

LABOR COMMISSION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 15 voting for 0 voting against 5 absent

General Description:

This bill amends provisions of the Utah Labor Code regarding the Workers' Compensation Advisory Council and the Labor Commission's Appeals Board.

Highlighted Provisions:

This bill:

- ▶ permits the governor to appoint alternate members to the Labor Commission's Appeals Board under certain conditions;
- ▶ establishes term limits and compensation for alternate members of the Appeals Board;
- ▶ amends the membership of the Workers' Compensation Advisory Council to include the following nonvoting members:
 - one member of the Senate appointed by the president of the Senate; and
 - one member of the House of Representatives appointed by the speaker of the House of Representatives;
- ▶ provides for the compensation of council members who are legislators; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **34A-1-205**, as last amended by Laws of Utah 2013, Chapter 428

34 **34A-2-107**, as last amended by Laws of Utah 2018, Chapters 268 and 319

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

37 Section 1. Section **34A-1-205** is amended to read:

38 **34A-1-205. Appeals Board -- Chair -- Appointment -- Compensation --**

39 **Qualifications.**

40 (1) (a) There is created the Appeals Board within the commission consisting of three
41 members.

42 (b) The board may call and preside at adjudicative proceedings to review an order or
43 decision that is subject to review by the Appeals Board under this title.

44 (2) (a) ~~[-The governor shall appoint the members with]~~ With the consent of the Senate
45 and in accordance with this section[-], the governor shall appoint:

46 ~~[(b)] (i) [One] one~~ one member of the board ~~[shall be appointed]~~ to represent employers[;
47 in making this appointment, the governor shall consider nominations from employer
48 organizations.]; and

49 ~~[(c)] (ii) [One] one~~ one member of the board ~~[shall be appointed]~~ to represent employees[;
50 in making this appointment, the governor shall consider nominations from employee
51 organizations].

52 (b) With the ~~Ŝ~~ **→ advice and** ~~←Ŝ~~ consent of the Senate and in accordance with this section,
52a the governor
53 may appoint:

54 (i) one alternate member of the board to represent employers in the event that the
55 member representing employers is unavailable; or

56 (ii) one alternate member of the board to represent employees in the event that the
57 member representing employees is unavailable.

58 (c) In making the appointments described in this subsection, the governor shall:

59 (i) when appointing a member or alternate member to represent employers, consider
60 nominations from employer organizations;

61 (ii) when appointing a member or alternate member to represent employees, consider
62 nominations from employee organizations;

63 ~~[(d)]~~ (iii) [No] ensure that no more than two members [may] belong to the same
64 political party[-]; and

65 (iv) ensure that an alternate member belongs to the same political party as the member
66 for whom the alternate stands in.

67 ~~[(e)]~~ (d) The governor shall, at the time of appointment or reappointment, make
68 appointments to the board so that at least two of the members of the board are members of the
69 Utah State Bar in good standing or resigned from the Utah State Bar in good standing.

70 (3) (a) The term of a member and an alternate member shall be six years beginning on
71 March 1 of the year the member or alternate member is appointed, except that the governor
72 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the
73 terms of members and alternate members are staggered so that one member and alternate
74 member is appointed every two years.

75 (b) The governor may remove a member or alternate member only for inefficiency,
76 neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

77 (c) A member or alternate member shall hold office until a successor is appointed and
78 has qualified.

79 (4) A member and alternate member shall be part-time and receive compensation as
80 provided by Title 67, Chapter 19, Utah State Personnel Management Act.

81 (5) (a) The chief officer of the board shall be the chair, who shall serve as the executive
82 and administrative head of the board.

83 (b) The governor shall appoint and may remove at will the chair from the position of
84 chair.

85 (6) A majority of the board shall constitute a quorum to transact business.

86 (7) (a) The commission shall provide the Appeals Board necessary staff support,
87 except as provided in Subsection (7)(b).

88 (b) At the request of the Appeals Board, the attorney general shall act as an impartial
89 aid to the Appeals Board in outlining the facts and the issues.

90 Section 2. Section 34A-2-107 is amended to read:

91 **34A-2-107. Appointment of workers' compensation advisory council --**

92 **Composition -- Terms of members -- Duties -- Compensation.**

93 (1) [~~The commissioner shall appoint a~~] There is created a workers' compensation
94 advisory council composed of:

95 (a) the following voting members whom the commissioner shall appoint:

96 (i) five employer representatives; and

97 (ii) five employee representatives; [~~and~~]

98 (b) the following nonvoting members whom the commissioner shall appoint:

99 (i) a representative of the workers' compensation insurance carrier that provides
100 workers' compensation insurance under Section 31A-22-1001;

101 (ii) a representative of a workers' compensation insurance carrier different from the
102 workers' compensation insurance carrier listed in Subsection (1)(b)(i);

103 (iii) a representative of health care providers;

104 (iv) the Utah insurance commissioner or the insurance commissioner's designee;

105 (v) the commissioner or the commissioner's designee; and

106 (vi) a representative of hospitals[-]; and

107 (c) the following nonvoting members:

108 (i) a member of the Senate whom the president of the Senate shall appoint; and

109 (ii) a member of the House of Representatives whom the speaker of the House of

110 Representatives shall appoint.

111 (2) Employers and employees shall consider nominating members of groups who
112 historically may have been excluded from the council, such as women, minorities, and
113 individuals with disabilities.

114 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
115 expire, the commissioner, the president of the Senate, or the speaker of the House of
116 Representatives shall appoint in accordance with Subsection (1) each new member or
117 reappointed member to a two-year term beginning July 1 and ending June 30.

118 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
119 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
120 council members are staggered so that approximately half of the council is appointed every two

121 years.

122 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall
123 be appointed for the unexpired term.

124 (b) The commissioner shall terminate the term of a council member who ceases to be
125 representative as designated by the member's original appointment.

126 (5) The council shall confer at least quarterly for the purpose of advising the
127 commission, the division, and the Legislature on:

128 (a) the Utah workers' compensation and occupational disease laws;

129 (b) the administration of the laws described in Subsection (5)(a); and

130 (c) rules related to the laws described in Subsection (5)(a).

131 (6) Regarding workers' compensation, rehabilitation, and reemployment of employees
132 who acquire a disability because of an industrial injury or occupational disease the council
133 shall:

134 (a) offer advice on issues requested by:

135 (i) the commission;

136 (ii) the division; and

137 (iii) the Legislature; and

138 (b) make recommendations to:

139 (i) the commission; and

140 (ii) the division.

141 (7) (a) The council shall:

142 (i) study how to reduce hospital costs for purposes of medical benefits for workers'
143 compensation;

144 (ii) study hospital billing and payment trends in the state;

145 (iii) study hospital fee schedules used in other states; and

146 (iv) collect information from third-party hospital bill review companies in the state or
147 region, to identify an average reimbursement rate that represents the approximate rate at which
148 a workers' compensation insurance carrier or self-insured employer should expect to reimburse
149 a hospital for billed hospital fees for covered medical services in the state.

150 (b) In accordance with Section 68-3-14, the council shall submit a written report to the
151 Business and Labor Interim Committee no later than September 1, 2019, 2020, and 2021. Each

152 written report shall include:

153 (i) recommendations on how to reduce hospital costs for purposes of medical benefits
154 for workers' compensation;

155 (ii) aggregate data on hospital billing and payment trends in the state;

156 (iii) the results of the council's study of hospital fee schedules from other states; and

157 (iv) the approximate rate at which a workers' compensation insurance carrier or
158 self-insured employer should expect to reimburse a hospital for billed hospital fees for covered
159 medical services, calculated in accordance with Subsection (7)(a)(iv).

160 (c) For each report described in Subsection (7)(b), the commission may contract with a
161 third-party expert to assist with the council's duties described in Subsections (7)(a) and (b).

162 (8) The commissioner or the commissioner's designee shall serve as the chair of the
163 council and call the necessary meetings.

164 (9) The commission shall provide staff support to the council.

165 (10) (a) ~~[A]~~ Except as provided in Subsections (10)(b) and (10)(c), a member may not
166 receive compensation or benefits for the member's service~~[, but]~~.

167 (b) A member who is not a legislator may receive per diem and travel expenses in
168 accordance with:

169 ~~[(a)]~~ (i) Section 63A-3-106;

170 ~~[(b)]~~ (ii) Section 63A-3-107; and

171 ~~[(c)]~~ (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
172 63A-3-107.

173 (c) A member who is a legislator may receive compensation and travel expenses in
174 accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation
175 and Expenses.