confidential relationship to an agency head or commissioner; and

55 (ii) report directly to, and are supervised by, a department head, commissioner, or
56 deputy director of an agency or its equivalent;

57 (e) schedule AG includes employees in the Office of the Attorney General who are

58 under their own career service pay plan under Sections 67-5-7 through 67-5-13;

59 (f) schedule AH includes:

60 (i) teaching staff of all state institutions; and

61 (ii) employees of the Utah Schools for the Deaf and the Blind who are:

62 (A) educational interpreters as classified by the department; or

63 (B) educators as defined by Section 53A-25b-102;

64 (g) schedule AN includes employees of the Legislature;

65 (h) schedule AO includes employees of the judiciary;

66 (i) schedule AP includes all judges in the judiciary;

67 (j) schedule AQ includes:

68 (i) members of state and local boards and councils appointed by the governor and

69 governing bodies of agencies;

70 (ii) other local officials serving in an ex officio capacity; and

71 (iii) officers, faculty, and other employees of state universities and other state

72 institutions of higher education;

73 (k) schedule AR includes employees in positions which involve responsibility:

74 (i) for determining policy;

75 (ii) for determining the way in which a policy is carried out; or

76 (iii) of a type not appropriate for career service, as determined by the agency head with

77 the concurrence of the executive director;

78 (l) schedule AS includes any other employee:

79 (i) whose appointment is required by statute to be career service exempt;

80 (ii) whose agency is not subject to this chapter; or

81 (iii) whose agency has authority to make rules regarding the performance,

82 compensation, and bonuses for its employees;

83 (m) schedule AT includes employees of the Department of Technology Services,

84 designated as executive/professional positions by the executive director of the Department of

85 Technology Services with the concurrence of the executive director;

- 86 (n) schedule AU includes patients and inmates employed in state institutions;
- 87 (o) schedule IN includes employees who are:
 - 88 (i) hired to work part time on an indefinite basis; and
 - 89 (ii) considered to be temporary noncareer employees; [~~and~~]
- 90 (p) schedule TL includes employees who are:
 - 91 (i) hired to work on a time-limited basis; and
 - 92 (ii) considered to be temporary noncareer employees[-]; and
- 93 (q) employees of the Department of Workforce Services, designated as schedule AW:
 - 94 (i) who are temporary employees that are federally funded and are required to work
 - 95 under federally qualified merit principles as certified by the director; or
 - 96 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
 - 97 based, and who voluntarily apply for and are accepted by the Department of Workforce
 - 98 Services to work in a pay for performance program designed by the Department of Workforce
 - 99 Services with the concurrence of the executive director.
- 100 (2) The civil service shall consist of two schedules as follows:
 - 101 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).
 - 102 (ii) Removal from any appointive position under schedule A, unless otherwise
 - 103 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
 - 104 (b) Schedule B is the competitive career service schedule, consisting of:
 - 105 (i) all positions filled through competitive selection procedures as defined by the
 - 106 executive director; or
 - 107 (ii) positions filled through a department approved on the job examination intended to
 - 108 appoint a qualified person with a disability.
 - 109 (3) (a) The executive director, after consultation with the heads of concerned executive
 - 110 branch departments and agencies and with the approval of the governor, shall allocate positions
 - 111 to the appropriate schedules under this section.
 - 112 (b) Agency heads shall make requests and obtain approval from the executive director
 - 113 before changing the schedule assignment and tenure rights of any position.

114 (c) Unless the executive director's decision is reversed by the governor, when the
115 executive director denies an agency's request, the executive director's decision is final.

116 (4) (a) Compensation for employees of the Legislature shall be established by the
117 directors of the legislative offices in accordance with Section 36-12-7.

118 (b) Compensation for employees of the judiciary shall be established by the state court
119 administrator in accordance with Section 78A-2-107.

120 (c) Compensation for officers, faculty, and other employees of state universities and
121 institutions of higher education shall be established as provided in Title 53B, Chapters 1,
122 Governance, Powers, Rights, and Responsibilities, and 2, Institutions of Higher Education.

123 (d) Unless otherwise provided by law, compensation for all other schedule A
124 employees shall be established by their appointing authorities, within ranges approved by, and
125 after consultation with the executive director of the Department of Human Resource
126 Management.

127 (5) An employee who is in a position designated schedule AC and who holds career
128 service status on June 30, 2010, shall retain the career service status if the employee:

129 (a) remains in the position that the employee is in on June 30, 2010; and

130 (b) does not elect to convert to career service exempt status in accordance with a rule
131 made by the department.

132 Section 3. Section **67-19a-101.5** is amended to read:

133 **67-19a-101.5. Transition.**

134 (1) The board that is repealed by Laws of Utah 2010, Chapter 249, on July 1, 2010,
135 shall:

136 (a) continue to exist until June 30, [~~2011~~] 2012, with the same membership, duties, and
137 procedures only for the purpose of addressing a grievance submitted to the employee's
138 supervisor on or before June 30, 2010; and

139 (b) apply the law in effect on June 30, 2010 to a grievance described in Subsection
140 (1)(a).

141 (2) [~~The~~] (a) Except as provided by Subsection (2)(b), the amendments to this chapter

142 made by Laws of Utah 2010, Chapter 249, apply only to a grievance submitted to the
143 employee's supervisor on or after July 1, 2010.

144 (b) Beginning on July 1, 2012 and notwithstanding Sections 67-19a-202 and
145 67-19a-302, the office shall have jurisdiction over a grievance described in Subsection (1)(a)
146 that is remanded by the Utah Supreme Court or the Utah Court of Appeals for further
147 proceedings.