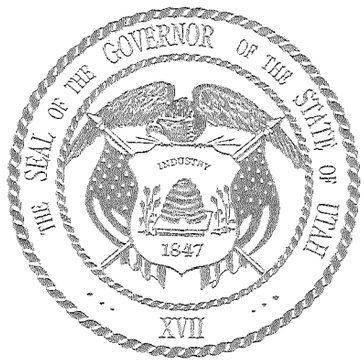

Gary Richard Herbert

Governor

EXECUTIVE ORDER
2020-65

Temporarily Reauthorizing the Suspension of Enforcement of Provisions of the Utah Postretirement Reemployment Restrictions Act

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to Novel Coronavirus Disease 2019 (COVID-19);

WHEREAS, on March 17, 2020, I issued Executive Order 2020-9, suspending the enforcement of certain statutes relating to postretirement reemployment, as necessary to address the COVID-19 pandemic;

WHEREAS, on August 20, 2020, the state of emergency declared in Executive Order 2020-1 expired, causing the termination of several executive orders necessary to address the COVID-19 pandemic, including Executive Order 2020-9;

WHEREAS, on August 20, 2020, I issued Executive Order 2020-51, declaring a new state of emergency due to the ongoing and evolving effects of the COVID-19 pandemic;

WHEREAS, on August 20, 2020, I issued Executive Order 2020-53, reauthorizing the the suspension of enforcement of certain statutes relating to postretirement reemployment;

WHEREAS, on this day, September 19, 2020, the state of emergency declared in Executive Order 2020-51 expires, causing the termination of several executive orders necessary to address the COVID-19 pandemic, including Executive Order 2020-53;

WHEREAS, on this day, September 19, 2020, I issued Executive Order 2020-63, declaring a new state of emergency in response to the ongoing and evolving effects of the COVID-19 pandemic in Utah;

WHEREAS, the facts and conditions justifying the suspension of enforcement of certain statutes relating to postretirement reemployment persist;

WHEREAS, COVID-19 has been characterized by the World Health Organization as a worldwide pandemic caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

WHEREAS, COVID-19 continues to spread and threaten public health and safety, causing loss of life, human suffering, and social and economic disruption throughout Utah;

WHEREAS, it is imperative that healthcare facilities maximize the number of capable healthcare workers to ensure Utahns impacted by COVID-19 have access to medical treatment;

WHEREAS, state and local governmental entities must have staffing sufficient to appropriately address the impacts of COVID-19;

WHEREAS, the following governmental functions are critical because they enable state and local officials to protect their communities and ensure continuity of functions essential to public health and safety: communications, emergency services and first responders, energy, financial services, food and agriculture, government facilities, healthcare and public health facilities, information technology, transportation systems, and water and wastewater systems (the "Critical Government Functions");

WHEREAS, many retirees of the Utah Retirement Systems (URS) in the state are skilled workers willing to be reemployed to meet the Critical Government Functions staffing needs of state and local governmental entities that are URS participating employers to be able to appropriately address the impacts of COVID-19;

WHEREAS, certain provision of Utah Code Title 49, Chapter 11, Part 12, Postretirement Reemployment Restrictions Act, may restrict the ability of URS participating employers to reemploy certain retirees in Utah who may help provide or expedite Critical Government Functions needed for emergency response and recovery;

WHEREAS, certain provisions of Utah Code §§ 49-11-1201 through 49-11-1208 may limit the ability of URS participating employers to have staffing sufficient to appropriately respond to the COVID-19 disaster and to ensure that Utahns have Critical Government Functions;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of the following, consistent with applicable federal law:

1. Utah Code § 49-11-1204(2), requiring cancellation of a retirement allowance for reemployment without a one-year break in service;
2. Utah Code § 49-11-1204(4)(b), to the extent it requires the participating employer to pay the amortization rate to URS;
3. Utah Code § 49-11-1206(1)(b), to the extent it requires a participating employer to immediately notify URS of the reemployment;
4. Utah Code § 49-11-1206(3), to the extent it requires a retiree to report the status of the reemployment to URS; and
5. Utah Code § 49-11-1207(1), to the extent it requires URS to take action regarding a violation of Subsection 49-11-1204(2) or (4)(b);

PROVIDED THAT, the suspensions in this Order apply only as to an individual who:

1. retired prior to March 30, 2020; and
2. becomes temporarily reemployed to ensure adequate staffing of Critical Government Functions for a URS participating employer during the state of emergency.

This Order shall take effect immediately upon Executive Order 2020-63 becoming effective and shall remain in effect through September 25, 2020, or until otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 19th day of September, 2020.

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor