

## HB0139S02 compared with HB0139S01

~~{deleted text}~~ shows text that was in HB0139S01 but was deleted in HB0139S02.

inserted text shows text that was not in HB0139S01 but was inserted into HB0139S02.

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~~{Representative Norman K. Thurston}~~ Senator Daniel W. Thatcher proposes the following substitute bill:

~~{COMPETENCY-BASED HIRING}~~ 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;

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

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

[10-3-1105, as last amended by Laws of Utah 2012, Chapter 321](#)

[67-19-3.1, as last amended by Laws of Utah 2010, Chapter 249](#)

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

[Section 1. Section 10-3-1105 is amended to read:](#)

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

#### **Exceptions.**

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

(b) Subsection (1)(a) does not apply to an employee who is discharged or involuntarily transferred to a position with less remuneration if the discharge or involuntary transfer is the

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result of a layoff or reorganization.

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

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

(i) the appointment is made in writing;

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

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

(b) a member of the municipality's police department or fire department who is a member of the classified civil service in a first or second class city;

(c) a person who holds a position described in Subsections (2)(c)(i) through (xii) or an equivalent position designated in a municipal ordinance or personnel policy:

(i) a police chief of the municipality;

(ii) a deputy or assistant police chief of the municipality;

(iii) a fire chief of the municipality;

(iv) a deputy or assistant fire chief of the municipality;

(v) a head of a municipal department or division;

(vi) a deputy ~~of a~~ head of a municipal department or division;

(vii) a superintendent;

(viii) a probationary employee of the municipality;

(ix) a part-time employee of the municipality, including paid call firefighters;

(x) a seasonal or temporary employee of the municipality;

(xi) a person who works in the office of an elected official; or

(xii) a secretarial or administrative assistant support position that is specifically designated as a position to assist an elected official or the head or deputy head of a municipal department;

(d) an individual appointed to a position under Part 9, Appointed Officials and Their Duties, including:

(i) the city engineer;

(ii) the city recorder;

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(iii) the city treasurer; or

(iv) the city attorney; or

(e) an employee who has:

(i) acknowledged in writing that the employee's employment status is appointed or at-will; or

(ii) voluntarily waived the procedures required by Section 10-3-1106.

(3) In addition to the persons described in Subsections (2)(b) through (e), a municipality may appoint up to 5% of the municipality's workforce in accordance with Subsection (2)(a).

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

Section ~~11~~2. Section **67-19-3.1** is amended to read:

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

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

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

(b) providing for equitable and competitive compensation;

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

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

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

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

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

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

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

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agency.

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

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

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

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

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

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