

**WORKFORCE SERVICES JOB LISTING AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Peter C. Knudson**

House Sponsor: Paul Ray

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**LONG TITLE**

**Committee Note:**

The Veterans Reintegration Task Force recommended this bill.

Membership: 5 legislators 15 non-legislators

Legislative Vote: 5 voting for 0 voting against 0 absent

**General Description:**

This bill requires that all government entities advertise job openings on the state website and that the Division of Purchasing provide contact information for companies that contract with the state.

**Highlighted Provisions:**

This bill:

- ▶ requires all government entities to advertise job openings on the state's website; and
- ▶ adds a provision to the procurement code requiring that language be added into

contracts and requests for proposals that require the Division of Purchasing to provide employment contact information to the Department of Workforce Services for private contractors that contract with state entities.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



28 AMENDS:

29 **35A-1-102**, as last amended by Laws of Utah 2012, Chapter 41

30 **35A-2-203**, as last amended by Laws of Utah 2011, Chapter 188

31 **63G-6a-1202**, as last amended by Laws of Utah 2013, Chapter 445



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

34 Section 1. Section **35A-1-102** is amended to read:

35 **35A-1-102. Definitions.**

36 Unless otherwise specified, as used in this title:

37 (1) "Client" means an individual who the department has determined to be eligible for  
38 services or benefits under:

- 39 (a) Chapter 3, Employment Support Act; and
- 40 (b) Chapter 5, Training and Workforce Improvement Act.

41 (2) "Department" means the Department of Workforce Services created in Section  
42 **35A-1-103**.

43 (3) "Economic service area" means an economic service area established in accordance  
44 with Chapter 2, Economic Service Areas.

45 (4) "Employment assistance" means services or benefits provided by the department  
46 under:

- 47 (a) Chapter 3, Employment Support Act; and
- 48 (b) Chapter 5, Training and Workforce Improvement Act.

49 (5) "Employment center" is a location in an economic service area where the services  
50 provided by an economic service area under Section **35A-2-201** may be accessed by a client.

51 (6) "Employment counselor" means an individual responsible for developing an  
52 employment plan and coordinating the services and benefits under this title in accordance with  
53 Chapter 2, Economic Service Areas.

54 (7) "Employment plan" means a written agreement between the department and a client  
55 that describes:

- 56 (a) the relationship between the department and the client;
- 57 (b) the obligations of the department and the client; and
- 58 (c) the result if an obligation is not fulfilled by the department or the client.

59 (8) "Executive director" means the executive director of the department appointed  
60 under Section 35A-1-201.

61 (9) "Government entity" means the state or any county, municipality, local district,  
62 special service district, or other political subdivision or administrative unit of the state,  
63 including state institutions of education.

64 ~~[(9)]~~ (10) "Public assistance" means:

- 65 (a) services or benefits provided under Chapter 3, Employment Support Act;
- 66 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;
- 67 (c) foster care maintenance payments provided from the General Fund or under Title  
68 IV-E of the Social Security Act;
- 69 (d) SNAP benefits; and
- 70 (e) any other public funds expended for the benefit of a person in need of financial,  
71 medical, food, housing, or related assistance.

72 ~~[(10)]~~ (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program"  
73 under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known  
74 as the federal Food Stamp Program.

75 ~~[(11)]~~ (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or  
76 privilege available under SNAP.

77 ~~[(12)]~~ (13) "Stabilization" means addressing the basic living, family care, and social or  
78 psychological needs of the client so that the client may take advantage of training or  
79 employment opportunities provided under this title or through other agencies or institutions.

80 Section 2. Section 35A-2-203 is amended to read:

81 **35A-2-203. Employment centers.**

82 (1) In each county within an economic service area, the executive director shall:

- 83 (a) designate the location of one or more employment centers, as defined in Section  
84 35A-1-102, in which the services are provided by the department; or
- 85 (b) coordinate with the department to establish access to the services provided by the  
86 department by means other than an employment center.

87 (2) An employment center shall provide a comprehensive program of employment  
88 services including job placement, job development, stabilization, assessment, and job training  
89 through its employment counselors as part of a system of unified case management.

90 (3) The department may make services that are provided through employment centers  
91 under this section accessible through electronic linkage.

92 (4) The department shall develop and maintain a website dedicated to providing  
93 information regarding employment opportunities available throughout the state.

94 (5) (a) A government entity shall post each job vacancy within the government entity  
95 on the department's website.

96 (b) Information regarding job vacancies with private contractors that have contracted  
97 with a government entity shall be posted on the department's website by the Utah Division of  
98 Purchasing. Posted information shall include the name and phone number of the contact  
99 person for job inquiries. This information shall be available for the duration of the contract.

100 Section 3. Section **63G-6a-1202** is amended to read:

101 **63G-6a-1202. Required contract clauses -- Computation of price adjustments --**  
102 **Use of rules and regulations.**

103 (1) The rules of the applicable rulemaking authority shall require for state construction  
104 contracts, and may permit or require for contracts for supplies and services, the inclusion of  
105 clauses providing for adjustments in prices, time of performance, or other appropriate contract  
106 provisions, and covering the following subjects:

107 (a) the unilateral right of the procurement officer to order in writing changes in the  
108 work within the scope of the contract and changes in the time of performance of the contract  
109 that do not alter the scope of the contract work;

110 (b) variations occurring between estimated quantities of work in a contract and actual  
111 quantities;

112 (c) suspension of work ordered by the procurement officer; and

113 (d) site conditions differing from those indicated in the construction contract, or  
114 ordinarily encountered, except that differing site conditions clauses required by the rules need  
115 not be included in a construction contract when:

116 (i) the contract is negotiated;

117 (ii) the contractor provides the site or design; or

118 (iii) the parties have otherwise agreed with respect to the risk of differing site  
119 conditions.

120 (2) Adjustments in price pursuant to clauses described in Subsection (1) shall be

121 computed in one or more of the following ways:

122 (a) by agreement on a fixed price adjustment before commencement of the pertinent  
123 performance or as soon thereafter as practicable;

124 (b) by unit prices specified in the contract or subsequently agreed upon;

125 (c) by the costs attributable to the events or situations under the clauses with  
126 adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

127 (d) in any other manner as the contracting parties may mutually agree; or

128 (e) in the absence of agreement by the parties, by a unilateral determination by the  
129 procurement officer of the costs attributable to the events or situations under the clauses with  
130 adjustment of profit or fee, all as computed by the procurement officer in accordance with  
131 applicable rules and subject to the provisions of Part 17, Procurement Appeals Board, and Part  
132 18, Appeals to Court and Court Proceedings.

133 (3) A contractor shall be required to submit cost or pricing data if any adjustment in  
134 contract price is subject to the provisions of Section [63G-6a-1206](#).

135 (4) The rules of the applicable rulemaking authority shall require for construction  
136 contracts, and may permit or require for contracts for supplies and services, the inclusion of  
137 clauses providing for appropriate remedies and covering at least the following subjects:

138 (a) liquidated damages as appropriate;

139 (b) specified excuses for delay or nonperformance;

140 (c) termination of the contract for default; and

141 (d) termination of the contract in whole or in part for the convenience of the  
142 procurement unit.

143 (5) The rules of the applicable rulemaking authority shall require, for each contract and  
144 request for proposals, the inclusion of a clause that requires the Division of Purchasing, for the  
145 duration of the contract, to provide employment contact information of the winning contractor  
146 to the Department of Workforce Services in accordance with Section [35A-2-203](#). This  
147 requirement does not preclude a contractor from advertising job openings in other forums  
148 throughout the state.

149 ~~(5)~~ (6) The contract clauses described in this section shall be established by rule.  
150 However, the procurement officer or the head of an issuing procurement unit may modify the  
151 clauses for inclusion in any particular contract. The applicable rulemaking authority may, by

152 rule, require that:

153 (a) variations be supported by a written determination that describes the circumstances  
154 justifying the variations; and

155 (b) notice of any material variation shall be included in the invitation for bids or  
156 request for proposals.

157 [~~6~~] (7) A contract for construction entered into by a procurement unit shall contain a  
158 clause that addresses the rights of the parties when, after the contract is executed, site  
159 conditions are discovered that:

160 (a) the contractor did not know existed, and should not have known existed, at the time  
161 that the contract was executed; and

162 (b) materially impacts the costs of construction.

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**Legislative Review Note**  
**as of 11-21-13 4:16 PM**

**Office of Legislative Research and General Counsel**