

1 **WORKFORCE SERVICES JOB LISTING AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Peter C. Knudson**

5 House Sponsor: Paul Ray

6

LONG TITLE

7 **Committee Note:**

8 The Veterans Reintegration Task Force recommended this bill.

9 Membership: 5 legislators 15 non-legislators

10 Legislative Vote: 5 voting for 0 voting against 0 absent

11 **General Description:**

12 This bill requires that all government entities advertise job openings on the state
13 website and that the Division of Purchasing provide contact information for companies
14 that contract with the state.
15

16 **Highlighted Provisions:**

17 This bill:

18 ▶ requires all government entities to advertise job openings on the state's website; and

19 ▶ adds a provision to the procurement code requiring that language be added into

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

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **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.

Legislative Review Note
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Office of Legislative Research and General Counsel