

1 **UTAH PROTECTION OF PUBLIC EMPLOYEES ACT**

2 **AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd D. Weiler**

6 House Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill amends the Utah Protection of Public Employees Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ modifies the statute of limitations for a state employee to bring a claim under the
13 Utah Protection of Public Employees Act.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **67-21-4**, as last amended by Laws of Utah 2018, Chapter 178

21

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

22 Section 1. Section **67-21-4** is amended to read:

23 **67-21-4. Choice of forum -- Remedies for employee bringing action -- Proof**
24 **required.**

25 (1) (a) Except as provided in Subsection (1)(b) or (d), and subject to Subsections (1)(d)



28 through (e), an employee who alleges a violation of this chapter may bring a civil action for
29 appropriate injunctive relief, damages, or both, within 180 days after the [~~occurrence of the~~
30 ~~alleged violation of this chapter~~] day on which the employee files a notice of claim in relation
31 to the subject matter of the grievance under Section [63G-7-401](#).

32 (b) Except as provided in Subsection (1)(d):

33 (i) an employee of a political subdivision that has adopted an ordinance described in
34 Section [67-21-3.6](#):

35 (A) may bring a civil action described in Subsection (1)(a) within 180 days after the
36 day on which the employee has exhausted administrative remedies; and

37 (B) may not bring a civil action described in Subsection (1)(a) until the employee has
38 exhausted administrative remedies; and

39 (ii) an employee of a state institution of higher education:

40 (A) may bring a civil action described in Subsection (1)(a) within 180 days after the
41 day on which the employee has exhausted administrative remedies; and

42 (B) may not bring a civil action described in Subsection (1)(a) until the employee has
43 exhausted administrative remedies.

44 (c) Except as provided in Subsection (1)(d), a public entity employee who is not a
45 legislative employee or a judicial employee may bring a claim of retaliatory action by selecting
46 one of the following methods:

47 (i) filing a grievance with the Career Service Review Office in accordance with Section
48 [67-19a-402.5](#); or

49 (ii) bringing a civil action for appropriate injunctive relief, damages, or both, within
50 180 days after the [~~occurrence of the alleged violation of this chapter~~] day on which the
51 employee files a notice of claim in relation to the subject matter of the grievance under Section
52 [63G-7-401](#).

53 (d) (i) A claimant may bring an action after the 180-day limit described in this
54 Subsection (1) if:

55 (A) the claimant originally brought the action within the 180-day time limit;

56 (B) the action described in Subsection (1)(d)(i)(A) failed or was dismissed for a reason
57 other than on the merits; and

58 (C) the claimant brings the new action within 180 days after the day on which the

59 claimant originally brought the action under Subsection (1)(d)(i)(A).

60 (ii) A claimant may commence a new action under this Subsection (1)(d) only once.

61 (e) A public entity employee who files a grievance under Subsection (1)(d)(i):

62 (i) may not, at any time, bring a civil action in relation to the subject matter of the

63 grievance;

64 (ii) may seek a remedy described in Subsection 67-21-3.5(2); and

65 (iii) waives the right to seek a remedy or a type of damages not included in Subsection

66 67-21-3.5(2).

67 (f) A public entity employee who files a civil action under Subsection (1)(d)(ii) may

68 not, at any time, file a grievance with the Career Service Review Office in relation to the

69 subject matter of the civil action.

70 (2) An employee who brings a civil action under this section shall bring the action in

71 the district court for the county where the alleged violation occurred, the county where the

72 complainant resides, or the county where the person against whom the civil complaint is filed

73 resides or has the person's principal place of business.

74 (3) To prevail in an action brought under this section, the employer shall prove by

75 substantial evidence that the employer's action was justified.