

DEPARTMENT OF CORRECTIONS RETIREMENT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies Public Safety Contributory Retirement Act and the Public Safety Noncontributory Retirement Act by amending system membership provisions for employees of the Department of Corrections.

Highlighted Provisions:

This bill:

- ▶ provides that an employee of the Department of Corrections shall continue to earn public safety service credit in the Public Safety Retirement System if the employee's position is no longer covered for new employees and the employee:
 - remains employed by the Department of Corrections;
 - meets the eligibility requirements of the system;
 - was hired into a covered position prior to July 1, 2015; and
 - has not had a break in service on or after July 1, 2015; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-14-201, as last amended by Laws of Utah 2014, Chapter 15**49-15-201**, as last amended by Laws of Utah 2014, Chapter 15

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **49-14-201** is amended to read:**49-14-201. System membership -- Eligibility.**

(1) Except as provided in Section 49-15-201, a public safety service employee of a

33 participating employer participating in this system is eligible for service credit in this system at
34 the earliest of:

35 (a) July 1, 1969, if the public safety service employee was employed by the
36 participating employer on July 1, 1969, and the participating employer was participating in this
37 system on that date;

38 (b) the date the participating employer begins participating in this system if the public
39 safety service employee was employed by the participating employer on that date; or

40 (c) the date the public safety service employee is employed by the participating
41 employer and is eligible to perform public safety service, except that a public safety service
42 employee initially entering employment with a participating employer on or after July 1, 2011,
43 who does not have service credit accrued before July 1, 2011, in a Tier I system or plan
44 administered by the board, may not participate in this system.

45 (2) (a) (i) A participating employer that has public safety service and firefighter service
46 employees that require cross-training and duty shall enroll those dual purpose employees in the
47 system in which the greatest amount of time is actually worked.

48 (ii) The employees shall either be full-time public safety service or full-time firefighter
49 service employees of the participating employer.

50 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
51 participating employer shall receive written permission from the office.

52 (ii) The office may request documentation to verify the appropriateness of the transfer.

53 (3) The board may combine or segregate the actuarial experience of participating
54 employers in this system for the purpose of setting contribution rates.

55 (4) (a) (i) Each participating employer participating in this system shall annually
56 submit to the office a schedule indicating the positions to be covered under this system in
57 accordance with this chapter.

58 (ii) The office may require documentation to justify the inclusion of any position under
59 this system.

60 (b) If there is a dispute between the office and a participating employer or employee
61 over any position to be covered, the disputed position shall be submitted to the Peace Officer
62 Standards and Training Council established under Section 53-6-106 for determination.

63 (c) (i) The Peace Officer Standards and Training Council's authority to decide

64 eligibility for public safety service credit is limited to claims for coverage under this system for
65 time periods after July 1, 1989.

66 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
67 to service credit earned in another system prior to July 1, 1989.

68 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
69 Standards and Training Council granting a position coverage under this system may only be
70 applied prospectively from the date of that decision.

71 (iv) A decision of the Peace Officer Standards and Training Council granting a position
72 coverage under this system may be applied retroactively only if:

73 (A) the participating employer covered other similarly situated positions under this
74 system during the time period in question; and

75 (B) the position otherwise meets all eligibility requirements for receiving service credit
76 in this system during the period for which service credit is to be granted.

77 (5) The Peace Officer Standards and Training Council may use a subcommittee to
78 provide a recommendation to the council in determining disputes between the office and a
79 participating employer or employee over a position to be covered under this system.

80 (6) The Peace Officer Standards and Training Council shall comply with Title 63G,
81 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

82 (7) A public safety employee who is transferred or promoted to an administration
83 position not covered by this system shall continue to earn public safety service credit in this
84 system as long as the employee remains employed in the same department.

85 (8) An employee of the Department of Corrections shall continue to earn public safety
86 service credit in this system if:

87 (a) the employee's position is no longer covered under this system for new employees
88 hired on or after July 1, 2015; and

89 (b) the employee:

90 (i) remains employed by the Department of Corrections;

91 (ii) meets the eligibility requirements of this system;

92 (iii) was hired into a position covered by this system prior to July 1, 2015; and

93 (iv) has not had a break in service on or after July 1, 2015.

94 ~~[(8) Any]~~ (9) An employee who is reassigned to the Department of Technology

95 Services or to the Department of Human Resource Management, and who was a member of
96 this system, ~~shall be~~ is entitled to remain a member of this system.

97 ~~(9)~~ (10) (a) To determine that a position is covered under this system, the office and,
98 if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that
99 the position requires the employee to:

100 (i) place the employee's life or personal safety at risk; and

101 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

102 (b) If a position satisfies the requirements of Subsection ~~(9)~~ (10)(a), the office and the
103 Peace Officer Standards and Training Council shall consider whether or not the position
104 requires the employee to:

105 (i) perform duties that consist primarily of actively preventing or detecting crime and
106 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

107 (ii) perform duties that consist primarily of providing community protection; and

108 (iii) respond to situations involving threats to public safety and make emergency
109 decisions affecting the lives and health of others.

110 ~~(10)~~ (11) If a subcommittee is used to recommend the determination of disputes to
111 the Peace Officer Standards and Training Council, the subcommittee shall comply with the
112 requirements of Subsection ~~(9)~~ (10) in making its recommendation.

113 ~~(11)~~ (12) A final order of the Peace Officer Standards and Training Council regarding
114 a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
115 Procedures Act.

116 ~~(12)~~ (13) Except as provided under Subsection ~~(13)~~ (14), if a participating
117 employer's public safety service employees are not covered by this system or under Chapter 15,
118 Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety
119 service employees who may otherwise qualify for membership in this system shall, at the
120 discretion of the participating employer, remain in their current retirement system.

121 ~~(13)~~ (14) (a) A public safety service employee employed by an airport police
122 department, which elects to cover its public safety service employees under the Public Safety
123 Noncontributory Retirement System under Subsection ~~(12)~~ (13), may elect to remain in the
124 public safety service employee's current retirement system.

125 (b) The public safety service employee's election to remain in the current retirement

126 system under Subsection ~~[(13)]~~ (14)(a):

127 (i) shall be made at the time the employer elects to move its public safety service
128 employees to a public safety retirement system;

129 (ii) documented by written notice to the participating employer; and

130 (iii) is irrevocable.

131 ~~[(14)]~~ (15) Notwithstanding any other provision of this section, a person initially
132 entering employment with a participating employer on or after July 1, 2011, who does not have
133 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
134 may not participate in this system.

135 Section 2. Section 49-15-201 is amended to read:

136 **49-15-201. System membership -- Eligibility.**

137 (1) (a) A public safety service employee employed by the state after July 1, 1989, but
138 before July 1, 2011, is eligible for service credit in this system.

139 (b) A public safety service employee employed by the state prior to July 1, 1989, may
140 either elect to receive service credit in this system or continue to receive service credit under
141 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
142 following the procedures established by the board under this chapter.

143 (2) (a) Public safety service employees of a participating employer other than the state
144 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
145 System shall be eligible only for service credit in that system.

146 (b) (i) A participating employer other than the state that elected on or before July 1,
147 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
148 service employee to elect to participate in either this system or the Public Safety Contributory
149 Retirement System.

150 (ii) Except as expressly allowed by this title, the election of the public safety service
151 employee is final and may not be changed.

152 (c) A public safety service employee hired by a participating employer other than the
153 state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

154 (d) A public safety service employee of a participating employer other than the state
155 who began participation in this system after July 1, 1989, but before July 1, 2011, is only
156 eligible for service credit in this system.

157 (e) A person initially entering employment with a participating employer on or after
158 July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system
159 or plan administered by the board, may not participate in this system.

160 (3) (a) (i) A participating employer that has public safety service and firefighter service
161 employees that require cross-training and duty shall enroll those dual purpose employees in the
162 system in which the greatest amount of time is actually worked.

163 (ii) The employees shall either be full-time public safety service or full-time firefighter
164 service employees of the participating employer.

165 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
166 participating employer shall receive written permission from the office.

167 (ii) The office may request documentation to verify the appropriateness of the transfer.

168 (4) The board may combine or segregate the actuarial experience of participating
169 employers in this system for the purpose of setting contribution rates.

170 (5) (a) (i) Each participating employer participating in this system shall annually
171 submit to the office a schedule indicating the positions to be covered under this system in
172 accordance with this chapter.

173 (ii) The office may require documentation to justify the inclusion of any position under
174 this system.

175 (b) If there is a dispute between the office and a participating employer or employee
176 over any position to be covered, the disputed position shall be submitted to the Peace Officer
177 Standards and Training Council established under Section 53-6-106 for determination.

178 (c) (i) The Peace Officer Standards and Training Council's authority to decide
179 eligibility for public safety service credit is limited to claims for coverage under this system for
180 time periods after July 1, 1989.

181 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
182 to service credit earned in another system prior to July 1, 1989.

183 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
184 Standards and Training Council granting a position coverage under this system may only be
185 applied prospectively from the date of that decision.

186 (iv) A decision of the Peace Officer Standards and Training Council granting a position
187 coverage under this system may be applied retroactively only if:

188 (A) the participating employer covered other similarly situated positions under this
189 system during the time period in question; and

190 (B) the position otherwise meets all eligibility requirements for receiving service credit
191 in this system during the period for which service credit is to be granted.

192 (6) The Peace Officer Standards and Training Council may use a subcommittee to
193 provide a recommendation to the council in determining disputes between the office and a
194 participating employer or employee over a position to be covered under this system.

195 (7) The Peace Officer Standards and Training Council shall comply with Title 63G,
196 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

197 (8) A public safety service employee who is transferred or promoted to an
198 administration position not covered by this system shall continue to earn public safety service
199 credit in this system as long as the employee remains employed in the same department.

200 (9) An employee of the Department of Corrections shall continue to earn public safety
201 service credit in this system if:

202 (a) the employee's position is no longer covered under this system for new employees
203 hired on or after July 1, 2015; and

204 (b) the employee:

205 (i) remains employed by the Department of Corrections;

206 (ii) meets the eligibility requirements of this system;

207 (iii) was hired into a position covered by this system prior to July 1, 2015; and

208 (iv) has not had a break in service on or after July 1, 2015.

209 ~~[(9)]~~ (10) Any employee who is reassigned to the Department of Technology Services
210 or to the Department of Human Resource Management, and who was a member in this system,
211 shall be entitled to remain a member in this system.

212 ~~[(10)]~~ (11) (a) To determine that a position is covered under this system, the office and,
213 if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that
214 the position requires the employee to:

215 (i) place the employee's life or personal safety at risk; and

216 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

217 (b) If a position satisfies the requirements of Subsection ~~[(10)]~~ (11)(a), the office and
218 Peace Officer Standards and Training Council shall consider whether the position requires the

219 employee to:

- 220 (i) perform duties that consist primarily of actively preventing or detecting crime and
221 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
222 (ii) perform duties that consist primarily of providing community protection; and
223 (iii) respond to situations involving threats to public safety and make emergency
224 decisions affecting the lives and health of others.

225 ~~[(11)]~~ (12) If a subcommittee is used to recommend the determination of disputes to
226 the Peace Officer Standards and Training Council, the subcommittee shall comply with the
227 requirements of Subsection ~~[(10)]~~ (11) in making its recommendation.

228 ~~[(12)]~~ (13) A final order of the Peace Officer Standards and Training Council regarding
229 a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
230 Procedures Act.

231 ~~[(13)]~~ (14) Except as provided under Subsection ~~[(14)]~~ (15), if a participating
232 employer's public safety service employees are not covered by this system or under Chapter 14,
233 Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service
234 employees who may otherwise qualify for membership in this system shall, at the discretion of
235 the participating employer, remain in their current retirement system.

236 ~~[(14)]~~ (15) (a) A public safety service employee employed by an airport police
237 department, which elects to cover its public safety service employees under the Public Safety
238 Noncontributory Retirement System under Subsection ~~[(13)]~~ (14), may elect to remain in the
239 public safety service employee's current retirement system.

240 (b) The public safety service employee's election to remain in the current retirement
241 system under Subsection ~~[(14)]~~ (15)(a):

- 242 (i) shall be made at the time the employer elects to move its public safety service
243 employees to a public safety retirement system;
244 (ii) documented by written notice to the participating employer; and
245 (iii) is irrevocable.

246 ~~[(15)]~~ (16) Notwithstanding any other provision of this section, a person initially
247 entering employment with a participating employer on or after July 1, 2011, who does not have
248 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
249 may not participate in this system.