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**PEACE OFFICER MERIT AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad L. Dee**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill enacts language related to a peace officer merit system in a county of the first class.

**Highlighted Provisions:**

This bill:

▶ enacts the Peace Officer Merit System in Counties of the First Class Act, including provisions relating to the following:

- definitions and application;
- merit system commission powers and duties;
- merit officer conditions of employment;
- disciplinary actions and appeals; and
- the sheriff's authority to appoint more than one chief deputy, deputy chief, or undersheriff; and

▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 28            **17-22-2**, as last amended by Laws of Utah 2009, Chapter 218
- 29            **17-30-2**, as last amended by Laws of Utah 1993, Chapter 227
- 30            **17-33-1**, as last amended by Laws of Utah 2008, Chapters 25 and 172
- 31            **53-13-105**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

32 ENACTS:

- 33            **17-30a-101**, Utah Code Annotated 1953
- 34            **17-30a-102**, Utah Code Annotated 1953
- 35            **17-30a-103**, Utah Code Annotated 1953
- 36            **17-30a-104**, Utah Code Annotated 1953
- 37            **17-30a-201**, Utah Code Annotated 1953
- 38            **17-30a-202**, Utah Code Annotated 1953
- 39            **17-30a-203**, Utah Code Annotated 1953
- 40            **17-30a-204**, Utah Code Annotated 1953
- 41            **17-30a-205**, Utah Code Annotated 1953
- 42            **17-30a-206**, Utah Code Annotated 1953
- 43            **17-30a-207**, Utah Code Annotated 1953
- 44            **17-30a-301**, Utah Code Annotated 1953
- 45            **17-30a-302**, Utah Code Annotated 1953
- 46            **17-30a-303**, Utah Code Annotated 1953
- 47            **17-30a-304**, Utah Code Annotated 1953
- 48            **17-30a-305**, Utah Code Annotated 1953
- 49            **17-30a-306**, Utah Code Annotated 1953
- 50            **17-30a-307**, Utah Code Annotated 1953
- 51            **17-30a-308**, Utah Code Annotated 1953
- 52            **17-30a-309**, Utah Code Annotated 1953
- 53            **17-30a-310**, Utah Code Annotated 1953
- 54            **17-30a-311**, Utah Code Annotated 1953
- 55            **17-30a-312**, Utah Code Annotated 1953
- 56            **17-30a-313**, Utah Code Annotated 1953
- 57            **17-30a-314**, Utah Code Annotated 1953
- 58            **17-30a-401**, Utah Code Annotated 1953

- 59            **17-30a-402**, Utah Code Annotated 1953
- 60            **17-30a-403**, Utah Code Annotated 1953
- 61            **17-30a-404**, Utah Code Annotated 1953
- 62            **17-30a-501**, Utah Code Annotated 1953
- 63            **17-30a-502**, Utah Code Annotated 1953

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

66            Section 1. Section **17-22-2** is amended to read:

67            **17-22-2. Sheriff -- General duties.**

68            (1) The sheriff shall:

69            (a) preserve the peace;

70            (b) make all lawful arrests;

71            (c) attend in person or by deputy the Supreme Court and the Court of Appeals when  
 72 required or when the court is held within his county, all courts of record, and court  
 73 commissioner and referee sessions held within his county, obey their lawful orders and  
 74 directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial  
 75 Administration;

76            (d) upon request of the juvenile court, aid the court in maintaining order during  
 77 hearings and transport a minor to and from youth corrections facilities, other institutions, or  
 78 other designated places;

79            (e) attend county justice courts if the judge finds that the matter before the court  
 80 requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his  
 81 custody, or for the custody of jurors;

82            (f) command the aid of as many inhabitants of his county as he considers necessary in  
 83 the execution of these duties;

84            (g) take charge of and keep the county jail and the jail prisoners;

85            (h) receive and safely keep all persons committed to his custody, file and preserve the  
 86 commitments of those persons, and record the name, age, place of birth, and description of  
 87 each person committed;

88            (i) release on the record all attachments of real property when the attachment he  
 89 receives has been released or discharged;

90 (j) endorse on all process and notices the year, month, day, hour, and minute of  
91 reception, and, upon payment of fees, issue a certificate to the person delivering process or  
92 notice showing the names of the parties, title of paper, and the time of receipt;

93 (k) serve all process and notices as prescribed by law;

94 (l) if he makes service of process or notice, certify on the process or notices the  
95 manner, time, and place of service, or, if he fails to make service, certify the reason upon the  
96 process or notice, and return them without delay;

97 (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public  
98 land within his county;

99 (n) perform as required by any contracts between the county and private contractors for  
100 management, maintenance, operation, and construction of county jails entered into under the  
101 authority of Section [17-53-311](#);

102 (o) for the sheriff of a county that enters into an interlocal agreement for law  
103 enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law  
104 enforcement service as provided in the interlocal agreement;

105 (p) manage search and rescue services in his county;

106 (q) obtain saliva DNA specimens as required under Section [53-10-404](#);

107 (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping,  
108 detention, or search of any person when the action is solely motivated by considerations of  
109 race, color, ethnicity, age, or gender; and

110 (s) perform any other duties that are required by law.

111 (2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other  
112 subsection under Subsection (1) is a class A misdemeanor.

113 (3) (a) As used in this Subsection (3):

114 (i) "Police interlocal entity" has the same meaning as defined in ~~[Section]~~ Sections  
115 [17-30-3](#) and [17-30a-102](#).

116 (ii) "Police local district" has the same meaning as defined in Section [17-30-3](#).

117 (b) A sheriff in a county which includes within its boundary a police local district or  
118 police interlocal entity, or both:

119 (i) serves as the chief executive officer of each police local district and police interlocal  
120 entity within the county with respect to the provision of law enforcement service within the

121 boundary of the police local district or police interlocal entity, respectively; and

122 (ii) is subject to the direction of the police local district board of trustees or police  
123 interlocal entity governing body, as the case may be, as and to the extent provided by  
124 agreement between the police local district or police interlocal entity, respectively, and the  
125 sheriff.

126 (c) If a police interlocal entity or police local district enters an interlocal agreement  
127 with a public agency, as defined in Section 11-13-103, for the provision of law enforcement  
128 service, the sheriff:

129 (i) does not serve as the chief executive officer of any interlocal entity created under  
130 that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief  
131 executive officer; and

132 (ii) shall provide law enforcement service under that interlocal agreement as provided  
133 in the agreement.

134 Section 2. Section 17-30-2 is amended to read:

135 **17-30-2. Application -- Subordinate officers in sheriff's office to be appointed**  
136 **from list -- Officers serving on effective date considered qualified.**

137 (1) This chapter does not apply to a county of the first class or an interlocal entity, as  
138 defined in Section 11-13-103, in which a county of the first class is a party to an interlocal  
139 agreement to provide law enforcement service.

140 ~~[(1)]~~ (2) From and after the effective date of this act the sheriff of each county with a  
141 population of 20,000 people or more which shall regularly employ one or more peace officers  
142 shall, by and with the advice and consent of the county legislative body, and subject to the rules  
143 and regulations of the merit service commission, appoint from the classified merit service list  
144 furnished by the merit service commission, all subordinate peace officers in his department and  
145 in like manner fill all vacancies in the same and shall further promote, transfer, demote,  
146 suspend or remove peace officers in accordance with the provisions of this act.

147 ~~[(2)]~~ (3) Every peace officer who is serving as such upon the effective date of this act  
148 ~~[shall be deemed]~~ is considered fully qualified for such position without examination or test  
149 and ~~[deemed]~~ is considered to have been appointed and to hold his position and classification  
150 pursuant to the provisions of this act.

151 ~~[(3)]~~ (4) Counties with a population of less than 20,000 people may implement a

152 deputy sheriff's merit system if approved by the county legislative body or the people of the  
153 county through referendum or initiative.

154 Section 3. Section 17-30a-101 is enacted to read:

155 **CHAPTER 30a. PEACE OFFICER MERIT SYSTEM IN COUNTIES OF THE FIRST**

156 **CLASS ACT**

157 **Part 1. General Provisions**

158 **17-30a-101. Title.**

159 (1) This chapter is known as "Peace Officer Merit System in Counties of the First Class  
160 Act."

161 (2) This part is known as "General Provisions."

162 Section 4. Section 17-30a-102 is enacted to read:

163 **17-30a-102. Definitions.**

164 (1) "Appointing authority" means the county sheriff or the chief executive officer of a  
165 police interlocal entity.

166 (2) "Commission" means the merit system commission consisting of three persons  
167 appointed in accordance with Section 17-30a-202.

168 (3) "Department" means a county sheriff's office or a police interlocal entity.

169 (4) "Legislative body" means the county legislative body or the governing body of the  
170 police interlocal entity.

171 (5) "Merit system officer" means a peace officer who has merit status as defined in this  
172 chapter.

173 (6) "Peace officer" means a paid deputy sheriff or law enforcement officer, other than a  
174 chief deputy or other exempt appointed officer designated by the appointing authority, who is  
175 in the continuous employ of the appointing authority.

176 (7) "Police interlocal entity" means an interlocal entity, as defined in Section  
177 11-13-103, created:

178 (a) under Title 11, Chapter 13, Interlocal Cooperation Act, by an agreement to which a  
179 county of the first class is a party; and

180 (b) to provide law enforcement service to an area that includes the unincorporated part  
181 of the county.

182 Section 5. Section 17-30a-103 is enacted to read:

183 **17-30a-103. Application.**

184 This chapter applies to a county of the first class or a police interlocal entity in which a  
185 county of the first class is a party to an interlocal agreement to provide law enforcement  
186 service.

187 Section 6. Section **17-30a-104** is enacted to read:

188 **17-30a-104. Subordinate officers appointed, reappointed -- Officers serving on**  
189 **effective date considered qualified.**

190 (1) The appointing authority of a county or police interlocal agency subject to this  
191 chapter that regularly employs one or more peace officers shall:

192 (a) appoint a peace officer with the advice and consent of the county legislative body,  
193 subject to the rules and regulations of the commission;

194 (b) appoint each subordinate peace officer;

195 (c) fill a vacancy in the department; and

196 (d) further promote, transfer, reassign, reappoint, demote, suspend, or remove a peace  
197 officer in accordance with the provisions of this chapter.

198 (2) The commission shall adopt rules governing the appointment of peace officers  
199 through reappointment of a former employee who separated in good standing, within one year  
200 after separation.

201 (3) A peace officer appointed on or after May 13, 2014, is considered to have been  
202 appointed to and hold the officer's position and classification pursuant to the provisions of this  
203 chapter.

204 Section 7. Section **17-30a-201** is enacted to read:

205 **Part 2. Merit System Commission Powers and Duties**

206 **17-30a-201. Title.**

207 This part is known as "Merit System Commission Powers and Duties."

208 Section 8. Section **17-30a-202** is enacted to read:

209 **17-30a-202. Establishment of merit commission -- Appointment, qualifications,**  
210 **and compensation of members.**

211 (1) (a) Except as provided in Subsection (1)(b), a county subject to this chapter shall  
212 establish a merit system commission consisting of three appointed members:

213 (i) two members appointed by the legislative body of the county; and

- 214 (ii) one member appointed by the governing body of a police interlocal entity.
- 215 (b) If there is no police interlocal entity within the county, the county legislative body  
216 shall appoint all three members of a commission described in Subsection (1)(a).
- 217 (c) No more than two members of the commission may be affiliated with or members  
218 of the same political party.
- 219 (d) (i) Of the original appointees described in Subsection (1)(a) or (b), one member  
220 shall be appointed for a term ending February 1 of the first odd-numbered year after the date of  
221 appointment, and one each for terms ending two and four years thereafter.
- 222 (ii) For a term subsequent to a term described in Subsection (1)(d), a commission  
223 member shall hold a term of six years.
- 224 (e) If an appointed position described in Subsection (1)(a) or (b) is vacated for a cause  
225 other than expiration of the member's term, the position is filled by appointment for the  
226 unexpired portion of the term only.
- 227 (2) A member of the commission:
- 228 (a) shall be a resident of the state;
- 229 (b) for at least five years preceding the date of appointment a resident of:
- 230 (i) the county; or
- 231 (ii) if applicable, the area served by the police interlocal entity from which appointed;  
232 and
- 233 (c) may not hold another office or employment with the county or, if applicable, in a  
234 municipality served by the police interlocal entity for which the member is appointed.
- 235 (3) The county legislative body or interlocal entity governing body may compensate a  
236 member for service on the commission and reimburse the member for necessary expenses  
237 incurred in the performance of the member's duties.
- 238 Section 9. Section **17-30a-203** is enacted to read:
- 239 **17-30a-203. General duty of commission.**
- 240 (1) The commission:
- 241 (a) is responsible for carrying out the provisions of this chapter; and
- 242 (b) shall make necessary rules and regulations to govern the merit system in  
243 accordance with this chapter, including:
- 244 (i) adopting merit rules regarding:

- 245           (A) appointments and registers;
- 246           (B) examinations;
- 247           (C) promotions;
- 248           (D) reassignments;
- 249           (E) reappointments;
- 250           (F) disciplinary grievance procedures;
- 251           (G) administrative reviews;
- 252           (H) recognition of the equivalency of another merit system for the purpose of
- 253 appointing a peace officer from another agency; and
- 254           (I) reductions in force;
- 255           (ii) adopting a rule regarding the preparation of a job classification plan; and
- 256           (iii) adopting rules necessary for the efficient management of the merit system not
- 257 specifically enumerated above and not inconsistent with this chapter or applicable law.
- 258           (2) Upon the request of the appointing authority and after conducting a public hearing,
- 259 the commission may temporarily suspend a rule if the suspension is necessary for the proper
- 260 enforcement of this chapter.

261           Section 10. Section **17-30a-204** is enacted to read:

262           **17-30a-204. Organization of commission -- Support -- Offices.**

- 263           (1) The members of the commission shall select one member as chair.
- 264           (2) The commission shall adopt rules concerning its internal organization and
- 265 procedures.
- 266           (3) (a) The county sheriff or the chief executive of the police interlocal entity:
- 267           (i) shall assign human resources staff sufficient to perform the commission's support
- 268 duties; and
- 269           (ii) may assign other staff to the commission with the consent of the commission.
- 270           (b) The county or police interlocal entity shall provide suitable accommodations,
- 271 supplies, and equipment as needed to enable the commission to attend to its business.
- 272           (c) The county sheriff or chief executive of the police interlocal entity may, in
- 273 accordance with the contracting process established by the county or police interlocal entity,
- 274 contract support services to third parties.

275           Section 11. Section **17-30a-205** is enacted to read:

276 **17-30a-205. Comprehensive job classification plan.**

277 (1) The commission shall formulate a comprehensive job classification plan covering  
278 all merit system officers employed by the sheriff or by the police interlocal entity.

279 (2) The plan shall:

280 (a) place all positions requiring substantially the same duties and qualifications in the  
281 same classification;

282 (b) include minimum physical and educational qualifications of the applicants for each  
283 position; and

284 (c) provide standards for promotion.

285 (3) In the event a new position is created and approved, the commission shall classify  
286 the position in the classification plan.

287 Section 12. Section **17-30a-206** is enacted to read:

288 **17-30a-206. Oaths and subpoenas -- Witnesses.**

289 (1) (a) A member of the commission, in performance of commission duties, may  
290 administer oaths and subpoena witnesses and documents.

291 (b) If a person refuses to or fails to obey a subpoena issued by a commissioner, the  
292 district court may, upon application by a commissioner, compel obedience.

293 (2) (a) A witness in a proceeding before the commission is subject to all the rights,  
294 privileges, duties, and penalties of witnesses in courts of record.

295 (b) The commission shall pay a witness fee equivalent to those paid for a court of  
296 record.

297 Section 13. Section **17-30a-207** is enacted to read:

298 **17-30a-207. Duty of commission to provide for unspecified activities.**

299 The commission may provide by rule for the operation and functioning of an activity  
300 within the purpose and spirit of this chapter if the activity is necessary and proper and not  
301 otherwise prohibited by law.

302 Section 14. Section **17-30a-301** is enacted to read:

303 **Part 3. Merit Officer Conditions of Employment**

304 **17-30a-301. Title.**

305 This part is known as "Merit Officer Conditions of Employment."

306 Section 15. Section **17-30a-302** is enacted to read:

307 17-30a-302. Examinations -- How prepared, conducted, and graded -- Notice of  
308 examination.

309 (1) (a) If necessary, the commission shall give a competitive examination to determine  
310 the qualification of an applicant for a position as a merit system officer.

311 (b) The commission shall ensure that an examination:

312 (i) is practical in character; and

313 (ii) relates to matters that fairly test the mental and physical ability and knowledge of  
314 an applicant to discharge the duties of the position.

315 (c) (i) Except as provided in Subsection (1)(c)(ii), the commission shall direct the  
316 preparation, administration, and grading of the examination.

317 (ii) The commission may direct an impartial special examiner to prepare, administer,  
318 and grade the examination on behalf of the commission.

319 (2) (a) The commission shall publish notice of an examination internally and to the  
320 public.

321 (b) (i) The commission shall design the notice described in Subsection (2)(a) to  
322 encourage an applicant to participate in competitive appointments.

323 (ii) The notice shall set forth minimum qualifications, pay scale, physical and  
324 educational requirements, and passing grades.

325 (c) The commission or the commission's designee shall promptly notify a person of the  
326 person's final grade.

327 Section 16. Section **17-30a-303** is enacted to read:

328 **17-30a-303. Disqualification of applicant for examination -- Appeal to**  
329 **commission.**

330 (1) In accordance with this section and rules adopted by the commission, an applicant  
331 is disqualified if the applicant:

332 (a) does not meet minimum qualifications;

333 (b) has been convicted of a criminal offense inimical to the public service or involving  
334 moral turpitude;

335 (c) has practiced or attempted deception or fraud in the application or examination  
336 process or in securing eligibility for appointment; or

337 (d) is not a citizen of the United States.

338 (2) If an applicant is rejected, the applicant shall be promptly notified.

339 (3) At any time prior to the date of examination, an applicant may correct a defect in  
340 the applicant's application.

341 (4) An applicant may file a written appeal regarding the application process with the  
342 commission.

343 Section 17. Section **17-30a-304** is enacted to read:

344 **17-30a-304. Preservation and inspection of examination papers.**

345 (1) (a) Examination papers and related documents are the property of the commission  
346 and the commission shall preserve them until the expiration of the eligible register for which an  
347 examination is given.

348 (b) Preservation of examination papers and related documents after the time period  
349 described in Subsection (1)(a) is subject to a retention schedule adopted by the commission.

350 (2) (a) Except as provided in Subsection (2)(b), examination papers and related  
351 documents are not open to public inspection without a court order.

352 (b) An applicant may inspect the applicant's own papers at any time within 30 days  
353 after the commission sends notice of the applicant's grade.

354 (c) The appointing authority may inspect the papers of any eligible applicant certified  
355 for appointment.

356 Section 18. Section **17-30a-305** is enacted to read:

357 **17-30a-305. Preparation and expiration of eligible appointment register.**

358 (1) Upon completion of an examination, the commission shall prepare and adopt an  
359 eligible appointment register containing the names of applicants receiving a passing grade  
360 ranked in the order of grades earned, beginning with the highest.

361 (2) (a) An eligible appointment register shall expire not later than two years after the  
362 date of the examination unless the commission, for good reason, extends the time not to exceed  
363 one additional year.

364 (b) If the commission adopts a new eligible appointment register, a previous  
365 appointment register for the same class or position is cancelled.

366 Section 19. Section **17-30a-306** is enacted to read:

367 **17-30a-306. Appointments from eligible appointment register -- Failure to accept**  
368 **appointment.**

369 (1) If the appointment of a peace officer is an appointment based on an examination,  
370 the appointing authority shall request that the commission certify eligible applicants for each  
371 position.

372 (2) (a) The commission shall certify, to the appointing authority, a number of names  
373 equal to three times the number of allocations being filled.

374 (b) The names of the applicants shall be ranked in order of examination score,  
375 beginning with the name of the applicant standing highest on the eligible appointment register.

376 (3) The appointing authority shall select a person described in Subsection (2)(b) and  
377 appoint one person to each open position.

378 (4) If a certified applicant fails to accept a proffered appointment, the applicant:

379 (a) may request in writing that the applicant be able to retain the applicant's place on  
380 the eligible appointment register; and

381 (b) shall provide reasons sufficient, in the judgment of the commission, to justify the  
382 applicant's failure to accept.

383 Section 20. Section **17-30a-307** is enacted to read:

384 **17-30a-307. Probationary period of appointment.**

385 (1) A peace officer appointed under Section [17-30a-402](#) shall serve a probationary  
386 period of 12 consecutive months, during which time the officer may be discharged at the sole  
387 discretion of the appointing authority.

388 (2) (a) At the request of the appointing authority and with the approval of the  
389 commission, the probationary period may be extended beyond 12 months for an officer who  
390 has not yet satisfactorily completed an approved peace officer training program and received a  
391 certificate of completion under Title 53, Chapter 6, Peace Officer Standards and Training Act.

392 (b) At the request of the appointing authority and with the approval of the commission,  
393 the probationary period of an officer may be extended beyond 12 months for good cause  
394 shown.

395 (c) Service under a temporary or part-time appointment is not considered a part of the  
396 probationary period.

397 (3) If a peace officer is retained in a position after the expiration of the probationary  
398 period, the officer's retention constitutes appointment to merit status.

399 (4) A person removed from employment during the probationary period may not be

400 placed on the eligible register again without having passed another regular examination.

401 (5) The commission may adopt rules governing probationary periods for other  
402 appointments, including the appointing or transfer of a peace officer from another jurisdiction.

403 Section 21. Section **17-30a-308** is enacted to read:

404 **17-30a-308. Vacancies -- Positions requiring special qualifications -- Competition**  
405 **suspended -- Promotion -- Promotional register.**

406 (1) In case of a vacancy in a position requiring peculiar and exceptional qualifications  
407 of a scientific, professional, or expert character, and upon satisfactory evidence that  
408 competition is impracticable and the position can best be filled by the selection of some  
409 designated person of recognized attainments, the commission may, after a public hearing and  
410 by unanimous vote, suspend competition regarding that position.

411 (2) The commission shall report a suspension under Subsection (1) in the commission  
412 minutes, together with the reason for suspension.

413 (3) With the exception of an appointment made in accordance with a commission rule  
414 adopted under Subsection [17-30a-203\(1\)\(b\)\(i\)\(H\)](#), a department shall fill a supervisor vacancy  
415 in the merit system classification by promotion insofar as possible.

416 (4) (a) A department shall make a promotion only after an open competitive  
417 examination, admission to which shall be limited to merit system officers.

418 (b) An examination process described in Subsection (4)(a) shall include consideration  
419 of the seniority and competence of the peace officer to perform the duties required in the  
420 position for which application is made.

421 (c) The seniority element of the examination may not exceed 40% of the entire  
422 examination score.

423 (5) (a) After a promotional examination, the commission shall prepare a promotional  
424 register that shall take precedence over any previously existing register.

425 (b) The certified promotional register shall consist of three names for the initial  
426 vacancy and one more name for each additional vacancy, ranked in the order of the  
427 examination score, beginning with the highest scoring applicant.

428 Section 22. Section **17-30a-309** is enacted to read:

429 **17-30a-309. Transfer and reassignment.**

430 (1) A merit system officer may be transferred, without examination, from one position

431 to a similar position in the same class and grade within the department.

432 (2) A merit system officer may be reassigned, including to another class and grade, in  
433 accordance with rules adopted by the commission.

434 Section 23. Section **17-30a-310** is enacted to read:

435 **17-30a-310. Temporary and part-time appointment.**

436 (1) A department may appoint an employee to a temporary appointment for a period  
437 not exceeding 120 days within any 12 month period.

438 (2) A temporary employee is not a merit system officer and may be appointed without  
439 examination.

440 (3) A department may appoint an employee to a part-time appointment for a period not  
441 to exceed 29 hours per week.

442 (4) A part-time employee is not a merit system officer and may be appointed without  
443 examination.

444 Section 24. Section **17-30a-311** is enacted to read:

445 **17-30a-311. Temporary layoffs -- Reappointment register.**

446 (1) Subject to Subsections (2) and (3), and if necessary, because of lack of funds or  
447 work, a department may temporarily lay off a merit system officer.

448 (2) A department that lays off a merit system officer under Subsection (1) shall lay off  
449 the officer according to the seniority of the officers of the class of positions affected, following  
450 the process prescribed by commission rule.

451 (3) A department shall lay off a person serving under temporary or part-time  
452 appointment before a merit system officer.

453 (4) (a) If a merit system officer is laid off, the department shall place the officer on a  
454 reappointment register to be reappointed in the inverse order in which the officer is laid off.

455 (b) The register described in Subsection (4)(a) takes precedence over all eligible  
456 reappointment registers.

457 Section 25. Section **17-30a-312** is enacted to read:

458 **17-30a-312. Reappointment after temporary leave.**

459 (1) (a) Consistent with rules adopted by the commission and within the appointing  
460 authority's discretion, a merit system officer may be granted a temporary leave of absence  
461 outside the department.

462 (b) Leave granted under Subsection (1)(a) is without pay and for a period not to exceed  
463 one year.

464 (c) In accordance with applicable law or ordinance, the appointing authority may  
465 reappoint the officer without examination at the end of the leave.

466 (2) (a) In the event a merit system officer is elected sheriff or is appointed to any  
467 merit-exempt position in the department, the officer's merit system status shall automatically be  
468 suspended for the period of time the officer remains sheriff or in a merit-exempt appointment.

469 (b) At the end of the period of election to sheriff or suspension of merit status under  
470 Subsection (2)(a), the officer shall be returned to the officer's former position as a merit system  
471 officer without examination.

472 (3) The appointing authority shall authorize any leave required by federal law.

473 Section 26. Section **17-30a-313** is enacted to read:

474 **17-30a-313. Vacation, sick leave, and other benefits.**

475 For merit system officers, provisions regarding vacation, sick, other leave, or any other  
476 employment condition or benefit not covered by this chapter shall be established by applicable  
477 law or by county ordinance or regulation.

478 Section 27. Section **17-30a-314** is enacted to read:

479 **17-30a-314. Prohibitions against political activities -- Penalties.**

480 (1) (a) As used in this Subsection (1), "person" means:

481 (i) an employee of a department;

482 (ii) a member of a department governing body;

483 (iii) an appointing authority;

484 (iv) a merit system officer; and

485 (v) a peace officer.

486 (b) A person is guilty of a misdemeanor if the person appoints, promotes, transfers,  
487 demotes, suspends, discharges, or changes the amount of compensation of a merit system  
488 officer.

489 (c) A person is guilty of a misdemeanor if the person seeks, aids, abets, promises or  
490 threatens the appointment, promotion, transfer, demotion, suspension, discharge, or change in  
491 the amount of compensation as a condition or result of a merit system officer giving,  
492 withholding, or neglecting to make a contribution to or provide service for a political purpose.

493 (d) Except as provided in Subsection (2), a person is guilty of a misdemeanor if the  
494 person solicits, directly or indirectly, a contribution or service for a political purpose from a  
495 merit system officer.

496 (2) Subsection (1)(d) does not apply to political speeches or use of mass  
497 communications media for political purposes by a person where a merit system officer is  
498 present, unless the purpose and intent of the speaker is to violate this section with direct respect  
499 to those merit system officers.

500 (3) (a) Except as provided in Subsection (3)(b), a merit system officer may not engage  
501 in a political activity or solicit political contributions from merit system officers during the  
502 hours of employment, or use employer resources at any time for political purposes.

503 (b) Subsection (3)(a) does not preclude a voluntary contribution by a merit system  
504 officer to the party or candidate of the officer's choice.

505 Section 28. Section **17-30a-401** is enacted to read:

506 **Part 4. Disciplinary Actions and Appeals**

507 **17-30a-401. Title.**

508 This part is known as "Disciplinary Actions and Appeals."

509 Section 29. Section **17-30a-402** is enacted to read:

510 **17-30a-402. Disciplinary charges -- Grounds -- Process.**

511 (1) An appointing authority may demote, suspend, discharge, or reduce a merit system  
512 officer's pay for:

513 (a) neglect of duty;

514 (b) disobedience of a reasonable order;

515 (c) misconduct;

516 (d) inefficiency or inability to satisfactorily perform assigned duties; or

517 (e) an act inimical to public service.

518 (2) A department may not suspend a merit system officer for more than 176 work hours  
519 at one time or for more than 352 work hours in one year.

520 (3) The appointing authority shall order the demotion, reduction in pay, suspension, or  
521 discharge of a merit system officer.

522 Section 30. Section **17-30a-403** is enacted to read:

523 **17-30a-403. Disciplinary charges -- Appeal to commission -- Hearing -- Findings.**

524 (1) The appointing authority:  
525 (a) may impose disciplinary charges in accordance with a rule, policy, ordinance, or  
526 law; and  
527 (b) shall serve the merit system officer to be disciplined with a copy of the written  
528 charges.  
529 (2) (a) A disciplined merit system officer may file an appeal of the disciplinary charges  
530 with the department, which shall conduct the appeal internally.  
531 (b) The department shall conduct an appeal in accordance with rules or policies  
532 adopted by the appointing authority.  
533 (3) If the disciplinary charges are sustained on internal appeal, the merit system officer  
534 may appeal to the commission in accordance with the provisions of this section and  
535 commission rule.  
536 (4) (a) A merit system officer disciplined in accordance with Subsection (1) may,  
537 within 10 calendar days after the internal department appeal decision described in Subsection  
538 (2), make an appeal in writing to the commission.  
539 (b) If the merit system officer fails to make an internal appeal of the disciplinary action,  
540 the officer may not appeal to the commission.  
541 (5) The commission may hear appeals regarding demotion, reduction in pay,  
542 suspension, or discharge of a merit system officer for any cause provided in Section  
543 [17-30a-313](#).  
544 (6) In the absence of an appeal, a copy of the charges under Subsection (1) may not be  
545 made public without the consent of the officer charged.  
546 (7) (a) The commission shall:  
547 (i) fix a time and place for a hearing on the appeal; and  
548 (ii) give notice of the hearing to the parties.  
549 (b) (i) Except as provided in Subsection (7)(b)(ii), the commission shall hold a hearing  
550 under this Subsection (7) no less than 10 and no more than 90 days after an appeal is filed.  
551 (ii) The commission may hold a hearing more than 90 days after an appeal is filed if:  
552 (A) the parties agree; or  
553 (B) the commission finds that the delay is for good cause.  
554 (8) (a) The commission shall hold the hearing in accordance with Title 52, Chapter 4,

555 Open and Public Meetings Act.

556 (b) Notwithstanding Subsection (8)(a), if the commission proposes to and is authorized  
557 to close the hearing to the public in accordance with Title 52, Chapter 4, Open and Public  
558 Meetings Act, the commission shall open the meeting to the public if the aggrieved officer  
559 requests that the commission open the hearing.

560 (9) The parties may be represented by counsel at the hearing.

561 (10) The commission, on its own motion or at the request of the appointing authority,  
562 may dismiss an appeal for unjustified delay, removal to a court or other venue, or for other  
563 good cause shown.

564 (11) In resolving an appeal, the commission may sustain or vacate a decision of the  
565 appointing authority.

566 (12) After the hearing, the commission shall publish a written decision, including  
567 findings of fact and conclusions of law, and shall notify each party.

568 Section 31. Section **17-30a-404** is enacted to read:

569 **17-30a-404. Appeal to district court -- Scope of review.**

570 (1) A party may appeal to the district court the commission's final decision regarding  
571 disciplinary charges under Section [17-30a-403](#).

572 (2) (a) The court:

573 (i) shall conduct its review on the record of the hearing held by the commission; and

574 (ii) may affirm or overturn the ruling.

575 (b) The district court shall overturn the commission only if the commission's decision  
576 is arbitrary or capricious.

577 (3) An appeal to the district court shall be made within 30 days after the commission's  
578 written decision.

579 Section 32. Section **17-30a-501** is enacted to read:

580 **Part 5. Miscellaneous Provisions**

581 **17-30a-501. Title.**

582 This part is known as "Miscellaneous Provisions."

583 Section 33. Section **17-30a-502** is enacted to read:

584 **17-30a-502. More than one chief deputy in larger county departments.**

585 The sheriff, with the consent of the commission and the county legislative body, may

586 appoint more than one chief deputy, deputy chief, or undersheriff.

587 Section 34. Section **17-33-1** is amended to read:

588 **17-33-1. Title -- Establishment of merit system -- Separate systems for peace**  
589 **officers and firemen recognized -- Options of small counties.**

590 (1) This chapter shall be known and may be cited as the "County Personnel  
591 Management Act."

592 (2) A merit system of personnel administration for the counties of the state of Utah,  
593 their departments, offices, and agencies, except as otherwise specifically provided, is  
594 established.

595 (3) This chapter recognizes the existence of the merit systems for peace officers of the  
596 several counties as provided for in Chapter 30, Deputy Sheriffs - Merit System, and Chapter  
597 30a, Peace Officer Merit System in Counties of the First Class Act, and for firemen of the  
598 several counties as provided for in Chapter 28, Firemen's Civil Service Commission, and is  
599 intended to give county commissions the option of using the provisions of this chapter as a  
600 single merit system for all county employees or in combination with these existing systems for  
601 firemen and peace officers.

602 (4) On or after May 6, 2002, any county that has fewer than 200 employees not covered  
603 by other merit systems or not exempt under Subsections **17-33-8(1)(b)(i)** through (vii) may, at  
604 its option, comply with the provisions of this chapter.

605 (5) Notwithstanding the provisions of Subsection (4), any county which was in  
606 compliance with the provisions of this chapter prior to May 6, 2002, shall continue to comply  
607 with the provisions of this chapter even though the county may not thereafter meet or exceed  
608 the threshold requirements of Subsection (4).

609 Section 35. Section **53-13-105** is amended to read:

610 **53-13-105. Special function officer.**

611 (1) (a) "Special function officer" means a sworn and certified peace officer performing  
612 specialized investigations, service of legal process, security functions, or specialized ordinance,  
613 rule, or regulatory functions.

614 (b) "Special function officer" includes:

615 (i) state military police;

616 (ii) constables;

- 617 (iii) port-of-entry agents as defined in Section [72-1-102](#);
- 618 (iv) authorized employees or agents of the Department of Transportation assigned to  
619 administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;
- 620 (v) school district security officers;
- 621 (vi) Utah State Hospital security officers designated pursuant to Section [62A-15-603](#);
- 622 (vii) Utah State Developmental Center security officers designated pursuant to  
623 Subsection [62A-5-206\(9\)](#);
- 624 (viii) fire arson investigators for any political subdivision of the state;
- 625 (ix) ordinance enforcement officers employed by municipalities or counties may be  
626 special function officers;
- 627 (x) employees of the Department of Natural Resources who have been designated to  
628 conduct supplemental enforcement functions as a collateral duty;
- 629 (xi) railroad special agents deputized by a county sheriff under Section [17-30-2](#) or  
630 [17-30a-104](#), or appointed pursuant to Section [56-1-21.5](#);
- 631 (xii) auxiliary officers, as described by Section [53-13-112](#);
- 632 (xiii) special agents, process servers, and investigators employed by city attorneys;
- 633 (xiv) criminal tax investigators designated under Section [59-1-206](#); and
- 634 (xv) all other persons designated by statute as having special function officer authority  
635 or limited peace officer authority.
- 636 (2) (a) A special function officer may exercise that spectrum of peace officer authority  
637 that has been designated by statute to the employing agency, and only while on duty, and not  
638 for the purpose of general law enforcement.
- 639 (b) If the special function officer is charged with security functions respecting facilities  
640 or property, the powers may be exercised only in connection with acts occurring on the  
641 property where the officer is employed or when required for the protection of the employer's  
642 interest, property, or employees.
- 643 (c) A special function officer may carry firearms only while on duty, and only if  
644 authorized and under conditions specified by the officer's employer or chief administrator.
- 645 (3) (a) A special function officer may not exercise the authority of a peace officer until:
- 646 (i) the officer has satisfactorily completed an approved basic training program for  
647 special function officers as provided under Subsection (4); and

648 (ii) the chief law enforcement officer or administrator has certified this fact to the  
649 director of the division.

650 (b) City and county constables and their deputies shall certify their completion of  
651 training to the legislative governing body of the city or county they serve.

652 (4) (a) The agency that the special function officer serves may establish and maintain a  
653 basic special function course and in-service training programs as approved by the director of  
654 the division with the advice and consent of the council.

655 (b) The in-service training shall consist of no fewer than 40 hours per year and may be  
656 conducted by the agency's own staff or by other agencies.

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**Legislative Review Note**  
**as of 2-26-14 3:37 PM**

**Office of Legislative Research and General Counsel**