

1 **UTAH STATE PERSONNEL MANAGEMENT ACT**

2 **AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bradley M. Daw**

6 Senate Sponsor: Howard A. Stephenson

8 **LONG TITLE**

9 **General Description:**

10 This bill requires that the executive director of the Department of Human Resource
11 Management develop, subject to available funding, manager and supervisor training
12 and enacts provisions related to an incentive award.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ requires that the executive director develop, subject to available funding, manager
- 16 and supervisor training;
- 17 ▶ enacts provisions related to an incentive award; and
- 18 ▶ makes technical corrections.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **49-20-401**, as last amended by Laws of Utah 2008, Chapter 176

26 **67-19-6**, as last amended by Laws of Utah 2010, Chapter 249

27 **67-19-12**, as last amended by Laws of Utah 2010, Chapter 249

28

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

30 Section 1. Section **49-20-401** is amended to read:

31 **49-20-401. Program -- Powers and duties.**

32 (1) The program shall:

33 (a) act as a self-insurer of employee benefit plans and administer those plans;

34 (b) enter into contracts with private insurers or carriers to underwrite employee benefit
35 plans as considered appropriate by the program;

36 (c) indemnify employee benefit plans or purchase commercial reinsurance as
37 considered appropriate by the program;

38 (d) provide descriptions of all employee benefit plans under this chapter in cooperation
39 with covered employers;

40 (e) process claims for all employee benefit plans under this chapter or enter into
41 contracts, after competitive bids are taken, with other benefit administrators to provide for the
42 administration of the claims process;

43 (f) obtain an annual actuarial review of all health and dental benefit plans and a
44 periodic review of all other employee benefit plans;

45 (g) consult with the covered employers to evaluate employee benefit plans and develop
46 recommendations for benefit changes;

47 (h) annually submit a budget and audited financial statements to the governor and
48 Legislature which includes total projected benefit costs and administrative costs;

49 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other
50 liabilities of the employee benefit plans as certified by the program's consulting actuary;

51 (j) submit, in advance, its recommended benefit adjustments for state employees to:

52 (i) the Legislature; and

53 (ii) the executive director of the state Department of Human Resource Management;

54 (k) determine benefits and rates, upon approval of the board, for multiemployer risk
55 pools, retiree coverage, and conversion coverage;

56 (l) determine benefits and rates based on the total estimated costs and the employee
57 premium share established by the Legislature, upon approval of the board, for state employees;

58 (m) administer benefits and rates, upon ratification of the board, for single employer
59 risk pools;

60 (n) request proposals for provider networks or health and dental benefit plans
61 administered by third party carriers at least once every three years for the purposes of:

62 (i) stimulating competition for the benefit of covered individuals;

63 (ii) establishing better geographical distribution of medical care services; and

64 (iii) providing coverage for both active and retired covered individuals;

65 (o) offer proposals which meet the criteria specified in a request for proposals and
66 accepted by the program to active and retired state covered individuals and which may be
67 offered to active and retired covered individuals of other covered employers at the option of the
68 covered employer;

69 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
70 the Department of Health if the program provides program benefits to children enrolled in the
71 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's
72 Health Insurance Act;

73 (q) establish rules and procedures governing the admission of political subdivisions or
74 educational institutions and their employees to the program;

75 (r) contract directly with medical providers to provide services for covered individuals;
76 and

77 (s) take additional actions necessary or appropriate to carry out the purposes of this
78 chapter.

79 (2) (a) Funds budgeted and expended shall accrue from rates paid by the covered
80 employers and covered individuals.

81 (b) Administrative costs shall be approved by the board and reported to the governor
82 and the Legislature.

83 (3) The Department of Human Resource Management shall include the benefit
84 adjustments described in Subsection (1)(j) in the total compensation plan recommended to the
85 governor required under Subsection 67-19-12[~~(6)~~] (7)(a).

86 Section 2. Section **67-19-6** is amended to read:

87 **67-19-6. Responsibilities of the executive director.**

88 (1) The executive director shall:

89 (a) develop, implement, and administer a statewide program of human resource
90 management that will:

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

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

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

94 (b) design and administer the state pay plan;

95 (c) design and administer the state classification system and procedures for determining
96 schedule assignments;

97 (d) design and administer the state recruitment and selection system;

98 (e) administer agency human resource practices and ensure compliance with federal
99 law, state law, and state human resource rules, including equal employment opportunity;

100 (f) consult with agencies on decisions concerning employee corrective action and
101 discipline;

102 (g) maintain central personnel records;

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

105 (i) perform duties assigned by the governor or statute;

106 (j) adopt rules for human resource management according to the procedures of Title
107 63G, Chapter 3, Utah Administrative Rulemaking Act;

108 (k) establish and maintain a management information system that will furnish the
109 governor, the Legislature, and agencies with current information on authorized positions,
110 payroll, and related matters concerning state human resources;

111 (l) conduct research and planning activities to:

112 (i) determine and prepare for future state human resource needs;

113 (ii) develop methods for improving public human resource management; and

114 (iii) propose needed policy changes to the governor;
115 (m) study the character, causes, and extent of discrimination in state employment and
116 develop plans for its elimination through programs consistent with federal and state laws
117 governing equal employment opportunity in employment;

118 (n) when requested by counties, municipalities, and other political subdivisions of the
119 state, provide technical service and advice on human resource management at a charge
120 determined by the executive director;

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

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

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

125 (r) assist with the development of a vacant position report required under Subsection
126 63J-1-201(2)(b)(v).

127 (2) (a) After consultation with the governor and the heads of other agencies, the
128 executive director shall establish and coordinate statewide training programs, including and
129 subject to available funding, the development of manager and supervisor training.

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

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

134 (3) (a) (i) The department may collect fees for training as authorized by this Subsection
135 (3).

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

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

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

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

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

147 Section 3. Section **67-19-12** is amended to read:

148 **67-19-12. State pay plans -- Applicability of section -- Exemptions -- Duties of the**
149 **executive director.**

150 (1) (a) This section, and the rules adopted by the department to implement this section,
151 apply to each career and noncareer employee not specifically exempted under Subsection (2).

152 (b) If not exempted under Subsection (2), an employee is considered to be in classified
153 service.

154 (2) The following employees are exempt from this section:

155 (a) members of the Legislature and legislative employees;

156 (b) members of the judiciary and judicial employees;

157 (c) elected members of the executive branch and employees under schedule AC as
158 provided under Subsection 67-19-15(1)(c);

159 (d) employees of the State Board of Education who are licensed by the State Board of
160 Education;

161 (e) officers, faculty, and other employees of state institutions of higher education;

162 (f) employees in a position that is specified by statute to be exempt from this
163 Subsection (2);

164 (g) employees in the Office of the Attorney General;

165 (h) department heads and other persons appointed by the governor under statute;

166 (i) exempt employees as provided under Subsection 67-19-15(1)(l);

167 (j) employees of the Utah Schools for the Deaf and the Blind who are:

168 (i) educators as defined by Section 53A-25b-102; or

169 (ii) educational interpreters as classified by the department; and

170 (k) temporary employees under schedule IN or TL as provided under Subsections
171 67-19-15(1)(o) and (p).

172 (3) (a) The executive director shall prepare, maintain, and revise a position
173 classification plan for each employee position not exempted under Subsection (2) to provide
174 equal pay for equal work.

175 (b) Classification of positions shall be based upon similarity of duties performed and
176 responsibilities assumed, so that the same job requirements and the same salary range may be
177 applied equitably to each position in the same class.

178 (c) The executive director shall allocate or reallocate the position of each employee in
179 classified service to one of the classes in the classification plan.

180 (d) (i) The department shall conduct periodic studies and desk audits to provide that the
181 classification plan remains reasonably current and reflects the duties and responsibilities
182 assigned to and performed by employees.

183 (ii) The executive director shall determine the schedule for studies and desk audits after
184 considering factors such as changes in duties and responsibilities of positions or agency
185 reorganizations.

186 (4) (a) With the approval of the governor, the executive director shall develop and
187 adopt pay plans for each position in classified service.

188 (b) The executive director shall design each pay plan to achieve, to the degree that
189 funds permit, comparability of state salary ranges to salary ranges used by private enterprise
190 and other public employment for similar work.

191 (c) The executive director shall adhere to the following in developing each pay plan:

192 (i) Each pay plan shall consist of sufficient salary ranges to permit adequate salary
193 differential among the various classes of positions in the classification plan.

194 (ii) (A) The executive director shall assign each class of positions in the classification
195 plan to a salary range and shall set the width of the salary range to reflect the normal growth
196 and productivity potential of employees in that class.

197 (B) The width of the ranges need not be uniform for all classes of positions in the plan.

198 (iii) (A) The executive director shall issue rules for the administration of pay plans.
199 [~~(B) The rules may provide for exceptional performance increases and for a program of~~
200 ~~incentive awards for cost-saving suggestions and other commendable acts of employees.]~~
201 [~~(C)~~ (B) The executive director shall issue rules providing for salary adjustments.
202 (iv) Merit increases shall be granted, on a uniform and consistent basis in accordance
203 with appropriations made by the Legislature, to employees who receive a rating of "successful"
204 or higher in an annual evaluation of their productivity and performance.
205 (v) By October 31 of each year, the executive director shall submit market
206 comparability adjustments to the director of the Governor's Office of Planning and Budget for
207 consideration to be included as part of the affected agency's base budgets.
208 (vi) By October 31 of each year, the executive director shall recommend a
209 compensation package to the governor.
210 (vii) (A) Adjustments shall incorporate the results of a total compensation market
211 survey of salary ranges and benefits of a reasonable cross section of comparable benchmark
212 positions in private and public employment in the state.
213 (B) The survey may also study comparable unusual positions requiring recruitment in
214 other states.
215 (C) The executive director may cooperate with other public and private employers in
216 conducting the survey.
217 (viii) (A) The executive director shall establish criteria to assure the adequacy and
218 accuracy of the survey and shall use methods and techniques similar to and consistent with
219 those used in private sector surveys.
220 (B) Except as provided under Sections 67-19-12.1 and 67-19-12.3, the survey shall
221 include a reasonable cross section of employers.
222 (C) The executive director may cooperate with or participate in any survey conducted
223 by other public and private employers.
224 (D) The executive director shall obtain information for the purpose of constructing the
225 survey from the Division of Workforce Information and Payment Services and shall include

226 employer name, number of persons employed by the employer, employer contact information
227 and job titles, county code, and salary if available.

228 (E) The department shall acquire and protect the needed records in compliance with the
229 provisions of Section 35A-4-312.

230 (ix) The establishing of a salary range is a nondelegable activity and is not appealable
231 under the grievance procedures of Sections 67-19-30 through 67-19-32, Chapter 19a,
232 Grievance Procedures, or otherwise.

233 (x) The governor shall:

234 (A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing
235 the executive budget and shall recommend the method of distributing the adjustments;

236 (B) submit compensation recommendations to the Legislature; and

237 (C) support the recommendation with schedules indicating the cost to individual
238 departments and the source of funds.

239 (xi) If funding is approved by the Legislature in a general appropriations act, the
240 adjustments take effect on the July 1 following the enactment.

241 (5) (a) The executive director shall issue rules for the granting of incentive awards,
242 including awards for cost saving actions, awards for commendable actions by an employee, or
243 a market-based award to attract or retain employees.

244 (b) An agency may not grant a market-based award unless the award is previously
245 approved by the department.

246 (c) In accordance with Subsection (5)(b), an agency requesting the department's
247 approval of a market-based award shall submit a request and documentation, subject to
248 Subsection (5)(d), to the department.

249 (d) In the documentation required in Subsection (5)(c), the requesting agency shall
250 identify for the department:

251 (i) any benefit the market-based award would provide for the agency, including:

252 (A) budgetary advantages; or

253 (B) recruitment advantages;

254 (ii) a mission critical need to attract or retain unique or hard to find skills in the market;

255 or

256 (iii) any other advantage the agency would gain through the utilization of a

257 market-based award.

258 [~~5~~] (6) (a) The executive director shall regularly evaluate the total compensation
259 program of state employees in the classified service.

260 (b) The department shall determine if employee benefits are comparable to those
261 offered by other private and public employers using information from:

262 (i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S.
263 Chamber of Commerce Research Center; or

264 (ii) the most recent edition of a nationally recognized benefits survey.

265 [~~6~~] (7) (a) The executive director shall submit proposals for a state employee
266 compensation plan to the governor by October 31 of each year, setting forth findings and
267 recommendations affecting employee compensation.

268 (b) The governor shall consider the executive director's proposals in preparing budget
269 recommendations for the Legislature.

270 (c) The governor's budget proposals to the Legislature shall include a specific
271 recommendation on employee compensation.