

VOLUNTEER WORKERS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Richard A. Greenwood

LONG TITLE

General Description:

This bill modifies general government provisions and provisions related to state officers and employees to limit the liability of volunteers and volunteer facilitators.

Highlighted Provisions:

This bill:

Ŝ→ [~~→ addresses liability of certain volunteers;~~] **←Ŝ**

▶ defines "volunteer facilitator";

▶ limits the liability of volunteer facilitators under the Immunity for Persons

Performing Voluntary Services Act;

▶ limits the liability of volunteer facilitators under the Volunteer Government

Workers Act; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-8-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-8-201, as renumbered and amended by Laws of Utah 2008, Chapter 382

S.B. 246



28 67-20-2, as last amended by Laws of Utah 2011, Chapter 248

29 67-20-3, as last amended by Laws of Utah 2011, Chapter 248



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

32 Section 1. Section 63G-8-102 is amended to read:

33 **63G-8-102. Definitions.**

34 As used in this act:

35 ~~[(2)]~~ (1) "Compensation" means payment for services in any form whatsoever, whether
36 per diem or otherwise, except where the payment is solely for the purpose of paying
37 subsistence, travel, or other expenses incurred by the person performing those services.

38 ~~[(1)]~~ (2) "Public entity" means the state or any political subdivision of it, or any office,
39 department, division, board, agency, commission, council, authority, institution, hospital,
40 school, college, university, or other instrumentality of the state or any political subdivision.

41 (3) "Volunteer facilitator" is as defined in Section 67-20-2.

42 Section 2. Section 63G-8-201 is amended to read:

43 **63G-8-201. Voluntary services -- Immunity from liability -- Exceptions.**

44 ~~[Any]~~ (1) A person performing services on a voluntary basis, without compensation,
45 under the general supervision of, and on behalf of any public entity, ~~[shall be]~~ is immune from
46 liability with respect to any decisions or actions, other than in connection with the operation of
47 a motor vehicle, taken during the course of those services, unless it is established that ~~§→~~ [f] such
48 decisions or actions were grossly negligent, not made in good faith, or were made maliciously [h] ~~←§~~
49 ~~§→ [the volunteer willfully and knowingly caused harm to a person or property] ←§ .~~

50 (2) A volunteer facilitator is immune from liability to the extent provided in Subsection
51 67-20-3(4).

52 Section 3. Section 67-20-2 is amended to read:

53 **67-20-2. Definitions.**

54 As used in this chapter:

55 (1) "Agency" means:

56 (a) a department, institution, office, college, university, authority, division, board,
57 bureau, commission, council, or other agency of the state;

58 (b) a county, city, town, school district, or special improvement or taxing district; or

59 (c) any other political subdivision.

60 (2) "Compensatory service worker" means a person who performs a public service with
61 or without compensation for an agency as a condition or part of the person's:

62 (a) incarceration;

63 (b) plea;

64 (c) sentence;

65 (d) diversion;

66 (e) probation; or

67 (f) parole.

68 (3) (a) "Volunteer" means a person who donates service without pay or other
69 compensation except expenses actually and reasonably incurred as approved by the supervising
70 agency.

71 (b) "Volunteer" does not include:

72 (i) a person participating in human subjects research to the extent that the participation
73 is governed by federal law or regulation inconsistent with this chapter; or

74 (ii) a compensatory service worker.

75 (c) "Volunteer" includes a juror or potential juror appearing in response to a summons
76 for a trial jury or grand jury.

77 (4) "Volunteer facilitator" means a business or nonprofit organization that, from
78 individuals who have a relationship with the business or nonprofit organization, such as
79 membership or employment, provides volunteers to an agency or facilitates volunteers
80 volunteering with an agency.

81 [~~4~~] (5) "Volunteer safety officer" means an individual who:

82 (a) provides services as a volunteer under the supervision of an agency; and

83 (b) at the time the individual provides the services to the supervising agency described
84 in Subsection [~~4~~] (5)(a), the individual is:

85 (i) exercising peace officer authority as provided in Section 53-13-102; or

86 (ii) if the supervising agency described in Subsection [~~4~~] (5)(a) is a fire department:

87 (A) on the rolls of the supervising agency as a firefighter;

88 (B) not regularly employed as a firefighter by the supervising agency; and

89 (C) acting in a capacity that includes the responsibility for the extinguishment of fire.

90 ~~[(5)]~~ (6) "Volunteer search and rescue team member" means an individual who:

91 (a) provides services as a volunteer under the supervision of a county sheriff; and

92 (b) at the time the individual provides the services to the county sheriff described in

93 Subsection ~~[(5)]~~ (6)(a), is:

94 (i) certified as a member of the county sheriff's search and rescue team; and

95 (ii) acting in the capacity of a member of the search and rescue team of the supervising
96 county sheriff.

97 Section 4. Section **67-20-3** is amended to read:

98 **67-20-3. Purposes for which a volunteer is considered a government employee --**
99 **Limitations of liability for volunteer facilitators.**

100 (1) Except as provided in Subsection (2) or (3), a volunteer is considered a government
101 employee for purposes of:

102 (a) receiving workers' compensation medical benefits, which shall be the exclusive
103 remedy for all injuries and occupational diseases as provided under Title 34A, Chapter 2,
104 Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;

105 (b) the operation of a motor vehicle or equipment if the volunteer is properly licensed
106 and authorized to do so; and

107 (c) liability protection and indemnification normally afforded paid a government
108 employee.

109 (2) (a) A supervising agency shall provide workers' compensation benefits for a
110 volunteer safety officer as provided in Section 67-20-7.

111 (b) A volunteer safety officer is considered an employee of the supervising agency of
112 the volunteer safety officer for purposes of Subsections (1)(b) and (c).

113 (3) (a) The county of a county sheriff that certifies and supervises a volunteer search
114 and rescue team member shall provide workers' compensation benefits for the volunteer search
115 and rescue team member as provided in Section 67-20-7.5.

116 (b) For purposes of Subsections (1)(b) and (c), a volunteer search and rescue team
117 member is considered an employee of the county of the county sheriff that certifies and
118 supervises the volunteer search and rescue team member.

119 (4) A volunteer facilitator is immune from liability for damages or injuries arising out
120 of or related to the volunteer service of a volunteer provided by the volunteer facilitator to an

121 agency, unless:

122 (a) an action or omission of the volunteer facilitator ~~§→ [willfully and knowingly caused]~~ is

122a **grossly negligent, not made in good faith, or made maliciously, and causes ←§**

123 harm to a person or property; or

124 (b) the volunteer facilitator fails to exercise due diligence in determining the fitness of

125 a volunteer to provide voluntary service to the agency under circumstances that make the

126 volunteer facilitator's failure to exercise due diligence ~~§→ [a willful and knowing violation of the~~

127 ~~volunteer facilitator's duty]~~ **grossly negligent, not in good faith, or malicious ←§** .

Legislative Review Note

as of 2-26-13 11:31 AM

Office of Legislative Research and General Counsel