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- (c) Department heads shall make the award to a person who demonstrates:
- (i) extraordinary competence in performing his function;
 - (ii) creativity in identifying problems and devising workable, cost-effective solutions to them;
 - (iii) excellent relationships with the public and other employees;
 - (iv) a commitment to serving the public as the client; and
 - (v) a commitment to economy and efficiency in government.
- (4) (a) The Department of Human Resource Management shall divide any appropriation for outstanding department employee awards that it receives from the Legislature equally among the departments.
- (b) If the department receives monies from the Department of Human Resource Management or if the department budget allows, the department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.
- (5) (a) The department head may name the award after an exemplary present or former employee of the department.
- (b) A department head may not name the award for himself or for any relative as defined in Section 52-3-1.
- (c) Any awards or award programs existing in any department as of May 3, 1993, shall be modified to conform to the requirements of this section.

History: C. 1953, 67-19c-101, enacted by L. 1993, ch. 174, § 1.

came effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

Effective Dates. — Laws 1993, ch. 174 be-

CHAPTER 20

VOLUNTEER GOVERNMENT WORKERS ACT

Section 67-20-1.	Short title.	Section 67-20-4.	Approval of volunteer.
67-20-2.	Definitions.	67-20-5.	Repealed.
67-20-3.	Purposes for which volunteer considered a government employee.	67-20-6.	Workers' compensation benefits.
		67-20-7.	Workers' compensation benefits for volunteer firefighters.

67-20-1. Short title.

This chapter is known as the "Volunteer Government Workers Act."

History: L. 1983, ch. 174, § 1; 1986, ch. 136, § 1.

67-20-2. Definitions.

As used in this chapter:

(1) "Agency" means:

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

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

(c) any Olympic Winter Games organizing committee, as approved by the Utah Sports Authority; or

(d) any other political subdivision.

(2) "Community service worker" means any person who has been convicted of a criminal offense, any youth who has been adjudged delinquent, or any person or youth who has been diverted from the criminal or juvenile justice system and who performs a public service for an agency as a condition of his sentence, diversion, probation, or parole.

(3) (a) "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

(b) "Volunteer" does not include any person participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter, nor does it include community service workers.

History: L. 1983, ch. 174, § 2; 1986, ch. 136, § 2; 1988, ch. 41, § 1; 1991, ch. 118, § 1.

Amendment Notes. — The 1991 amendment, effective April 29, 1991, added the subsection designations in Subsection (1) and added Subsection (1)(c), making related

changes, and added the subsection designations in Subsection (3).

Cross-References. — Community service by paroled inmate, § 77-27-6.

State institutions, Title 64.

67-20-3. Purposes for which volunteer considered a government employee.

A volunteer is considered a government employee for purposes of:

(1) receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Title 35, Chapters 1 and 2;

(2) the operation of motor vehicles or equipment if the volunteer is properly licensed and authorized to do so; and

(3) liability protection and indemnification normally afforded paid government employees.

History: L. 1983, ch. 174, § 3; 1986, ch. 136, § 3; 1988, ch. 41, § 2.

Cross-References. — Liability insurance for governmental employees, § 63-20-33.

Licensing of motor vehicle operators, Title 53, Chapter 3.

67-20-4. Approval of volunteer.

A volunteer may not donate any service to an agency unless the volunteer's services are approved by the chief executive of that agency or his authorized representative, and by the office of personnel having jurisdiction over that agency.

History: L. 1983, ch. 174, § 4.

Cross-References. — State personnel management system, Title 67, Chapter 19.

67-20-5. Repealed.

Repeals. — Laws 1986, ch. 136, § 4 repeals § 67-20-5, as enacted by Laws 1983, ch. 174, § 5, concerning the calculation of benefits.

67-20-6. Workers' compensation benefits.

A community service worker is considered a government employee for purposes of receiving workers' compensation benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Title 35, Chapters 1 and 2.

History: C. 1953, 67-20-6, enacted by L. 1988, ch. 41, § 3.

67-20-7. Workers' compensation benefits for volunteer firefighters.

(1) In addition to the purposes set out in Subsections 67-20-3(2) and (3), a volunteer firefighter, as defined in Section 49-5-103, is considered an agency employee for the purpose of receiving worker's compensation benefits under Title 35, Chapters 1 and 2.

(2) These benefits are the exclusive remedy for all injuries and occupational diseases resulting from his services as a volunteer firefighter. Compensation shall be computed as indicated in Section 49-5-802.

History: C. 1953, 67-20-7, enacted by L. 1989, ch. 203, § 1; 1993, ch. 226, § 18.

Amendment Notes. — The 1993 amendment, effective July 1, 1993, divided the section into subsections and substituted "Section

49-5-103" for "Subsection 49-5-103(12)" in Subsection (1).

Effective Dates. — Laws 1989, ch. 203 became effective on April 24, 1989, pursuant to Utah Const., Art. VI, Sec. 25.

CHAPTER 21

PROTECTION OF EMPLOYEES

<p>Section 67-21-1. Short title. 67-21-2. Definitions. 67-21-3. Reporting of governmental waste or violations of law — Employer action — Exceptions. 67-21-4. Remedies for employee bringing action — Proof required. 67-21-5. Court orders for violation of chapter.</p>	<p>Section 67-21-6. Civil fine. 67-21-7. No impairment of employee rights under collective bargaining agreement. 67-21-8. No compensation when participation in public inquiry. 67-21-9. Notice of contents of this chapter — Posting.</p>
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67-21-1. Short title.

This chapter is known as the "Utah Protection of Public Employees Act."

History: C. 1953, 67-21-1, enacted by L. 1985, ch. 216, § 1.

NOTES TO DECISIONS

ANALYSIS

Appeal to civil service commission.
—Not required.

Appeal to civil service commission.

—Not required.

A discharged government employee is not re-

quired to first exhaust his administrative remedies pursuant to § 10-3-1012 before commencing an action under this chapter. *Hatton-Ward v. Salt Lake City Corp.*, 828 P.2d 1071 (Utah Ct. App. 1992).

COLLATERAL REFERENCES

A.L.R. — Federal pre-emption of whistleblower's state-law action for wrongful retaliation, 99 A.L.R. Fed. 775.

67-21-2. Definitions.

As used in this chapter:

(1) "Adverse action" means to discharge, threaten, or otherwise discriminate against an employee in any manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.

(2) "Communicate" means a verbal, written, broadcast, or other communicated report.

(3) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.

(4) (a) "Employer" means the employing state agency or political subdivision of the state.

(b) "Employer" includes an agent of an employer.

(5) "Public body" means any of the following:

(a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;

(b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;

(c) a county, city, town, regional governing body, council, school district, special district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;

(d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;

(e) a law enforcement agency or any member or employee of a law enforcement agency; and

(f) the judiciary and any member or employee of the judiciary.

History: C. 1953, 67-21-2, enacted by L. 1985, ch. 216, § 1; 1989, ch. 189, § 1.

Amendment Notes. — The 1989 amendment, effective April 24, 1989, added Subsections (1) and (2); redesignated former Subsection (1) as Subsection (3) and deleted "for the state or a political subdivision of the state" at the end; redesignated former Subsection (2) as (4) and rewrote the provisions which read: "Employer" means the state or any political subdivision of the state which has one or more

employees. Employer includes an agent of an employer"; redesignated former Subsection (3) as (5); and made minor stylistic changes.

Cross-References. — Executive department, Utah Const., Art. VII.

Judicial department, Utah Const., Art. VIII.

Legislative department, Utah Const., Art. VI.

State Highway Patrol, Title 53, Chapter 8.

State institutions, Title 64.

COLLATERAL REFERENCES

Utah Law Review. — Recent Developments in Utah Law — Legislative Enactments — Government Affairs, 1990 Utah L. Rev. 254.

67-21-3. Reporting of governmental waste or violations of law — Employer action — Exceptions.

(1) (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States.

(b) For purposes of Subsection (a), an employee is presumed to have communicated in good faith if he gives written notice or otherwise formally communicates the waste, violation, or reasonable suspicion to the state auditor. This presumption may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.

(2) An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.

(3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the

employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.

(4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of any laws, rules, or regulations.

History: C. 1953, 67-21-3, enacted by L. 1985, ch. 216, § 1; 1989, ch. 189, § 2; 1992, ch. 187, § 1.

Amendment Notes. — The 1989 amendment, effective April 24, 1989, rewrote Subsections (1) and (2) to such an extent that a detailed analysis is impracticable, and added Subsections (3) and (4).

The 1992 amendment, effective April 27, 1992, subdivided Subsection (1), inserted "in good faith" in Subsection (1)(a), rewrote Subsection (1)(b) to introduce language about the presumption and its rebuttable nature, and inserted "or gives information" in Subsection (2).

Cross-References. — Libel, Title 45, Chapter 2; § 76-9-501 et seq.

NOTES TO DECISIONS

Cited in *Peterson v. Browning*, 832 P.2d 1280 (Utah 1992).

COLLATERAL REFERENCES

Utah Law Review. — Recent Developments in Utah Law — Legislative Enactments — Government Affairs, 1990 Utah L. Rev. 254.

67-21-4. Remedies for employee bringing action — Proof required.

(1) As used in this section, "damages" means damages for injury or loss caused by each violation of this chapter, and includes court costs and reasonable attorney fees.

(2) An employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief or actual damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(3) An action begun under this section may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(4) To prevail in an action brought under the authority of this section, the employee shall establish, by a preponderance of the evidence, that the employee has suffered an adverse action because the employee, or a person acting on his behalf engaged or intended to engage in an activity protected under Section 67-21-3.

History: C. 1953, 67-21-4, enacted by L. 1985, ch. 216, § 1; 1989, ch. 189, § 3.

Amendment Notes. — The 1989 amendment, effective April 24, 1989, redesignated former Subsection (3) as (1) and substituted "this section" for "Subsection (1)"; and "and in-

cludes court costs and" for "including" therein; redesignated former Subsection (1) as (2) and substituted "180 days" for "90 days" therein; redesignated former Subsection (2) as (3) and substituted "begun under this section" for "commenced under Subsection (1)" therein;

and rewrote Subsection (4) which read: "An employee shall show by clear and convincing evidence that he or a person acting on his behalf was intending to report, verbally or in writing, a violation or a suspected violation of

a law of this state, a political subdivision of this state, or the United States, to a public body."

Cross-References. — Grounds for injunction, Rule 65A, U.R.C.P.

COLLATERAL REFERENCES

Utah Law Review. — Recent Developments in Utah Law — Legislative Enactments — Government Affairs, 1990 Utah L. Rev. 254.

67-21-5. Court orders for violation of chapter.

(1) A court, in rendering a judgment in an action brought under this chapter, may order reinstatement of the employee at the same level, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies.

(2) A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

History: C. 1953, 67-21-5, enacted by L. 1985, ch. 216, § 1; 1989, ch. 189, § 4.

Amendment Notes. — The 1989 amendment, effective April 24, 1989, inserted subsection designations (1) and (2) and, in Subsection

(1), substituted "may order reinstatement" for "shall order, as the court considers appropriate, reinstatement."

Cross-References. — Award of attorney fees, § 78-27-56.

67-21-6. Civil fine.

(1) A person who violates this chapter is liable for a civil fine of not more than \$500.

(2) A civil fine which is ordered under this chapter shall be submitted to the state treasurer for deposit in the General Fund.

History: C. 1953, 67-21-6, enacted by L. 1985, ch. 216, § 1.

Cross-References. — Definition of "General Fund," § 67-4-2.

67-21-7. No impairment of employee rights under collective bargaining agreement.

This chapter shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement.

History: C. 1953, 67-21-7, enacted by L. 1985, ch. 216, § 1.

Cross-References. — Employment rela-

tions and collective bargaining, Title 34, Chapter 20.

67-21-8. No compensation when participation in public inquiry.

This chapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing, or inquiry held by a public body in accordance with Section 67-21-3.

History: C. 1953, 67-21-8, enacted by L. 1985, ch. 216, § 1.

67-21-9. Notice of contents of this chapter — Posting.

An employer shall post notices and use other appropriate means to keep employees informed of their protections and obligations under this chapter.

History: C. 1953, 67-21-9, enacted by L. 1985, ch. 216, § 1.

CHAPTER 22

STATE OFFICER COMPENSATION

Section 67-22-1.	Compensation — Constitutional offices.	Section 67-22-3.	Repealed.
67-22-2.	Compensation — Other state officers.		

67-22-1. Compensation — Constitutional offices.

(1) The Legislature fixes salaries for the constitutional offices as follows:

- | | |
|-------------------------|----------|
| (a) Governor | \$77,250 |
| (b) Lieutenant Governor | \$60,000 |
| (c) Attorney General | \$65,000 |
| (d) State Auditor | \$62,000 |
| (e) State Treasurer | \$60,000 |

(2) The Legislature fixes benefits for the constitutional offices as follows:

(a) Governor:

- (i) a vehicle for official and personal use;
- (ii) housing;
- (iii) household and security staff;
- (iv) household expenses;
- (v) retirement benefits as provided in Title 49;
- (vi) health insurance;
- (vii) dental insurance;
- (viii) basic life insurance;
- (ix) workers' compensation;
- (x) required employer contribution to social security; and
- (xi) long-term disability insurance.

(b) Lieutenant governor, attorney general, state auditor, and state treasurer:

- (i) a vehicle for official and personal use;

(ii) the option of participating in a state retirement system established by Title 49, Chapter 2 or Chapter 3, or in a deferred compensation plan administered by the State Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(iii) health insurance;

(iv) dental insurance;

(v) basic life insurance;

(vi) workers' compensation;

(vii) required employer contribution to social security; and

(viii) long-term disability insurance.

History: C. 1953, 67-22-1, enacted by L. 1990, ch. 261, § 7; 1992, ch. 41, § 1; 1992, ch. 206, § 1; 1993, ch. 65, § 1.

Amendment Notes. — The 1992 amendment by ch. 41, effective July 1, 1992, deleted former Subsection (1), which provided for salaries from July 1, 1989 to June 30, 1990; redesignated former Subsections (2) and (3) as Subsections (1) and (2), respectively; and deleted "from July 1, 1990 to June 30, 1991" after "constitutional offices" in the introductory language of present Subsection (1).

The 1992 amendment by ch. 206, effective July 1, 1992, deleted former Subsection (1), which provided for salaries from July 1, 1989 to June 30, 1990; redesignated former Subsections (2) and (3) as present Subsections (1) and

(2), respectively; and deleted "from July 1, 1990 to June 30, 1991" after "constitutional offices" in the introductory language and increased the salaries in present Subsection (1).

The 1993 amendment, effective July 1, 1993, increased the salary amounts in Subsection (1), deleted unemployment compensation from the lists in Subsections (2)(a) and (2)(b), making related changes, and substituted "employer" for "employee" in Subsection (2)(b)(vii).

Compiler's Notes. — Laws 1991, ch. 114, § 27 repeals uncodified § 11, ch. 261, Laws 1990, which had provided for the repeal of this chapter on July 1, 1991.

Effective Dates. — Laws 1990, ch. 261 became effective on April 23, 1990, pursuant to Utah Const., Art. VI, Sec. 25.

67-22-2. Compensation — Other state officers.

(1) The governor shall establish salaries for the following state officers within the following salary ranges fixed by the Legislature:

State Officer	Salary Range
Commissioner of Agriculture	\$49,650 — \$67,150
Commissioner of Insurance	\$49,650 — \$67,150
Director, Alcoholic Beverage Control Commission	\$49,650 — \$67,150
Chairman, Industrial Commission	\$49,650 — \$67,150
Commissioners, Industrial Commission	\$49,650 — \$67,150
Members, Board of Pardons	\$49,650 — \$67,150
Executive Director, Department of Commerce	\$49,650 — \$67,150
Executive Director, Commission on Criminal and Juvenile Justice	\$49,650 — \$67,150
Adjutant General	\$49,650 — \$67,150
Chairman, Tax Commission	\$53,663 — \$72,615
Commissioners, Tax Commission	\$53,663 — \$72,615
Executive Director, Department of Community and Economic Development	\$53,663 — \$72,615

Director, Office of Planning and Budget	\$53,663 — \$72,615
Commissioner, Department of Public Safety	\$53,663 — \$72,615
Chairman, Public Service Commission	\$53,663 — \$72,615
Commissioner, Public Service Commission	\$53,663 — \$72,615
Commissioner, Department of Financial Institutions	\$53,663 — \$72,615
Executive Director, Department of Corrections	\$58,504 — \$79,000
Executive Director, Tax Commission	\$58,504 — \$79,000
Executive Director, Department of Natural Resources	\$58,504 — \$79,000
Executive Director, Department of Human Services	\$58,504 — \$79,000
Executive Director, Department of Transportation	\$58,504 — \$79,000
Executive Director, Department of Administrative Services	\$58,504 — \$79,000
Executive Director, Department of Human Resource Management	\$58,504 — \$79,000
Executive Director, Department of Environmental Quality	\$58,504 — \$79,000
Executive Director, Department of Health	\$63,551 — \$85,902

(2) The Legislature fixes benefits for the state offices outlined in Subsection (1) as follows:

(a) the option of participating in a state retirement system established by Title 49 or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(b) health insurance;

(c) dental insurance;

(d) basic life insurance;

(e) unemployment compensation;

(f) workers' compensation;

(g) required employer contribution to Social Security;

(h) long-term disability insurance;

(i) the same sick leave, converted sick leave, educational allowances, and holidays granted to Schedule B state employees, and the same annual leave granted to Schedule B state employees with more than ten years of state service;

(j) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(k) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

- (1) professional memberships if being a member of the professional organization is a requirement of the position.
- (3) The Legislature fixes the following additional benefits:
- (a) for the executive director of the State Tax Commission a vehicle for official and personal use;
 - (b) for the executive director of the Department of Transportation a vehicle for commute and official use;
 - (c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;
 - (d) for the Commissioner of Public Safety:
 - (i) an accidental death insurance policy if POST certified; and
 - (ii) a public safety vehicle for official and personal use;
 - (e) for the executive director of the Department of Corrections:
 - (i) an accidental death insurance policy if POST certified; and
 - (ii) a public safety vehicle for official and personal use;
 - (f) for the Adjutant General a vehicle for official and personal use; and
 - (g) for each member of the Board of Pardons a vehicle for commute and official use.
- (4) (a) The governor has the discretion to establish a specific salary for each office listed in Subsection (1), and, within that discretion, may provide salary increases within the range fixed by the Legislature.
- (b) The governor may develop standards and criteria for reviewing the performance of the state officers listed in Subsection (1).
- (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary Act, shall be established as provided in Section 67-19-15.

History: C. 1953, 67-22-2, enacted by L. 1990, ch. 261, § 8; 1991, ch. 5, § 74; 1991, ch. 114, § 25; 1992, ch. 206, § 2; 1993, ch. 65, § 2; 1993, ch. 234, § 376.

Amendment Notes. — The 1991 amendment by ch. 5, effective February 11, 1991, substituted "Department of Human Services" for "Department of Social Services" near the end of the table in Subsection (1).

The 1991 amendment by ch. 114, effective July 1, 1991, in Subsection (1) substituted the present language of the introductory paragraph for "The Legislature fixes salary ranges as follows:" and made stylistic changes throughout the subsection, made stylistic changes in Subsection (2)(a), redesignated former Subsection (2)(b) as present Subsection (3) while making stylistic changes therein, deleted former Subsection (3) relating to setting the level of the compensation package, and added Subsections (4) and (5).

The 1992 amendment, effective July 1, 1992, in Subsection (1), increased the salary ranges and inserted an entry for Executive Director, Department of Environmental Quality.

The 1993 amendment by ch. 65, effective July 1, 1993, increased the salary ranges in Subsection (1), changed the annual leave allowance in Subsection (2)(i) to add "with more than ten years of state service" to the state-employee level, and made minor stylistic changes.

The 1993 amendment by ch. 234, effective July 1, 1993, substituted "POST" for "P.O.S.T" in Subsections (3)(d)(i) and (3)(e)(i).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

Effective Dates. — Laws 1990, ch. 261 became effective on April 23, 1990, pursuant to Utah Const., Art. VI, Sec. 25.

67-22-3. Repealed.

Repeals. — Laws 1991, ch. 114, § 27 repeals § 9, providing for study and review, effective July 1, 1991.
§ 67-22-3, as enacted by Laws 1990, ch. 261,