

**Senator Daniel W. Thatcher** proposes the following substitute bill:

**GOVERNMENT EMPLOYEE AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Norman K. Thurston**

Senate Sponsor: Daniel W. Thatcher

Cosponsor: Travis M. Seegmiller

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**LONG TITLE**

**General Description:**

This bill amends provisions related to certain municipal employees and to hiring principles for certain state government employees.

**Highlighted Provisions:**

This bill:

- ▶ clarifies which municipal employees are subject to certain conditions of employment;
- ▶ precludes the Department of Human Resource Management from requiring a minimum educational requirement for employment, except where educational qualifications are legally required to perform the duties of the position;
- ▶ requires the Department of Human Resource Management to:
  - consider comparable experience or ability as equal to education when determining a candidate's satisfaction of minimum qualifications, with specific exceptions;
  - ensure that job descriptions and job postings are based on the skills and competencies required to perform each job; and



- 25 • create supporting materials that may be used by a political subdivision that
- 26 chooses to implement competency-based hiring principles; and
- 27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-3-1105**, as last amended by Laws of Utah 2012, Chapter 321

35 **67-19-3.1**, as last amended by Laws of Utah 2010, Chapter 249



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

38 Section 1. Section **10-3-1105** is amended to read:

39 **10-3-1105. Municipal employees -- Duration and termination of employment --**

40 **Exceptions.**

41 (1) (a) Except as provided in Subsection (1)(b) or (2), each employee of a municipality  
42 shall hold employment without limitation of time, being subject to discharge, suspension of  
43 over two days without pay, or involuntary transfer to a position with less remuneration only as  
44 provided in Section **10-3-1106**.

45 (b) Subsection (1)(a) does not apply to an employee who is discharged or involuntarily  
46 transferred to a position with less remuneration if the discharge or involuntary transfer is the  
47 result of a layoff or reorganization.

48 (2) Subsection (1)(a) does not apply to:

49 (a) subject to Subsection (3), a person appointed by the mayor, city manager, or other  
50 person or body with the power to appoint in the municipality if:

51 (i) the appointment is made in writing;

52 (ii) the person's written job description identifies the person's position as exempt from  
53 the protections described in Subsection (1)(a); and

54 (iii) the position is described in an ordinance as exempt from the protections described  
55 in Subsection (1)(a);

- 56 (b) a member of the municipality's police department or fire department who is a  
57 member of the classified civil service in a first or second class city;
- 58 (c) a person who holds a position described in Subsections (2)(c)(i) through (xii) or an  
59 equivalent position designated in a municipal ordinance or personnel policy:
- 60 (i) a police chief of the municipality;
  - 61 (ii) a deputy or assistant police chief of the municipality;
  - 62 (iii) a fire chief of the municipality;
  - 63 (iv) a deputy or assistant fire chief of the municipality;
  - 64 (v) a head of a municipal department or division;
  - 65 (vi) a deputy [~~of a~~] head of a municipal department or division;
  - 66 (vii) a superintendent;
  - 67 (viii) a probationary employee of the municipality;
  - 68 (ix) a part-time employee of the municipality, including paid call firefighters;
  - 69 (x) a seasonal or temporary employee of the municipality;
  - 70 (xi) a person who works in the office of an elected official; or
  - 71 (xii) a secretarial or administrative assistant support position that is specifically  
72 designated as a position to assist an elected official or the head or deputy head of a municipal  
73 department;
- 74 (d) an individual appointed to a position under Part 9, Appointed Officials and Their  
75 Duties, including:
- 76 (i) the city engineer;
  - 77 (ii) the city recorder;
  - 78 (iii) the city treasurer; or
  - 79 (iv) the city attorney; or
  - 80 (e) an employee who has:
    - 81 (i) acknowledged in writing that the employee's employment status is appointed or  
82 at-will; or
    - 83 (ii) voluntarily waived the procedures required by Section [10-3-1106](#).
  - 84 (3) In addition to the persons described in Subsections (2)(b) through (e), a  
85 municipality may appoint up to 5% of the municipality's workforce in accordance with  
86 Subsection (2)(a).

87 (4) Nothing in this section or Section 10-3-1106 may be construed to limit a  
88 municipality's ability to define cause for an employee termination or reduction in force.

89 Section 2. Section 67-19-3.1 is amended to read:

90 **67-19-3.1. Principles guiding interpretation of chapter and adoption of rules --**  
91 **Merit principles.**

92 (1) The department shall establish a career service system designed in a manner that  
93 will provide for the effective implementation of the following merit principles:

94 (a) recruiting, selecting, and advancing employees on the basis of their relative ability,  
95 knowledge, and skills, including open consideration of qualified applicants for initial  
96 appointment;

97 (b) providing for equitable and competitive compensation;

98 (c) training employees as needed to assure high-quality performance;

99 (d) retaining employees on the basis of the adequacy of their performance and  
100 separating employees whose inadequate performance cannot be corrected;

101 (e) fair treatment of applicants and employees in all aspects of human resource  
102 administration without regard to race, color, religion, sex, national origin, political affiliation,  
103 age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

104 (f) providing information to employees regarding their political rights and the  
105 prohibited practices under the Hatch Act; and

106 (g) providing a formal procedure for advancing grievances of employees:

107 (i) without discrimination, coercion, restraint, or reprisal; and

108 (ii) in a manner that is fair, expeditious, and inexpensive for the employee and the  
109 agency.

110 (2) The career service system described in Subsection (1) may not prescribe a  
111 minimum educational requirement for employment, except when a minimum educational  
112 qualification is legally required to perform the duties of the position.

113 (3) As part of the career service system described in Subsection (1), the department  
114 shall:

115 (a) consider comparable experience or ability as equal to education in determining a  
116 candidate's satisfaction of minimum qualifications, except when a minimum educational  
117 qualification is legally required to perform the duties of the position; and

118            (b) ensure that position descriptions and job postings published by agencies for career  
119 service positions are based on the specific skills and competencies required to perform those  
120 jobs.

121            (4) Within existing resources, the department shall create supporting materials that may  
122 be used by a political subdivision that chooses to implement competency-based hiring  
123 principles that are the same as or similar to those principles described in Subsections (2) and  
124 (3).

125            [~~(2)~~] (5) The principles in [Subsection] Subsections (1) through (3) shall govern  
126 interpretation and implementation of this chapter.