

STATE EMPLOYMENT REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Utah State Personnel Management Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ beginning January 1, 2025, classifies a state employee as exempt from career

service status unless the employee:

- is in a position that requires POST certification;
- must have career service status to maintain federal funding; or
- subject to certain exceptions, was a career service employee before the

employee's position was reclassified;

- ▶ permits an independent entity to voluntarily participate in the pay for performance management system;

- ▶ grants rulemaking authority to the Division of Human Resource Management;
- ▶ addresses the hiring preference for a veteran or a person with a disability; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63A-17-102**, as last amended by Laws of Utah 2022, Chapter 209

31 **63A-17-112**, as enacted by Laws of Utah 2022, Chapter 209

32 **63A-17-301**, as last amended by Laws of Utah 2022, Chapter 209

33 **63A-17-305**, as renumbered and amended by Laws of Utah 2021, Chapter 344

34 REPEALS:

35 **63A-17-101**, as renumbered and amended by Laws of Utah 2021, Chapter 344



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

38 Section 1. Section **63A-17-102** is amended to read:

39 **63A-17-102. Definitions.**

40 As used in this chapter:

41 (1) "Agency" means any department or unit of Utah state government with authority to
42 employ personnel.

43 (2) "Career service" means ~~[positions under schedule B as defined in Section~~
44 ~~63A-17-301]~~ the career service system described in Section 63A-17-103.

45 (3) "Career service employee" means an employee who ~~[has successfully completed a~~
46 ~~probationary period of service in a position covered by the career service.];~~

47 (a) on or after January 1, 2025, is employed in a position that is classified as a schedule
48 B position, if the employee successfully completes the applicable probationary period of
49 service for the position;

50 (b) (i) before January 1, 2025, successfully completes the applicable probationary
51 period of service in a position that, on December 31, 2024, was classified under schedule B;
52 and

53 (ii) on or after January 1, 2025, does not voluntarily:

54 (A) accept a career service exempt position described in Subsections 63A-17-301(1)(a)
55 through (r); or

56 (B) elect to convert from career service status to career service exempt status; or

57 (c) (i) holds a position classified as career service exempt under Subsections

58 63A-17-301(1)(a) through (r); and

- 59 (ii) notwithstanding that the employee holds a position described in Subsection
60 (3)(c)(i), the employee has retained career service status because the employee:
- 61 (A) obtained career service status for a position before the position was reclassified
62 from a career service position to a career service exempt position; and
- 63 (B) has not, after the reclassification described in Subsection (3)(c)(ii)(A), voluntarily:
64 (I) accepted another position described in Subsections 63A-17-301(1)(a) through (r); or
65 (II) elected to convert from career service status to career service exempt status.
- 66 (4) "Career service status" means status granted to ~~[employees who successfully~~
67 ~~complete probationary periods for competitive career service positions]~~ an employee employed
68 under the career service system described in Section 63A-17-103.
- 69 (5) "Classified service" means those positions subject to the classification and
70 compensation provisions of Section 63A-17-307.
- 71 (6) "Controlled substance" means controlled substance as defined in Section 58-37-2.
- 72 (7) (a) "Demotion" means a disciplinary action resulting in a reduction of an
73 employee's current actual wage.
- 74 (b) "Demotion" does not mean:
- 75 (i) a nondisciplinary movement of an employee to another position without a reduction
76 in the current actual wage; or
- 77 (ii) a reclassification of an employee's position under the provisions of Subsection
78 63A-17-307(3) and rules made by the department.
- 79 (8) "Director" means the director of the division.
- 80 (9) "Disability" means a physical or mental disability as defined and protected under
81 the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.
- 82 (10) "Division" means the Division of Human Resource Management, created in
83 Section 63A-17-105.
- 84 (11) "Employee" means any individual in a paid status covered by the career service or
85 classified service provisions of this chapter.
- 86 (12) "Examining instruments" means written or other types of proficiency tests.
- 87 (13) "Human resource function" means those duties and responsibilities specified:
- 88 (a) under Section 63A-17-106;
- 89 (b) under rules of the division; and

90 (c) under other state or federal statute.

91 (14) "Market comparability adjustment" means a salary range adjustment determined
92 necessary through a market survey of salary data and other relevant information.

93 (15) "POST-certified position" means a position where the employee who holds the
94 position is required to:

95 (a) have training certification under Title 53, Chapter 6, Part 2, Peace Officer Training
96 and Certification Act; and

97 (b) maintain the training certification described in Subsection (15)(a) while employed
98 in the position.

99 [~~15~~] (16) "Probationary employee" means an employee serving a probationary period
100 in a career service position but who does not have career service status.

101 [~~16~~] (17) "Probationary period" means that period of time determined by the division
102 that an employee serves in a career service position as part of the hiring process before career
103 service status is granted to the employee.

104 [~~17~~] (18) "Probationary status" means the status of an employee between the
105 employee's hiring and the granting of career service status.

106 [~~18~~] (19) "Structure adjustment" means a division modification of salary ranges.

107 [~~19~~] (20) "Temporary employee" means career service exempt employees described
108 in Subsection 63A-17-301(1)(r).

109 [~~20~~] (21) "Total compensation" means salaries and wages, bonuses, paid leave, group
110 insurance plans, retirement, and all other benefits offered to state employees as inducements to
111 work for the state.

112 Section 2. Section **63A-17-112** is amended to read:

113 **63A-17-112. Pay for performance management system -- Employees paid for**
114 **performance.**

115 (1) As used in this section:

116 (a) (i) "Agency" means, except as provided in Subsection [~~(1)(a)(ii)~~] (1)(a)(ii) or (iii),
117 the same as that term is defined in Section 63A-17-102.

118 (ii) "Agency" includes an independent entity that, in accordance with Subsection (6),
119 chooses to participate in the pay for performance management system.

120 [~~(ii)~~] (iii) "Agency" does not include:

121 (A) the State Board of Education, the Office of the State Treasurer, Office of the State
 122 Auditor, Office of the State Attorney General, Utah System of Higher Education, the
 123 Legislature, or the judiciary~~[, or, as defined in Section 63E-1-102, an independent entity.]; or~~

124 (B) an independent entity, other than an independent entity described in Subsection
 125 (1)(a)(ii).

126 (b) (i) "Employee" means an employee of an agency.

127 (ii) "Employee" does not include an individual in a schedule AB, as described in
 128 Section 63A-17-301, position.

129 (c) "Independent entity" means the same as that term is defined in Section 63E-1-102.

130 ~~[(c)]~~ (d) "Pay for performance" means a plan for incentivizing an employee for meeting
 131 or exceeding production or performance goals, in which the plan is well-defined before work
 132 begins, eligible work groups are defined, specific goals and targets for the employee are
 133 determined, measurement procedures are in place, and specific incentives are provided when
 134 goals and targets are met.

135 ~~[(d)]~~ (e) "Pay for performance management system" means the system described in
 136 Subsection (2).

137 (2) The division shall ~~[establish and]~~ make rules, in accordance with Title 63G,
 138 Chapter 3, Utah Administrative Rulemaking Act, ~~[make rules]~~ for the administration of a pay
 139 for performance management system.

140 (3) The pay for performance management system shall include:

141 (a) guidelines and criteria for an agency to adopt pay for performance policies and
 142 administer pay based on an employee's performance in furtherance of the agency's mission;

143 (b) employee performance ratings;

144 (c) requirements for written employee performance standards and expectations;

145 (d) supervisor verbal and written feedback based on the standards of performance and
 146 behavior outlined in an employee's performance plan; and

147 (e) quarterly written evaluation of an employee's performance.

148 (4) In consultation with the division, no later than July 1, 2023, each agency shall:

149 (a) adopt pay for performance policies based on the performance management system;

150 and

151 (b) subject to available funds and as necessary, adjust an employee's wage to reflect:

152 (i) subject to Subsection (5), [~~for a classified service employee,~~] the salary range [of
153 ~~the position classified plan~~] for the employee's position; and

154 (ii) an increase, decrease, or no change in the employee's wage:

155 (A) commensurate to an employee's performance as reflected by the employee's
156 evaluation conducted in accordance with the pay for performance management system; and

157 (B) in an amount that is in accordance with the guidelines and criteria established for a
158 wage change in the pay for performance management system.

159 (5) [~~It~~] The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
160 Administrative Rulemaking Act, [the division shall make rules authorizing a classified service]
161 authorizing an employee to receive a wage that exceeds the salary range of the [classified
162 service] employee's position [classified plan] if warranted based on the classified employee's
163 performance rating.

164 (6) An independent entity may participate in the pay for performance management
165 system by providing written notice to the division that:

166 (a) states the intent of the independent entity to participate in the system; and

167 (b) indicates that the independent entity agrees to comply with Subsection (7).

168 (7) An independent entity described in Subsection (6) shall comply with:

169 (a) this section; and

170 (b) the rules and policies of the division that relate to participation in the pay for
171 performance management system.

172 Section 3. Section **63A-17-301** is amended to read:

173 **63A-17-301. Career service -- Exempt positions -- Schedules for civil service**
174 **positions -- Coverage of career service provisions -- Rulemaking authority.**

175 (1) Except as provided in Subsection (3)(d), the following positions are exempt from
176 the career service provisions of this chapter and are designated under the following schedules:

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

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

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

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

- 183 (ii) the Public Lands Policy Coordinating Office;
- 184 (iii) the Office of the State Auditor; and
- 185 (iv) the Office of the State Treasurer;
- 186 (d) schedule AD includes employees who:
- 187 (i) are in a confidential relationship to an agency head or commissioner; and
- 188 (ii) report directly to, and are supervised by, a department head, commissioner, or
- 189 deputy director of an agency or its equivalent;
- 190 (e) schedule AE includes each employee of the State Board of Education that the State
- 191 Board of Education designates as exempt from the career service provisions of this chapter;
- 192 (f) schedule AG includes employees in the Office of the Attorney General who are
- 193 under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#);
- 194 (g) schedule AH includes:
- 195 (i) teaching staff of all state institutions; and
- 196 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
- 197 (A) educational interpreters as classified by the division; or
- 198 (B) educators as defined by Section [53E-8-102](#);
- 199 (h) schedule AN includes employees of the Legislature;
- 200 (i) schedule AO includes employees of the judiciary;
- 201 (j) schedule AP includes all judges in the judiciary;
- 202 (k) schedule AQ includes:
- 203 (i) members of state and local boards and councils appointed by the governor and
- 204 governing bodies of agencies;
- 205 (ii) a water commissioner appointed under Section [73-5-1](#);
- 206 (iii) other local officials serving in an ex officio capacity; and
- 207 (iv) officers, faculty, and other employees of state universities and other state
- 208 institutions of higher education;
- 209 (l) schedule AR includes employees in positions that involve responsibility:
- 210 (i) for determining policy;
- 211 (ii) for determining the way in which a policy is carried out; or
- 212 (iii) of a type not appropriate for career service, as determined by the agency head with
- 213 the concurrence of the director;

- 214 (m) schedule AS includes any other employee:
- 215 (i) whose appointment is required by statute to be career service exempt;
- 216 (ii) whose agency is not subject to this chapter; or
- 217 (iii) whose agency has authority to make rules regarding the performance,
- 218 compensation, and bonuses for its employees;
- 219 (n) schedule AT includes employees of the Division of Technology Services,
- 220 designated as executive/professional positions by the director of the Division of Technology
- 221 Services with the concurrence of the director of the division;
- 222 (o) schedule AU includes patients and inmates employed in state institutions;
- 223 (p) employees of the Department of Workforce Services, designated as schedule AW:
- 224 (i) who are temporary employees that are federally funded and are required to work
- 225 under federally qualified merit principles as certified by the director; or
- 226 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
- 227 based, and who voluntarily apply for and are accepted by the Department of Workforce
- 228 Services to work in a pay for performance program designed by the Department of Workforce
- 229 Services with the concurrence of the director of the division;
- 230 (q) subject to Subsection (6), schedule AX includes employees in positions that:
- 231 (i) require the regular supervision and performance evaluation of one or more other
- 232 employees; and
- 233 (ii) are not designated exempt from career service under any other schedule described
- 234 in this Subsection (1); ~~and~~
- 235 (r) for employees in positions that are temporary, seasonal, time limited, funding
- 236 limited, or variable hour in nature, under schedule codes and parameters established by the
- 237 division by administrative rule[-]; and
- 238 (s) subject to Subsection (7), schedule AY includes a position that is not designated as
- 239 exempt from career service under any other schedule described in this Subsection (1), unless
- 240 the position is:
- 241 (i) a POST-certified position; or
- 242 (ii) a position that is rescheduled as a career service position under Subsection (3)(d).
- 243 (2) The civil service shall consist of two schedules as follows:
- 244 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

245 (ii) Removal from ~~[any appointive position under schedule A, unless otherwise~~
246 ~~regulated by statute,]~~ a schedule A position is at the pleasure of the appointing ~~[officers without~~
247 ~~regard to tenure]~~ officer, except to the extent that protections for removal from that position are
248 expressly provided by statute.

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 ~~director; or]~~

252 ~~[(ii) positions filled through a division approved on-the-job examination intended to~~
253 ~~appoint a qualified person with a disability, or a veteran in accordance with Title 71A, Chapter~~
254 ~~2, Veterans Preference.]~~

255 (i) a position that, on or after January 1, 2025, is filled under Section [63A-17-305](#);

256 (ii) a POST-certified position, if the position is classified as a schedule B position on
257 December 31, 2024, regardless of the day on which the position is filled; or

258 (iii) a position that is rescheduled as a career service position under Subsection (3)(d).

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

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

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

266 (d) (i) An agency may file with the division a request to reschedule a position that
267 would otherwise be scheduled as a schedule A position.

268 (ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the
269 request only if the exception is necessary to conform to a requirement imposed as a condition
270 precedent to receipt of federal funds or grant of a tax benefit under federal law.

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

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

275 (c) Compensation for officers, faculty, and other employees of state universities and

276 institutions of higher education shall be established as provided in Title 53B, Chapter 1,
277 Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of
278 Higher Education.

279 (d) Unless otherwise provided by law, compensation for all other schedule A
280 employees shall be established by their appointing authorities, within ranges approved by, and
281 after consultation with the director.

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

284 (a) remains in the position that the employee is in on June 30, 2010; and

285 (b) does not elect to convert to career service exempt status in accordance with a rule
286 made by the division.

287 (6) (a) An employee who is hired for a schedule AX position on or after July 1, 2022,
288 is exempt from career service status.

289 (b) An employee who before July 1, 2022, is a career service employee employed in a
290 schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall
291 maintain the employee's career service status for the duration of the employee's employment in
292 the same position unless the employee voluntarily converts to career service exempt status
293 before July 1, 2023.

294 (c) (i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service
295 status if:

296 (A) before July 1, 2022, the employee was a probationary employee in a schedule B
297 position and had not completed the probationary period; and

298 (B) on July 1, 2022, the schedule B position in which the probationary employee is
299 employed is rescheduled as a scheduled AX position.

300 (ii) An employee described in Subsection (6)(c)(i):

301 (A) is not a probationary employee on or after July 1, 2022; and

302 (B) is exempt from career service status on and after July 1, 2022, unless the employee
303 changes employment to a schedule B position.

304 (d) The division shall disseminate to each employee described in Subsection (6)(b)
305 information on financial and other incentives for voluntary conversion to career-service exempt
306 status.

307 (e) An agency, as defined in Section [63A-17-112](#), may adopt a policy, created in
308 consultation with the division, for agency review of recommendations that schedule AX
309 employees be suspended, demoted, or dismissed from employment.

310 (7) (a) A employee who is hired for a schedule AY position on or after January 1,
311 2025, is exempt from career service status.

312 (b) Except as provided in Subsection (8), an employee who, on December 31, 2024, is
313 a career service employee in a schedule B position that is rescheduled to a schedule AY
314 position on January 1, 2025, maintains the employee's career service status until the employee
315 is no longer employed in a schedule AY or schedule B position.

316 (c) Subject to Subsection (7)(d), an employee is exempt from career service if:

317 (i) on December 31, 2024, the employee is a probationary employee in a schedule B
318 position;

319 (ii) the employee does not, before January 1, 2025, complete the probationary period
320 applicable to the position described in Subsection (7)(c)(i); and

321 (iii) on January 1, 2025, the position described in Subsection (7)(c)(i) is rescheduled as
322 a schedule AY position.

323 (d) Beginning on January 1, 2025, an employee described in Subsection (7)(c):

324 (i) is not a probationary employee; and

325 (ii) is exempt from career service unless the employee changes employment to a
326 schedule B position.

327 (8) Subsection (7)(b) does not apply if the employee voluntarily elects to convert from
328 career service status to career service exempt status.

329 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
330 division:

331 (a) shall, on or before May 1, 2025, make rules establishing requirements, procedures,
332 and standards for recruiting, selecting, hiring, disciplining, or dismissing a career service
333 exempt employee; and

334 (b) shall make rules establishing the circumstances under which, and the manner in
335 which, preference is given for appointing a veteran or a qualified person with a disability to a
336 schedule AX or AY position.

337 Section 4. Section [63A-17-305](#) is amended to read:

338 **63A-17-305. Appointments to Schedule B positions -- Examinations -- Hiring lists**
339 **-- Probationary service -- Dismissal.**

340 (1) (a) Each appointment to a position under Schedule B shall be made from hiring lists
341 of applicants who have been selected by competitive procedures as defined by the director.

342 (b) A schedule B position is subject to a division approved on-the-job examination
343 intended to appoint:

344 (i) a qualified person with a disability; or

345 (ii) a veteran, in accordance with Title 71A, Chapter 2, Veterans Preference.

346 (2) The director shall publicly announce information regarding career service positions:

347 (a) for periods of time to be determined by the director; and

348 (b) in a manner designed to attract the highest number of qualified applicants.

349 (3) The director shall make rules establishing standards for the development, approval,
350 and implementation of examining processes, including establishing a department approved on
351 the job examination to appoint a qualified person with a disability.

352 (4) Applicants for employment to Schedule B positions shall be eligible for
353 appointment based upon rules established by the director.

354 (5) (a) The agency head shall make appointments to fill vacancies from hiring lists for
355 probationary periods as defined by rule.

356 (b) The director shall make rules establishing probationary periods.

357 (6) A person serving a probationary period may not use the grievance procedures
358 provided in this chapter and in Title 67, Chapter 19a, Grievance Procedures, and may be
359 dismissed at any time by the appointing officer without hearing or appeal.

360 (7) Career service status shall be granted upon the successful completion of the
361 probationary period.

362 Section 5. **Repealer.**

363 This bill repeals:

364 Section **63A-17-101, Title.**

365 Section 6. **Effective date.**

366 This bill takes effect on January 1, 2025.