

1 **HUMAN RESOURCE MANAGEMENT MARKET RESEARCH**

2 **AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Eric K. Hutchings**

6 Senate Sponsor: Todd Weiler

7

LONG TITLE

8 **General Description:**

9 This bill amends provisions related to human resource management.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ exempts certain employees from and amends provisions related to a position
- 14 classification plan;
- 15 ▶ requires the executive director to submit an annual compensation plan to the
- 16 governor;
- 17 ▶ repeals outdated language; and
- 18 ▶ makes technical and conforming amendments.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 ~~None~~ This bill provides a special effective date.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **49-20-401**, as last amended by Laws of Utah 2012, Chapters 28 and 173

26 **67-19-3**, as last amended by Laws of Utah 2013, Chapter 109



28 67-19-12, as last amended by Laws of Utah 2013, Chapters 109 and 310

29 67-19-14.1, as last amended by Laws of Utah 2013, Chapter 277

30 67-19-15.7, as last amended by Laws of Utah 2013, Chapter 109

31 REPEALS:

32 67-19-12.1, as enacted by Laws of Utah 2006, Chapter 338

33 67-19-12.3, as last amended by Laws of Utah 2007, Chapter 140



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

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

37 **49-20-401. Program -- Powers and duties.**

38 (1) The program shall:

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

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

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

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

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

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

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

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

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

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

58 (i) the Legislature; and

- 59 (ii) the executive director of the state Department of Human Resource Management;
- 60 (k) determine benefits and rates, upon approval of the board, for multiemployer risk
61 pools, retiree coverage, and conversion coverage;
- 62 (l) determine benefits and rates based on the total estimated costs and the employee
63 premium share established by the Legislature, upon approval of the board, for state employees;
- 64 (m) administer benefits and rates, upon ratification of the board, for single employer
65 risk pools;
- 66 (n) request proposals for provider networks or health and dental benefit plans
67 administered by third party carriers at least once every three years for the purposes of:
- 68 (i) stimulating competition for the benefit of covered individuals;
- 69 (ii) establishing better geographical distribution of medical care services; and
- 70 (iii) providing coverage for both active and retired covered individuals;
- 71 (o) offer proposals which meet the criteria specified in a request for proposals and
72 accepted by the program to active and retired state covered individuals and which may be
73 offered to active and retired covered individuals of other covered employers at the option of the
74 covered employer;
- 75 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
76 the Department of Health if the program provides program benefits to children enrolled in the
77 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's
78 Health Insurance Act;
- 79 (q) establish rules and procedures governing the admission of political subdivisions or
80 educational institutions and their employees to the program;
- 81 (r) contract directly with medical providers to provide services for covered individuals;
- 82 (s) take additional actions necessary or appropriate to carry out the purposes of this
83 chapter; and
- 84 (t) (i) require state employees and their dependents to participate in the electronic
85 exchange of clinical health records in accordance with Section [26-1-37](#) unless the enrollee opts
86 out of participation; and
- 87 (ii) prior to enrolling the state employee, each time the state employee logs onto the
88 program's website, and each time the enrollee receives written enrollment information from the
89 program, provide notice to the enrollee of the enrollee's participation in the electronic exchange

90 of clinical health records and the option to opt out of participation at any time.

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

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

95 (3) The Department of Human Resource Management shall include the benefit
96 adjustments described in Subsection (1)(j) in the total compensation plan recommended to the
97 governor required under Subsection ~~67-19-12~~(~~7~~)(5)(a).

98 Section 2. Section **67-19-3** is amended to read:

99 **67-19-3. Definitions.**

100 As used in this chapter:

101 (1) "Agency" means any department or unit of Utah state government with authority to
102 employ personnel.

103 (2) "Career service" means positions under schedule B as defined in Section ~~67-19-15~~.

104 (3) "Career service employee" means an employee who has successfully completed a
105 probationary period of service in a position covered by the career service.

106 (4) "Career service status" means status granted to employees who successfully
107 complete probationary periods for competitive career service positions.

108 (5) "Classified service" means those positions subject to the classification and
109 compensation provisions of Section ~~67-19-12~~.

110 (6) "Controlled substance" means controlled substance as defined in Section ~~58-37-2~~.

111 (7) (a) "Demotion" means a disciplinary action resulting in a reduction of an
112 employee's current actual wage.

113 (b) "Demotion" does not mean:

114 (i) a nondisciplinary movement of an employee to another position without a reduction
115 in the current actual wage; or

116 (ii) a reclassification of an employee's position under the provisions of Subsection
117 ~~67-19-12~~(3) and rules made by the department.

118 (8) "Department" means the Department of Human Resource Management.

119 (9) "Disability" means a physical or mental disability as defined and protected under
120 the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

121 (10) "Employee" means any individual in a paid status covered by the career service or
122 classified service provisions of this chapter.

123 (11) "Examining instruments" means written or other types of proficiency tests.

124 (12) "Executive director," except where otherwise specified, means the executive
125 director of the Department of Human Resource Management.

126 (13) "Human resource function" means those duties and responsibilities specified:

127 (a) under Section 67-19-6;

128 (b) under rules of the department; and

129 (c) under other state or federal statute.

130 (14) "Market comparability adjustment" means a salary range adjustment determined
131 necessary through a market survey of salary [~~ranges of a reasonable cross section of~~
132 ~~comparable benchmark positions in private and public employment~~] data and other relevant
133 information.

134 (15) "Probationary employee" means an employee serving a probationary period in a
135 career service position but who does not have career service status.

136 (16) "Probationary period" means that period of time determined by the department
137 that an employee serves in a career service position as part of the hiring process before career
138 service status is granted to the employee.

139 (17) "Probationary status" means the status of an employee between the employee's
140 hiring and the granting of career service status.

141 (18) "Structure adjustment" means a department modification of salary ranges.

142 [~~(18)~~] (19) "Temporary employee" means career service exempt employees described
143 in Subsection 67-19-15(1)(p).

144 [~~(19)~~] (20) "Total compensation" means salaries and wages, bonuses, paid leave, group
145 insurance plans, retirement, and all other benefits offered to state employees as inducements to
146 work for the state.

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~~] designated as
158 schedule AC as 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~~] schedule AS 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 (j) department deputy directors, division directors, and other employees designated as
171 schedule AD as provided under Subsection 67-19-15(1)(d);

172 (k) employees that determine and execute policy designated as schedule AR as
173 provided under Subsection 67-19-15(1)(k);

174 (l) teaching staff, educational interpreters, and educators designated as schedule AH as
175 provided under Subsection 67-19-15(1)(f);

176 [~~(k)~~] (m) temporary employees described in Subsection 67-19-15(1)(p)[:];

177 (n) patients and inmates designated as schedule AU as provided under Subsection
178 67-19-15(1)(n) who are employed by state institutions; and

179 (o) members of state and local boards and councils and other employees designated as
180 schedule AQ as provided under Subsection 67-19-15(1)(j).

181 (3) (a) The executive director shall prepare, maintain, and revise a position
182 classification plan for each employee position not exempted under Subsection (2) to provide

183 equal pay for equal work.

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

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

189 (d) (i) The department shall conduct periodic studies and ~~[desk audits]~~ interviews to
190 provide that the classification plan remains reasonably current and reflects the duties and
191 responsibilities assigned to and performed by employees.

192 (ii) The executive director shall determine the ~~[schedule]~~ need for studies and ~~[desk~~
193 ~~audits]~~ interviews after considering factors such as changes in duties and responsibilities of
194 positions or agency reorganizations.

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

197 (b) The executive director shall design each pay plan to achieve, to the degree that
198 funds permit, comparability of state salary ranges to ~~[salary ranges used by]~~ the market using
199 data obtained from private enterprise and other public employment for similar work.

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

201 (i) Each pay plan shall consist of sufficient salary ranges to:

202 (A) permit adequate salary differential among the various classes of positions in the
203 classification plan[-]; and

204 (B) reflect the normal growth and productivity potential of employees in that class.

205 ~~[(ii) (A) The executive director shall assign each class of positions in the classification~~
206 ~~plan to a salary range and shall set the width of the salary range to reflect the normal growth~~
207 ~~and productivity potential of employees in that class.]~~

208 ~~[(B) The width of the ranges need not be uniform for all classes of positions in the~~
209 ~~plan.]~~

210 ~~[(iii) (A)]~~ (ii) The executive director shall issue rules for the administration of pay
211 plans.

212 (d) The establishing of a salary range is a nondelegable activity and is not appealable
213 under the grievance procedures of Sections [67-19-30](#) through [67-19-32](#), Chapter 19a,

214 Grievance Procedures, or otherwise.

215 ~~[(B)]~~ (e) The executive director shall issue rules providing for ~~[salary adjustments]:~~

216 ~~[(iv) Merit increases shall be granted, on a uniform and consistent basis in accordance~~
 217 ~~with appropriations made by the Legislature, to employees who receive a rating of "successful"~~
 218 ~~or higher in an annual evaluation of their productivity and performance.]~~

219 ~~[(v) By October 31 of each year, the executive director shall submit market~~
 220 ~~comparability adjustments to the executive director of the Governor's Office of Management~~
 221 ~~and Budget for consideration to be included as part of the affected agency's base budgets.]~~

222 ~~[(vi) By October 31 of each year, the executive director shall recommend a~~
 223 ~~compensation package to the governor.]~~

224 ~~[(vii) (A) Adjustments shall incorporate the results of a total compensation market~~
 225 ~~survey of salary ranges and benefits of a reasonable cross-section of comparable benchmark~~
 226 ~~positions in private and public employment in the state.]~~

227 ~~[(B) The survey may also study comparable unusual positions requiring recruitment in~~
 228 ~~other states.]~~

229 ~~[(C) The executive director may cooperate with other public and private employers in~~
 230 ~~conducting the survey.]~~

231 (i) agency approved salary adjustments within approved salary ranges, including an
 232 administrative salary adjustment;

233 (ii) legislatively approved salary adjustments within approved salary ranges, including
 234 a merit increase ~~H→~~ , **subject to Subsection (4)(f)**, ~~←H~~ or general increase; and

235 (iii) structure adjustments that modify salary ranges, including a cost of living
 236 adjustment or market comparability adjustment.

236a ~~H→~~ **(f) A merit increase shall be granted on a uniform and consistent basis to each**
 236b **employee who receives a rating of "successful" or higher in an annual evaluation of the**
 236c **employee's productivity and performance.** ~~←H~~

237 (5) (a) By October 31 of each year, the executive director shall submit an annual
 238 compensation plan to the governor for consideration in the executive budget.

239 (b) The plan described in Subsection (5)(a) may include recommendations, including:

240 (i) salary increases that generally affect employees, including a general increase or
 241 merit increase;

242 (ii) salary increases that address compensation issues unique to an agency or
 243 occupation;

244 (iii) structure adjustments, including a cost of living adjustment or market

245 comparability adjustment; or

246 (iv) changes to employee benefits.

247 (c) (i) ~~H~~→ (A) ~~[The]~~ Subject to Subsection (5)(c)(i)(B) or (C), ~~←H~~ executive director
 247a shall incorporate the results of a salary survey of a
 248 reasonable cross section of comparable positions in private and public employment in the state
 249 into the annual compensation plan.

249a ~~H~~→ (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a
 249b correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section
 249c 53-6-102, shall at minimum include the three largest political subdivisions in the state that
 249d employ, respectively, comparable positions.

249e (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1,
 249f Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit
 249g Insurance Corporation, Federal Reserve, and National Credit Union Administration. ~~←H~~

250 ~~[(viii)-(A)] ~~H~~→ ~~[(ii)-The executive director shall establish criteria to assure the adequacy and~~~~
 251 ~~accuracy of the survey and shall use methods and techniques similar to and consistent with~~
 252 ~~those used in private sector surveys.] ~~←H~~~~

253 ~~[(B)-Except as provided under Sections 67-19-12.1 and 67-19-12.3, the survey shall~~
 254 ~~include a reasonable cross section of employers.]~~

255 ~~[(E)] ~~H~~→ ~~[(iii)] (ii) ~~←H~~~~ The executive director may cooperate with or participate~~
 255a in any survey
 256 conducted by other public and private employers.

257 ~~[(D)] ~~H~~→ ~~[(iv)] (iii) ~~←H~~~~ The executive director shall obtain information for the purpose of~~
 258 constructing the survey from the Division of Workforce Information and Payment Services and
 259 shall include employer name, number of persons employed by the employer, employer contact
 260 information and job titles, county code, and salary if available.

261 ~~[(E)] ~~H~~→ ~~[(v)] (iv) ~~←H~~~~ The department shall acquire and protect the needed records in~~
 261a compliance
 262 with the provisions of Section 35A-4-312.

263 ~~[(ix)-The establishing of a salary range is a nondelegable activity and is not appealable~~
 264 ~~under the grievance procedures of Sections 67-19-30 through 67-19-32, Chapter 19a,~~
 265 ~~Grievance Procedures, or otherwise.]~~

266 (d) The executive director may incorporate any other relevant information in the plan
 267 described in Subsection (5)(a), including information on staff turnover, recruitment data, or
 268 external market trends.

268a ~~H~~→ (e) The executive director shall:

268b (i) establish criteria to assure the adequacy and accuracy of data used to make
 268c recommendations described in this Subsection (5); and

268d (ii) when preparing recommendations use accepted methodologies and techniques
 268e similar to and consistent with those used in the private sector.

268f (f)(i) Upon request and subject to Subsection (5)(f)(ii), the department shall make ~~⊛~~

- 268g **☛ available foundational information used by the department or director in the drafting of a**
 268h **plan described in Subsection (5)(a), including:**
- 268i **(A) demographic and labor market information;**
 - 268j **(B) information on employee turnover;**
 - 268k **(C) salary information;**
 - 268l **(D) information on recruitment; and**
 - 268m **(E) geographic data.**
- 268n **(ii) The department may not provide under Subsection (5)(f)(i) information or other**
 268o **data that is proprietary or otherwise protected under the terms of a contract or by law. ←H**
- 269 [~~x~~] H→ [~~e~~] [~~f~~] (g) ←H The governor shall:
- 270 [~~A~~] (i) consider salary and structure adjustments recommended under Subsection
 271 [~~4~~)(c)(vi)] (5)(b) in preparing the executive budget and shall recommend the method of
 272 distributing the adjustments;
- 273 [~~B~~] (ii) submit compensation recommendations to the Legislature; and
- 274 [~~C~~] (iii) support the recommendation with schedules indicating the cost to individual
 275 departments and the source of funds.

276 ~~[(xi)]~~ ~~H~~ → ~~[(f)]~~ ~~[(g)]~~ **(h)** ← ~~H~~ If funding is approved by the Legislature in a general
 276a appropriations act, the
 277 adjustments take effect on the July 1 following the enactment unless otherwise indicated.

278 ~~[(5)]~~ **(6)** (a) The executive director shall issue rules for the granting of incentive
 279 awards, including awards for cost saving actions, awards for commendable actions by an
 280 employee, or a market-based award to attract or retain employees.

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

283 (c) In accordance with Subsection ~~[(5)]~~ **(6)**(b), an agency requesting the department's
 284 approval of a market-based award shall submit a request and documentation, subject to
 285 Subsection ~~[(5)]~~ **(6)**(d), to the department.

286 (d) In the documentation required in Subsection ~~[(5)]~~ **(6)**(c), the requesting agency
 287 shall identify for the department:

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

289 (A) budgetary advantages; or

290 (B) recruitment advantages;

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

292 or

293 (iii) any other advantage the agency would gain through the utilization of a
 294 market-based award.

295 ~~[(6)]~~ **(7)** (a) The executive director shall regularly evaluate the total compensation
 296 program of state employees in the classified service.

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

299 ~~[(i) the most recent edition of the Employee Benefits Survey Data conducted by the
 300 U.S. Chamber of Commerce Research Center; or]~~

301 (i) a study conducted by a third-party consultant; or

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

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

306 ~~[(b) The governor shall consider the executive director's proposals in preparing budget~~

307 ~~recommendations for the Legislature.]~~

308 ~~[(c) The governor's budget proposals to the Legislature shall include a specific~~
309 ~~recommendation on employee compensation.]~~

310 Section 4. Section **67-19-14.1** is amended to read:

311 **67-19-14.1. Converted sick leave.**

312 ~~[(1) Until January 1, 2014, an employee who has 144 hours of accumulated unused~~
313 ~~sick leave immediately prior to the beginning of a calendar year, may elect to convert any~~
314 ~~unused sick leave hours accumulated during that calendar year, in excess of 64 hours, to~~
315 ~~converted sick leave.]~~

316 ~~[(2) The conversion is made at the beginning of the next calendar year for unused sick~~
317 ~~leave hours earned during a calendar year under Subsection (1).]~~

318 ~~[(3)]~~ Converted sick leave hours that are not used prior to an employee's retirement
319 date shall be used under the:

320 ~~[(a)]~~ (1) Unused Sick Leave Retirement Option Program I under Section **67-19-14.2** if
321 earned prior to January 1, 2006, unless the transfer is made under Subsection **67-19-14.4(1)(c)**;
322 or

323 ~~[(b)]~~ (2) Unused Sick Leave Retirement Option Program II under Section **67-19-14.4** if
324 earned on or after January 1, 2006.

325 Section 5. Section **67-19-15.7** is amended to read:

326 **67-19-15.7. Promotion -- Reclassification -- Market adjustment.**

327 (1) (a) If an employee is promoted or the employee's position is reclassified to a higher
328 salary range maximum, the agency shall place the employee within the new range of the
329 position.

330 (b) An agency may not set an employee's salary:

331 (i) higher than the maximum in the new salary range; and

332 (ii) lower than the minimum in the new salary range of the position.

333 (c) Except for an employee described in Subsection **67-19-15(1)(p)**, the agency shall
334 grant a salary increase of at least 5% to an employee who is promoted.

335 (2) An agency shall adjust the salary range for an employee whose salary range is
336 approved by the Legislature for a market comparability adjustment consistent with Subsection
337 **67-19-12[(4)(c)(v)](5)(b)(i)**:

- 338 (a) at the beginning of the next fiscal year; and
- 339 (b) consistent with appropriations made by the Legislature.
- 340 (3) Department-initiated revisions in the state classification system that result in
- 341 consolidation or reduction of class titles or broadening of pay ranges:
- 342 (a) may not be regarded as a reclassification of the position or promotion of the
- 343 employee; and
- 344 (b) are exempt from the provisions of Subsection (1).

345 **Section 6. Repealer.**

346 This bill repeals:

347 Section **67-19-12.1, Department of Financial Institutions pay plans.**

348 Section **67-19-12.3, Peace officer, correctional officer, and public safety dispatch**
349 **personnel pay plans.**

349a **Ĥ→ Section 7. Effective date.**

349b **This bill takes effect on July 1, 2015. ←Ĥ**

Legislative Review Note
as of 2-2-15 7:33 AM

Office of Legislative Research and General Counsel