

VOLUNTEER GOVERNMENT WORKERS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions of the Volunteer Government Workers Act.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ amends the definition of a volunteer to describe the fees, expenses, and other benefits that may be provided to a volunteer.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-3-113, last amended by Laws of Utah 2022, Chapter 346

67-20-2, last amended by Laws of Utah 2022, Chapters 346, 347 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 347

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

Section 1. Section **34A-3-113** is amended to read:

34A-3-113. Presumption of workers' compensation benefits for firefighters.

(1) As used in this section:

(a) (i) "Firefighter" means a member, including a volunteer member, as described in

30 Subsection [~~67-20-2(7)(b)(ii)~~] 67-20-2(10)(b)(ii), or a member paid on call, of a fire
31 department or other organization that provides fire suppression and other fire-related service
32 who is responsible for or is in a capacity that includes responsibility for the extinguishment of
33 fires.

34 (ii) "Firefighter" does not include a person whose job description, duties, or
35 responsibilities do not include direct involvement in fire suppression.

36 (b) "Presumptive cancer" means one or more of the following cancers:

37 (i) pharynx;

38 (ii) esophagus;

39 (iii) lung; and

40 (iv) mesothelioma.

41 (2) If a firefighter who contracts a presumptive cancer meets the requirements of
42 Subsection (3), there is a rebuttable presumption that:

43 (a) the presumptive cancer was contracted arising out of and in the course of
44 employment; and

45 (b) the presumptive cancer was not contracted by a willful act of the firefighter.

46 (3) To be entitled to the rebuttable presumption described in Subsection (2):

47 (a) during the time of employment as a firefighter, the firefighter undergoes annual
48 physical examinations;

49 (b) the firefighter shall have been employed as a firefighter for eight years or more and
50 regularly responded to firefighting or emergency calls within the eight-year period; and

51 (c) if a firefighter has used tobacco, the firefighter provides documentation from a
52 physician that indicates that the firefighter has not used tobacco for the eight years preceding
53 reporting the presumptive cancer to the employer or division.

54 (4) A presumption established under this section may be rebutted by a preponderance
55 of the evidence.

56 (5) If a firefighter who contracts a presumptive cancer is employed as a firefighter by
57 more than one employer and qualifies for the presumption under Subsection (2), and that

58 presumption has not been rebutted, the employer and insurer at the time of the last substantial
59 exposure to risk of the presumptive cancer are liable under this chapter pursuant to Section
60 34A-3-105.

61 (6) A cause of action subject to the presumption under this section is considered to
62 arise on the date after May 12, 2015, that the employee:

63 (a) suffers disability from the occupational disease;

64 (b) knows, or in the exercise of reasonable diligence should have known, that the
65 occupational disease is caused by employment; and

66 (c) files a claim as provided in Section 34A-3-108.

67 Section 2. Section 67-20-2 is amended to read:

68 **67-20-2. Definitions.**

69 As used in this chapter:

70 (1) "Agency" means:

71 (a) a department, institution, office, college, university, authority, division, board,
72 bureau, commission, council, or other agency of the state;

73 (b) a county, city, town, school district, or special improvement or taxing district; or

74 (c) any other political subdivision.

75 (2) "Compensatory service worker" means a person who performs a public service with
76 or without compensation for an agency as a condition or part of the person's:

77 (a) incarceration;

78 (b) plea;

79 (c) sentence;

80 (d) diversion;

81 (e) probation; or

82 (f) parole.

83 (3) "Emergency medical service volunteer" means an individual who:

84 (a) provides services as a volunteer under the supervision of a supervising agency or
85 government officer; and

86 (b) at the time the individual provides the services described in Subsection (3)(a), is:

87 (i) an emergency medical technician volunteer, a paramedic volunteer, an ambulance
88 volunteer, a volunteer firefighter, or another volunteer provider of emergency medical services;
89 and

90 (ii) acting in the capacity of a volunteer described in Subsection (3)(b)(i).

91 (4) "FLSA aggregate amount" means, except as otherwise required by the United States
92 Department of Labor, the aggregate amount of nominal fees that a supervising agency may pay
93 a volunteer, generally not exceeding 20% of the total compensation that the supervising agency
94 would pay a full-time employee providing the same services as the volunteer.

95 ~~[(4)]~~ (5) "IRS aggregate amount" means the fixed or determinable income aggregate
96 amount described in 26 C.F.R. Sec. 1.6041-1(a)(1)(i)(A).

97 (6) "Nominal fee" means a fee described in 29 C.F.R. Sec. 553.106(e).

98 (7) "Reasonable benefits" includes, in accordance with 29 C.F.R. Sec. 553.106,
99 liability insurance, health insurance, life insurance, disability insurance, workers'
100 compensation, a pension plan, a length of service award, personal property tax relief, and utility
101 bill discounts or credits.

102 ~~[(5)]~~ (8) (a) "Volunteer" means an individual who donates service without pay or other
103 compensation except the following, as approved by the supervising agency:

104 (i) expenses actually and reasonably incurred;

105 (ii) a stipend for future higher education expenses, awarded from the National Service
106 Trust under 45 C.F.R. Secs. 2526.10 and 2527.10;

107 (iii) costs for attending classes, conferences, or association meetings related to services
108 provided by a volunteer, including:

109 (A) tuition;

110 (B) costs for books, supplies, or other training materials; and

111 (C) travel, housing, and meals, in accordance with travel policies of the supervising
112 agency;

113 ~~[(iii)]~~ (iv) a [stipend,] nominal fee below the FLSA aggregate amount for a volunteer

114 described in 29 C.F.R. Sec. 553.106, or a stipend below the IRS aggregate amount for all other
115 volunteers, for:

116 (A) emergency volunteers, including emergency medical service volunteers, volunteer
117 safety officers, and volunteer search and rescue team members; or

118 (B) non-emergency volunteers, including senior program volunteers and community
119 event volunteers;

120 (v) as it relates to a volunteer described in 29 C.F.R. Sec. 553.106, reasonable benefits;

121 ~~[(iv)]~~ (vi) (A) health benefits provided through the supervising agency; or

122 (B) for a volunteer who participates in the Volunteer Emergency Medical Service
123 Personnel Health Insurance Program described in Section 26-8a-603, health insurance provided
124 through the program[-];

125 ~~[(v)]~~ (vii) passthrough stipends or other compensation provided to volunteers through a
126 federal or state program, including Americorp Seniors volunteers, consistent with 42 U.S.C.
127 Sec. 5058;

128 ~~[(vi)]~~ (viii) stipends or other compensation, below the IRS aggregate amount, provided
129 to volunteers from any person;

130 ~~[(vii)]~~ (ix) uniforms, identification, personal protective equipment, or safety equipment
131 used by a volunteer only while volunteering for the supervising ~~[entity]~~ agency;

132 ~~[(viii)]~~ (x) a nonpecuniary item not exceeding \$50 in value;

133 ~~[(ix)]~~ (xi) nonpecuniary items, below the IRS aggregate amount, donated to the
134 supervising agency with the express intent of benefitting a volunteer; ~~[or]~~

135 ~~[(x)]~~ (xii) ~~[meals or]~~ gifts, not exceeding \$50 in value, provided as part of a volunteers
136 appreciation event by the ~~[volunteering]~~ supervising agency[-]; or

137 (xiii) meals, not exceeding a value of \$50 per person based on anticipated attendance,
138 provided to a volunteer by the supervising agency:

139 (A) as part of a volunteer appreciation event; or

140 (B) while the volunteer is engaged in providing volunteer service.

141 (b) "Volunteer" does not include:

142 (i) a person participating in human subjects research to the extent that the participation
143 is governed by federal law or regulation inconsistent with this chapter; or

144 (ii) a compensatory service worker.

145 (c) "Volunteer" includes a juror or potential juror appearing in response to a summons
146 for a trial jury or grand jury.

147 ~~[(6)]~~ (9) "Volunteer facilitator" means a business or nonprofit organization that, from
148 individuals who have a relationship with the business or nonprofit organization, such as
149 membership or employment, provides volunteers to an agency or facilitates volunteers
150 volunteering with an agency.

151 ~~[(7)]~~ (10) "Volunteer safety officer" means an individual who:

152 (a) provides services as a volunteer under the supervision of an agency; and

153 (b) at the time the individual provides the services to the supervising agency described
154 in Subsection ~~[(7)(a)]~~ (10)(a), the individual is:

155 (i) exercising peace officer authority as provided in Section [53-13-102](#); or

156 (ii) if the supervising agency described in Subsection ~~[(7)(a)]~~ (10)(a) is a fire
157 department:

158 (A) on the rolls of the supervising agency as a firefighter;

159 (B) not regularly employed as a firefighter by the supervising agency; and

160 (C) acting in a capacity that includes the responsibility for the extinguishment of fire.

161 ~~[(8)]~~ (11) "Volunteer search and rescue team member" means an individual who:

162 (a) provides services as a volunteer under the supervision of a county sheriff; and

163 (b) at the time the individual provides the services to the county sheriff described in
164 Subsection ~~[(8)(a)]~~ (11)(a), is:

165 (i) certified as a member of the county sheriff's search and rescue team; and

166 (ii) acting in the capacity of a member of the search and rescue team of the supervising
167 county sheriff.