

HB0460S01 compared with HB0460

~~text~~ shows text that was in HB0460 but was deleted in HB0460S01.

inserted text shows text that was not in HB0460 but was inserted into HB0460S01.

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Representative Michael J. Petersen proposes the following substitute bill:

GOVERNMENT EMPLOYEE CONSCIENCE PROTECTION

AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: {} Michael J. Petersen

Senate Sponsor: {} _____

LONG TITLE

General Description:

This bill addresses required accommodations for government employees in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a governmental entity to grant an employee's request to be relieved from performing a certain task if granting the request would not place an undue hardship on the governmental entity;
- ▶ creates protections for employees who request to be relieved from a certain task;

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and

- ▶ creates a cause of action for a government employee whose request to be relieved from performing a certain task was denied ~~{, and}~~.

~~{ → authorizes the attorney general in certain circumstances to file suit on behalf of an employee whose request to be relieved from a certain task was denied.~~

~~‡~~ Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

67-27-105, Utah Code Annotated 1953

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

Section 1. Section **67-27-105** is enacted to read:

67-27-105. Government employee conscience accommodation.

(1) As used in this section:

(a) "Conscience" means a sincerely held belief as to the rightness or wrongness of an action or inaction.

(~~f~~a~~b~~) (i) "Employee" means an individual employed by a governmental entity.

(ii) "Employee" does not include:

(A) an elected official;

(B) an individual employed by the Legislature; or

(C) an individual who is appointed or employed to be on an elected official's personal staff to assist the elected official in fulfilling the elected official's duties.

(~~f~~b~~c~~) "Governmental entity" means:

(i) the state;

(ii) a political subdivision of the state, including a county, city, town, school district, special district, institution of higher education, or special service district; or

(iii) an entity created by the state, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

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(d) "Retaliatory action" means any of the following actions taken by a governmental entity against an employee:

(i) a dismissal;

(ii) a reduction of compensation;

(iii) a failure to increase compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) a failure to promote if the employee would otherwise be promoted; or

(v) a threat to take an action described in Subsections (1)(d)(i) through (iv).

~~(c)e~~ "Task" means a specific job, duty, or function.

~~(d)f~~ "Undue hardship" means ~~f~~:

~~(i) } a substantial increase in costs to a governmental entity's operations and budget that would result from an employee being relieved from performing a certain task ~~f~~; or~~

~~(ii) a governmental entity would be prevented from serving the entire portion of the public the governmental entity is entrusted to serve if an employee was relieved from performing a certain task ~~f~~.~~

(2) (a) Except as provided in Subsection ~~(f8)2(b)~~, a governmental entity may not deny an employee's request to be relieved from performing a certain task if:

~~(a)i performing the task would conflict with the employee's sincerely held religious ~~f~~; moral, or philosophical ~~f~~ beliefs ~~f~~; and~~

~~(b) or conscience;~~

(ii) the employee has complied with the requirements of Subsection (3); and

(iii) relieving the employee from the task would not impose an undue hardship on the governmental entity.

(b) A governmental entity is not required to grant an employee's request under Subsection (2)(a) if:

(i) the request is to be relieved from performing a task that is part of training or safety instructions directly related to the employee's employment;

(ii) granting the request would result in a deficit in the amount of work for which the employee is compensated; or

(iii) granting the request would create a conflict with an existing legal obligation and the governmental entity cannot avoid the conflict if the governmental entity grants the

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employee's request under Subsection (3).

(3) (a) ~~{An}~~ Except as provided in Subsection (3)(b), an employee seeking to be relieved from performing a certain task under Subsection (2) shall, at least two business days after the day on which the employee received the assignment to perform the task, submit a written request to the employee's supervisor providing an explanation as to why the task would conflict with the employee's sincerely held religious, moral, or philosophical beliefs:

~~(b) A}~~ beliefs or conscience.

(b) If an employee receives an assignment to perform a task that is to be performed within two business days after the day on which the employee received the assignment and seeks to be relieved from performing the task under Subsection (2), the employee shall orally or in writing immediately request to be relieved from performing the task.

(4) (a) Except as provided in Subsection (4)(c), a governmental entity ~~{receiving}~~ that receives a request ~~{described in}~~ under Subsection (3 ~~{(a)}~~) shall respond to the request:

(i) within ~~{2}~~ 10 business days after the day on which the request was received; or

(ii) before the assigned task is required to be performed if the assigned task is to be performed within 10 business days after the day on which the employee received the assignment to perform the task.

~~{c}~~ (b) If a governmental entity denies an employee's request ~~{as described in}~~ submitted under Subsection (3 ~~{(a)}~~), the governmental entity shall include in the response ~~{described in}~~ required under Subsection (~~{3}~~4)(~~{b}~~a):

(i) ~~{a detailed}~~ an explanation of the governmental entity's decision and why ~~granting~~ the request would impose an undue hardship on the governmental entity ~~{ to grant the request}~~; and

(ii) ~~{an explanation}~~ that the employee ~~{can}~~ may seek redress in a court as described in Subsection (~~{4}~~ if the employee believes ~~{6}~~).

(c) An employee and governmental entity may agree in writing to waive or extend the time limits described in Subsection (4)(a).

(5) (a) A governmental entity may adopt a policy detailing the requirements of this section.

(b) A policy adopted under Subsection (5)(a) shall:

(i) provide the governmental entity's employees a process for making a request under

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this section:

(ii) designate an individual to receive an employee request described in Subsection (3);

(iii) outline the information an employee is required to provide to the governmental entity in a request described in Subsection (3); and

(iv) outline the process the governmental entity ~~has erred in the decision.~~

~~(4)~~ will use to evaluate a request received under Subsection (3) in determining if the request will impose an undue hardship on the governmental entity.

(c) A governmental entity establishing a policy under this Subsection (5) shall ensure that:

(i) the governmental entity's employees receive notice of the policy and access to a copy of the policy when the policy is adopted or when an employee begins working for the governmental entity, whichever occurs first; and

(ii) if the governmental agency receives a request under Subsection (3), the governmental entity includes a reference to the governmental entity's policy in the governmental entity's response.

(6) (a) An employee has a right of action against the governmental entity that employs the employee if:

(i) the employee ~~is~~:

~~(i)~~ has complied with Subsection (3) ~~(a)~~;

~~(ii)~~ in good faith;

(ii) the employee has complied with any policy created under Subsection (5) after receiving notice and a reference of the policy as described in Subsection (5)(c);

(iii) the governmental entity has denied the employee's request to be relieved from performing a certain task that conflicts with the employee's sincerely held religious ~~, moral, or philosophical~~ beliefs or conscience; and

~~(iii)~~ (iv) granting the request would not have imposed an undue hardship on the governmental entity.

(b) An employee seeking to assert ~~the~~ a right of action ~~described in Subsection (4)(a)~~ under this section shall bring the action in a court within 180 calendar days after the day on which the employee received the governmental entity's response described in Subsection ~~(3)(b)4~~.

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(c) If an employee establishes, by a preponderance of the evidence, that the employee meets the requirements described in Subsection (~~(4)~~6)(a), the court shall grant the employee relief by:

(i) (A) issuing an injunction ordering the governmental entity to relieve the employee from the specific task if the task is still to be performed; or

(B) ordering the governmental entity to reinstate or rehire the employee if the employee resigned, was demoted, or was terminated as a direct result of the governmental entity's violation of Subsection (2); and

(ii) awarding the employee back pay, reasonable attorney fees, and court costs.

~~(5)7~~ (a) ~~Subject~~ Unless required by another provision of the Utah Code and subject to Subsections (~~(5)7~~(b) and (c), a governmental entity may not make public comments ~~regarding~~ about an ~~employee seeking~~ employee's request to be relieved from performing a certain task or about the dispute between the governmental entity and employee after:

(i) the employee has submitted the employee's ~~written~~ request described in Subsection (3)~~(a)~~ and the employee has not yet ~~asserted~~ brought the employee's right of action in court and before the time for the employee to bring a right of action has expired under Subsection (6);

(ii) the employee has ~~asserted~~ brought a right of action in court under Subsection (~~(4)6~~); or

(iii) the employee successfully establishes the employee's right of action under Subsection (~~(4)(c)6~~).

(b) A governmental entity that ~~has an employee submit a~~ receives request under Subsection (3)~~(a)~~ may only publicly comment that the governmental entity does not comment on an ongoing personnel matter.

~~(c) A governmental entity may make public comments regarding an employee seeking to be relieved from performing a certain task if the governmental entity prevails under Subsection (4) in showing that granting the employee's request would have caused the governmental entity undue hardship.~~

~~(d) A court shall impose a fine on a governmental entity that violates Subsection (5)(a) a minimum of \$5,000.~~

~~(6) An employee may not be suspended, demoted, terminated, fired, or forced into~~

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~~early retirement for submitting a request under Subsection (3)(a):~~

~~———— (7) (a) The attorney general may bring an action on behalf of an employee employed by a governmental entity that the attorney general does not represent to enforce the requirements of Subsection (2) if:~~

~~———— (i) the employee requests that the attorney general assert the cause of action on the employee's behalf; and~~

~~———— (ii) the employee has not asserted a right of action under Subsection (4):~~

~~———— (b) The procedures and relief described in Subsection (4) apply to an action brought by the attorney general under } of at least \$5,000 for each violation of Subsection (7)(a).~~

~~(8) A governmental entity }is} may not }required to grant} take retaliatory action against an }employee's} employee for submitting a request under Subsection (}2) if the request is to be relieved from performing a task associated with training or safety instructions that are directly related to the responsibilities of;}3).~~

(9) Nothing in this section:

(a) limits the employee's }employment:

~~———— (9) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, Title 67, Chapter 19a, Grievance Procedures, Title 67, Chapter 21, Utah Protection of Public Employees Act, or any other provision of the Utah Code governing the procedures for an employee to address a grievance, complaint, or other action against;} right to bring any other claim the employee may have against the governmental entity; or~~

~~(b) prevents a governmental entity}, the provisions of this section apply to a request brought by an employee under this section;} from implementing a policy required by state or federal law.~~

Section 2. **Effective date.**

This bill takes effect on May 1, 2024.