

LABOR COMMISSION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

---

LONG TITLE

General Description:

This bill amends provisions of the Utah Labor Code regarding the Workers' Compensation Advisory Council and the Labor Commission's Appeals Board.

Highlighted Provisions:

This bill:

- ▶ permits the governor to appoint alternate members to the Labor Commission's Appeals Board under certain conditions;
- ▶ establishes term limits and compensation for alternate members of the Appeals Board;
- ▶ amends the membership of the Workers' Compensation Advisory Council to include the following nonvoting members:
  - one member of the Senate appointed by the president of the Senate; and
  - one member of the House of Representatives appointed by the speaker of the House of Representatives;
- ▶ provides for the compensation of council members who are legislators; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30 34A-1-205, as last amended by Laws of Utah 2013, Chapter 428

31 34A-2-107, as last amended by Laws of Utah 2018, Chapters 268 and 319



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

34 Section 1. Section 34A-1-205 is amended to read:

35 **34A-1-205. Appeals Board -- Chair -- Appointment -- Compensation --**  
36 **Qualifications.**

37 (1) (a) There is created the Appeals Board within the commission consisting of three  
38 members.

39 (b) The board may call and preside at adjudicative proceedings to review an order or  
40 decision that is subject to review by the Appeals Board under this title.

41 (2) (a) [~~The governor shall appoint the members with~~] With the consent of the Senate  
42 and in accordance with this section[;], the governor shall appoint:

43 [~~(b)~~] (i) [~~One~~] one member of the board [~~shall be appointed~~] to represent employers[;  
44 in making this appointment, the governor shall consider nominations from employer  
45 organizations.]; and

46 [~~(c)~~] (ii) [~~One~~] one member of the board [~~shall be appointed~~] to represent employees[;  
47 in making this appointment, the governor shall consider nominations from employee  
48 organizations].

49 (b) With the advice and consent of the Senate and in accordance with this section, the  
50 governor may appoint:

51 (i) one alternate member of the board to represent employers in the event that the  
52 member representing employers is unavailable; or

53 (ii) one alternate member of the board to represent employees in the event that the  
54 member representing employees is unavailable.

55 (c) In making the appointments described in this subsection, the governor shall:

56 (i) when appointing a member or alternate member to represent employers, consider  
57 nominations from employer organizations;

58 (ii) when appointing a member or alternate member to represent employees, consider  
59 nominations from employee organizations;

60 [~~(d)~~] (iii) [No] ensure that no more than two members [may] belong to the same  
61 political party[-]; and

62 (iv) ensure that an alternate member belongs to the same political party as the member  
63 for whom the alternate stands in.

64 [~~(e)~~] (d) The governor shall, at the time of appointment or reappointment, make  
65 appointments to the board so that at least two of the members of the board are members of the  
66 Utah State Bar in good standing or resigned from the Utah State Bar in good standing.

67 (3) (a) The term of a member and an alternate member shall be six years beginning on  
68 March 1 of the year the member or alternate member is appointed, except that the governor  
69 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the  
70 terms of members and alternate members are staggered so that one member and alternate  
71 member is appointed every two years.

72 (b) The governor may remove a member or alternate member only for inefficiency,  
73 neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

74 (c) A member or alternate member shall hold office until a successor is appointed and  
75 has qualified.

76 (4) A member and alternate member shall be part-time and receive compensation as  
77 provided by Title 67, Chapter 19, Utah State Personnel Management Act.

78 (5) (a) The chief officer of the board shall be the chair, who shall serve as the executive  
79 and administrative head of the board.

80 (b) The governor shall appoint and may remove at will the chair from the position of  
81 chair.

82 (6) A majority of the board shall constitute a quorum to transact business.

83 (7) (a) The commission shall provide the Appeals Board necessary staff support,  
84 except as provided in Subsection (7)(b).

85 (b) At the request of the Appeals Board, the attorney general shall act as an impartial

86 aid to the Appeals Board in outlining the facts and the issues.

87 Section 2. Section 34A-2-107 is amended to read:

88 **34A-2-107. Appointment of workers' compensation advisory council --**

89 **Composition -- Terms of members -- Duties -- Compensation.**

90 (1) [~~The commissioner shall appoint a~~] There is created a workers' compensation  
91 advisory council composed of:

92 (a) the following voting members whom the commissioner shall appoint:

93 (i) five employer representatives; and

94 (ii) five employee representatives; [~~and~~]

95 (b) the following nonvoting members whom the commissioner shall appoint:

96 (i) a representative of the workers' compensation insurance carrier that provides  
97 workers' compensation insurance under Section 31A-22-1001;

98 (ii) a representative of a workers' compensation insurance carrier different from the  
99 workers' compensation insurance carrier listed in Subsection (1)(b)(i);

100 (iii) a representative of health care providers;

101 (iv) the Utah insurance commissioner or the insurance commissioner's designee;

102 (v) the commissioner or the commissioner's designee; and

103 (vi) a representative of hospitals[?]; and

104 (c) the following nonvoting members:

105 (i) a member of the Senate whom the president of the Senate shall appoint; and

106 (ii) a member of the House of Representatives whom the speaker of the House of  
107 Representatives shall appoint.

108 (2) Employers and employees shall consider nominating members of groups who  
109 historically may have been excluded from the council, such as women, minorities, and  
110 individuals with disabilities.

111 (3) (a) Except as required by Subsection (3)(b), as terms of current council members  
112 expire, the commissioner, the president of the Senate, or the speaker of the House of  
113 Representatives shall appoint in accordance with Subsection (1) each new member or

114 reappointed member to a two-year term beginning July 1 and ending June 30.

115 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at  
116 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
117 council members are staggered so that approximately half of the council is appointed every two  
118 years.

119 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall  
120 be appointed for the unexpired term.

121 (b) The commissioner shall terminate the term of a council member who ceases to be  
122 representative as designated by the member's original appointment.

123 (5) The council shall confer at least quarterly for the purpose of advising the  
124 commission, the division, and the Legislature on:

125 (a) the Utah workers' compensation and occupational disease laws;

126 (b) the administration of the laws described in Subsection (5)(a); and

127 (c) rules related to the laws described in Subsection (5)(a).

128 (6) Regarding workers' compensation, rehabilitation, and reemployment of employees  
129 who acquire a disability because of an industrial injury or occupational disease the council  
130 shall:

131 (a) offer advice on issues requested by:

132 (i) the commission;

133 (ii) the division; and

134 (iii) the Legislature; and

135 (b) make recommendations to:

136 (i) the commission; and

137 (ii) the division.

138 (7) (a) The council shall:

139 (i) study how to reduce hospital costs for purposes of medical benefits for workers'  
140 compensation;

141 (ii) study hospital billing and payment trends in the state;

142 (iii) study hospital fee schedules used in other states; and  
143 (iv) collect information from third-party hospital bill review companies in the state or  
144 region, to identify an average reimbursement rate that represents the approximate rate at which  
145 a workers' compensation insurance carrier or self-insured employer should expect to reimburse  
146 a hospital for billed hospital fees for covered medical services in the state.

147 (b) In accordance with Section 68-3-14, the council shall submit a written report to the  
148 Business and Labor Interim Committee no later than September 1, 2019, 2020, and 2021. Each  
149 written report shall include:

- 150 (i) recommendations on how to reduce hospital costs for purposes of medical benefits  
151 for workers' compensation;
- 152 (ii) aggregate data on hospital billing and payment trends in the state;
- 153 (iii) the results of the council's study of hospital fee schedules from other states; and
- 154 (iv) the approximate rate at which a workers' compensation insurance carrier or  
155 self-insured employer should expect to reimburse a hospital for billed hospital fees for covered  
156 medical services, calculated in accordance with Subsection (7)(a)(iv).

157 (c) For each report described in Subsection (7)(b), the commission may contract with a  
158 third-party expert to assist with the council's duties described in Subsections (7)(a) and (b).

159 (8) The commissioner or the commissioner's designee shall serve as the chair of the  
160 council and call the necessary meetings.

161 (9) The commission shall provide staff support to the council.

162 (10) (a) ~~[A]~~ Except as provided in Subsections (10)(b) and (10)(c), a member may not  
163 receive compensation or benefits for the member's service~~[-but]~~.

164 (b) A member who is not a legislator may receive per diem and travel expenses in  
165 accordance with:

166 ~~[(a)]~~ (i) Section 63A-3-106;

167 ~~[(b)]~~ (ii) Section 63A-3-107; and

168 ~~[(c)]~~ (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
169 63A-3-107.

170            (c) A member who is a legislator may receive compensation and travel expenses in  
171 accordance with Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation  
172 and Expenses.