

Representative Kay J. Christofferson proposes the following substitute bill:

STATE EMPLOYMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the Utah State Personnel Management Act.

Highlighted Provisions:

This bill:

- ▶ exempts a state employee in a supervisor position from state pay plan requirements;
 - ▶ provides that a state employee hired in a supervisor position on or after July 1, 2021, is exempt from the career service system;
 - ▶ allows a state employee in a supervisor position who holds career service status on July 1, 2021, to retain the employee's career service status in certain circumstances;
- and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-19-12, as last amended by Laws of Utah 2017, Chapter 463



26 [67-19-15](#), as last amended by Laws of Utah 2020, Chapter 360
27 [67-19-15.6](#), as last amended by Laws of Utah 2020, Chapter 109
28 [67-19-15.7](#), as last amended by Laws of Utah 2017, Chapter 463

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

31 Section 1. Section [67-19-12](#) is amended to read:

32 **[67-19-12. State pay plans -- Applicability of section -- Exemptions -- Duties of the](#)**
33 **[executive director.](#)**

34 (1) (a) This section, and the rules adopted by the department to implement this section,
35 apply to each career and noncareer employee not specifically exempted under Subsection (2).

36 (b) If not exempted under Subsection (2), an employee is considered to be in classified
37 service.

38 (2) The following employees are exempt from this section:

39 (a) members of the Legislature and legislative employees;

40 (b) members of the judiciary and judicial employees;

41 (c) elected members of the executive branch and employees designated as schedule AC
42 as provided under Subsection [67-19-15\(1\)\(c\)](#);

43 (d) employees of the State Board of Education;

44 (e) officers, faculty, and other employees of state institutions of higher education;

45 (f) employees in a position that is specified by statute to be exempt from this

46 Subsection (2);

47 (g) employees in the Office of the Attorney General;

48 (h) department heads and other persons appointed by the governor under statute;

49 (i) schedule AS employees as provided under Subsection [67-19-15\(1\)\(m\)](#);

50 (j) department deputy directors, division directors, and other employees designated as
51 schedule AD as provided under Subsection [67-19-15\(1\)\(d\)](#);

52 (k) employees that determine and execute policy designated as schedule AR as
53 provided under Subsection [67-19-15\(1\)\(l\)](#);

54 (l) teaching staff, educational interpreters, and educators designated as schedule AH as
55 provided under Subsection [67-19-15\(1\)\(g\)](#);

56 (m) temporary employees described in Subsection [67-19-15\(1\)\(q\)](#);

57 (n) patients and inmates designated as schedule AU as provided under Subsection
58 67-19-15(1)(o) who are employed by state institutions; [~~and~~]

59 (o) members of state and local boards and councils and other employees designated as
60 schedule AQ as provided under Subsection 67-19-15(1)(k)[~~;~~]; and

61 (p) schedule AX employees as provided under Subsection 67-19-15(1)(q).

62 (3) (a) The executive director shall prepare, maintain, and revise a position
63 classification plan for each employee position not exempted under Subsection (2) to provide
64 equal pay for equal work.

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

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

70 (d) (i) The department shall conduct periodic studies and interviews to provide that the
71 classification plan remains reasonably current and reflects the duties and responsibilities
72 assigned to and performed by employees.

73 (ii) The executive director shall determine the need for studies and interviews after
74 considering factors such as changes in duties and responsibilities of positions or agency
75 reorganizations.

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

78 (b) The executive director shall design each pay plan to achieve, to the degree that
79 funds permit, comparability of state salary ranges to the market using data obtained from
80 private enterprise and other public employment for similar work.

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

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

83 (A) permit adequate salary differential among the various classes of positions in the
84 classification plan; and

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

86 (ii) The executive director shall issue rules for the administration of pay plans.

87 (d) The establishing of a salary range is a nondelegable activity and is not appealable

88 under the grievance procedures of Sections 67-19-30 through 67-19-32, Chapter 19a,
89 Grievance Procedures, or otherwise.

90 (e) The executive director shall issue rules providing for:

91 (i) agency approved salary adjustments within approved salary ranges, including an
92 administrative salary adjustment;

93 (ii) legislatively approved salary adjustments within approved salary ranges, including
94 a merit increase, subject to Subsection (4)(f), or general increase; and

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

97 (f) A merit increase shall be granted on a uniform and consistent basis to each
98 employee who receives a rating of "successful" or higher in an annual evaluation of the
99 employee's productivity and performance.

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

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

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

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

107 (iii) structure adjustments, including a cost of living adjustment or market
108 comparability adjustment; or

109 (iv) changes to employee benefits.

110 (c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the executive director shall
111 incorporate the results of a salary survey of a reasonable cross section of comparable positions
112 in private and public employment in the state into the annual compensation plan.

113 (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a
114 correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section
115 53-6-102, shall at minimum include the three largest political subdivisions in the state that
116 employ, respectively, comparable positions.

117 (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1,
118 Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit

119 Insurance Corporation, Federal Reserve, and National Credit Union Administration.

120 (ii) The executive director may cooperate with or participate in any survey conducted
121 by other public and private employers.

122 (iii) The executive director shall obtain information for the purpose of constructing the
123 survey from the Division of Workforce Information and Payment Services and shall include
124 employer name, number of persons employed by the employer, employer contact information
125 and job titles, county code, and salary if available.

126 (iv) The department shall acquire and protect the needed records in compliance with
127 the provisions of Section [35A-4-312](#).

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

131 (e) The executive director shall:

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

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

136 (f) (i) Upon request and subject to Subsection (5)(f)(ii), the department shall make
137 available foundational information used by the department or director in the drafting of a plan
138 described in Subsection (5)(a), including:

139 (A) demographic and labor market information;

140 (B) information on employee turnover;

141 (C) salary information;

142 (D) information on recruitment; and

143 (E) geographic data.

144 (ii) The department may not provide under Subsection (5)(f)(i) information or other
145 data that is proprietary or otherwise protected under the terms of a contract or by law.

146 (g) The governor shall:

147 (i) consider salary and structure adjustments recommended under Subsection (5)(b) in
148 preparing the executive budget and shall recommend the method of distributing the
149 adjustments;

150 (ii) submit compensation recommendations to the Legislature; and
151 (iii) support the recommendation with schedules indicating the cost to individual
152 departments and the source of funds.

153 (h) If funding is approved by the Legislature in a general appropriations act, the
154 adjustments take effect on the July 1 following the enactment unless otherwise indicated.

155 (6) (a) The executive director shall issue rules for the granting of incentive awards,
156 including awards for cost saving actions, awards for commendable actions by an employee, or
157 a market-based award to attract or retain employees.

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

160 (c) In accordance with Subsection (6)(b), an agency requesting the department's
161 approval of a market-based award shall submit a request and documentation, subject to
162 Subsection (6)(d), to the department.

163 (d) In the documentation required in Subsection (6)(c), the requesting agency shall
164 identify for the department:

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

166 (A) budgetary advantages; or

167 (B) recruitment advantages;

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

169 or

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

172 (7) (a) The executive director shall regularly evaluate the total compensation program
173 of state employees in the classified service.

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

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

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

178 Section 2. Section **67-19-15** is amended to read:

179 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
180 **positions -- Coverage of career service provisions.**

181 (1) Except as otherwise provided by law or by rules and regulations established for
182 federally aided programs, the following positions are exempt from the career service provisions
183 of this chapter and are designated under the following schedules:

184 (a) schedule AA includes the governor, members of the Legislature, and all other
185 elected state officers;

186 (b) schedule AB includes appointed executives and board or commission executives
187 enumerated in Section [67-22-2](#);

188 (c) schedule AC includes all employees and officers in:

189 (i) the office and at the residence of the governor;

190 (ii) the Public Lands Policy Coordinating Council;

191 (iii) the Office of the State Auditor; and

192 (iv) the Office of the State Treasurer;

193 (d) schedule AD includes employees who:

194 (i) are in a confidential relationship to an agency head or commissioner; and

195 (ii) report directly to, and are supervised by, a department head, commissioner, or
196 deputy director of an agency or its equivalent;

197 (e) schedule AE includes each employee of the State Board of Education that the State
198 Board of Education designates as exempt from the career service provisions of this chapter;

199 (f) schedule AG includes employees in the Office of the Attorney General who are
200 under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#);

201 (g) schedule AH includes:

202 (i) teaching staff of all state institutions; and

203 (ii) employees of the Utah Schools for the Deaf and the Blind who are:

204 (A) educational interpreters as classified by the department; or

205 (B) educators as defined by Section [53E-8-102](#);

206 (h) schedule AN includes employees of the Legislature;

207 (i) schedule AO includes employees of the judiciary;

208 (j) schedule AP includes all judges in the judiciary;

209 (k) schedule AQ includes:

210 (i) members of state and local boards and councils appointed by the governor and
211 governing bodies of agencies;

- 212 (ii) a water commissioner appointed under Section 73-5-1;
- 213 (iii) other local officials serving in an ex officio capacity; and
- 214 (iv) officers, faculty, and other employees of state universities and other state
- 215 institutions of higher education;
- 216 (l) schedule AR includes employees in positions that involve responsibility:
- 217 (i) for determining policy;
- 218 (ii) for determining the way in which a policy is carried out; or
- 219 (iii) of a type not appropriate for career service, as determined by the agency head with
- 220 the concurrence of the executive director;
- 221 (m) schedule AS includes any other employee:
- 222 (i) whose appointment is required by statute to be career service exempt;
- 223 (ii) whose agency is not subject to this chapter; or
- 224 (iii) whose agency has authority to make rules regarding the performance,
- 225 compensation, and bonuses for its employees;
- 226 (n) schedule AT includes employees of the Department of Technology Services,
- 227 designated as executive/professional positions by the executive director of the Department of
- 228 Technology Services with the concurrence of the executive director;
- 229 (o) schedule AU includes patients and inmates employed in state institutions;
- 230 (p) employees of the Department of Workforce Services, designated as schedule AW:
- 231 (i) who are temporary employees that are federally funded and are required to work
- 232 under federally qualified merit principles as certified by the director; or
- 233 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
- 234 based, and who voluntarily apply for and are accepted by the Department of Workforce
- 235 Services to work in a pay for performance program designed by the Department of Workforce
- 236 Services with the concurrence of the executive director; [~~and~~]
- 237 (q) subject to Subsection (6), schedule AX includes employees in positions that:
- 238 (i) require the regular supervision and performance evaluation of one or more other
- 239 employees; and
- 240 (ii) are not designated exempt from the career service under any other schedule
- 241 described in Subsection (1); and
- 242 [~~(q)~~] (r) for employees in positions that are temporary, seasonal, time limited, funding

243 limited, or variable hour in nature, under schedule codes and parameters established by the
244 department by administrative rule.

245 (2) The civil service shall consist of two schedules as follows:

246 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

247 (ii) Removal from any appointive position under schedule A, unless otherwise
248 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

249 (b) Schedule B is the competitive career service schedule, consisting of:

250 (i) all positions filled through competitive selection procedures as defined by the
251 executive director; or

252 (ii) positions filled through a department approved on-the-job examination intended to
253 appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter
254 10, Veterans Preference.

255 (3) (a) The executive director, after consultation with the heads of concerned executive
256 branch departments and agencies and with the approval of the governor, shall allocate positions
257 to the appropriate schedules under this section.

258 (b) Agency heads shall make requests and obtain approval from the executive director
259 before changing the schedule assignment and tenure rights of any position.

260 (c) Unless the executive director's decision is reversed by the governor, when the
261 executive director denies an agency's request, the executive director's decision is final.

262 (4) (a) Compensation for employees of the Legislature shall be established by the
263 directors of the legislative offices in accordance with Section [36-12-7](#).

264 (b) Compensation for employees of the judiciary shall be established by the state court
265 administrator in accordance with Section [78A-2-107](#).

266 (c) Compensation for officers, faculty, and other employees of state universities and
267 institutions of higher education shall be established as provided in Title 53B, Chapter 1,
268 Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of
269 Higher Education.

270 (d) Unless otherwise provided by law, compensation for all other schedule A
271 employees shall be established by their appointing authorities, within ranges approved by, and
272 after consultation with the executive director of the Department of Human Resource
273 Management.

274 (5) An employee who is in a position designated schedule AC and who holds career
275 service status on June 30, 2010, shall retain the career service status if the employee:

- 276 (a) remains in the position that the employee is in on June 30, 2010; and
- 277 (b) does not elect to convert to career service exempt status in accordance with a rule
278 made by the department.

279 (6) An employee who is in a position on July 1, 2021, designated schedule AX and
280 who holds career service status shall retain the career service status if the employee remains in
281 the position that the employee is in on July 1, 2021.

282 Section 3. Section **67-19-15.6** is amended to read:

283 **67-19-15.6. Longevity salary increases.**

284 (1) Except for those employees in schedules AB and AN, as provided under Section
285 **67-19-15**, and employees described in Subsection **67-19-15(1)(~~(q)~~(r)**, an employee shall
286 receive an increase in salary of 2.75% if that employee:

- 287 (a) holds a position under schedule A or B as provided under Section **67-19-15**;
- 288 (b) has reached the maximum of the salary range in the position classification;
- 289 (c) has been employed with the state for eight years; and
- 290 (d) is rated eligible in job performance under guidelines established by the executive
291 director.

292 (2) Any employee who meets the criteria under Subsection (1) is entitled to the same
293 increase in salary for each additional three years of employment if the employee maintains the
294 eligibility standards established by the department.

295 Section 4. Section **67-19-15.7** is amended to read:

296 **67-19-15.7. Promotion -- Reclassification -- Market adjustment.**

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

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

- 301 (i) higher than the maximum in the new salary range; and
- 302 (ii) lower than the minimum in the new salary range of the position.

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

305 (2) An agency shall adjust the salary range for an employee whose salary range is
306 approved by the Legislature for a market comparability adjustment consistent with Subsection
307 67-19-12(5)(b)(i):

308 (a) at the beginning of the next fiscal year; and

309 (b) consistent with appropriations made by the Legislature.

310 (3) Department-initiated revisions in the state classification system that result in
311 consolidation or reduction of class titles or broadening of pay ranges:

312 (a) may not be regarded as a reclassification of the position or promotion of the
313 employee; and

314 (b) are exempt from the provisions of Subsection (1).