

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;
- ▶ 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:



28 ENACTS:

29 67-27-105, Utah Code Annotated 1953

30

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

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

33 **67-27-105. Government employee conscience accommodation.**

34 (1) As used in this section:

35 (a) (i) "Employee" means an individual employed by a governmental entity.

36 (ii) "Employee" does not include:

37 (A) an elected official;

38 (B) an individual employed by the Legislature; or

39 (C) an individual who is appointed or employed to be on an elected official's personal

40 staff to assist the elected official in fulfilling the elected official's duties.

41 (b) "Governmental entity" means:

42 (i) the state;

43 (ii) a political subdivision of the state, including a county, city, town, school district,

44 special district, institution of higher education, or special service district; or

45 (iii) an entity created by the state, including an agency, board, bureau, commission,

46 committee, department, division, institution, instrumentality, or office.

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

48 (d) "Undue hardship" means:

49 (i) a substantial increase in costs to a governmental entity's operations and budget that

50 would result from an employee being relieved from performing a certain task; or

51 (ii) a governmental entity would be prevented from serving the entire portion of the

52 public the governmental entity is entrusted to serve if an employee was relieved from

53 performing a certain task.

54 (2) Except as provided in Subsection (8), a governmental entity may not deny an

55 employee's request to be relieved from performing a certain task if:

56 (a) performing the task would conflict with the employee's sincerely held religious,

57 moral, or philosophical beliefs; and

58 (b) relieving the employee from the task would not impose an undue hardship on the

59 governmental entity.

60 (3) (a) An employee seeking to be relieved from performing a certain task under
61 Subsection (2) shall submit a written request to the employee's supervisor providing an
62 explanation as to why the task would conflict with the employee's sincerely held religious,
63 moral, or philosophical beliefs.

64 (b) A governmental entity receiving a request described in Subsection (3)(a) shall
65 respond to the request within 2 business days after the day on which the request was received.

66 (c) If a governmental entity denies an employee's request as described in Subsection
67 (3)(a), the governmental entity shall include in the response described in Subsection (3)(b):

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

70 (ii) an explanation that the employee can seek redress in court as described in
71 Subsection (4) if the employee believes the governmental entity has erred in the decision.

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

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

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

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

80 (b) An employee seeking to assert the right of action described in Subsection (4)(a)
81 shall bring the action in a court within 180 calendar days after the day on which the employee
82 received the response described in Subsection (3)(b).

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

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

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

90 (ii) awarding the employee back pay, reasonable attorney fees, and court costs.
91 (5) (a) Subject to Subsections (5)(b) and (c), a governmental entity may not make
92 public comments, regarding an employee seeking to be relieved from performing a certain task
93 after:

94 (i) the employee has submitted the employee's written request described in Subsection
95 (3)(a) and the employee has not yet asserted the employee's right of action;

96 (ii) the employee has asserted a right of action under Subsection (4); or

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

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

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

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

108 (6) An employee may not be suspended, demoted, terminated, fired, or forced into
109 early retirement for submitting a request under Subsection (3)(a).

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

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

115 (ii) the employee has not asserted a right of action under Subsection (4).

116 (b) The procedures and relief described in Subsection (4) apply to an action brought by
117 the attorney general under Subsection (7)(a).

118 (8) A governmental entity is not required to grant an employee's request under
119 Subsection (2) if the request is to be relieved from performing a task associated with training or
120 safety instructions that are directly related to the responsibilities of the employee's employment.

121 (9) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, Title 67,
122 Chapter 19a, Grievance Procedures, Title 67, Chapter 21, Utah Protection of Public Employees
123 Act, or any other provision of the Utah Code governing the procedures for an employee to
124 address a grievance, complaint, or other action against a governmental entity, the provisions of
125 this section apply to a request brought by an employee under this section.

126 Section 2. **Effective date.**

127 This bill takes effect on May 1, 2024.