

1                                   **RETIREMENT SYSTEMS MEMBERSHIP**

2   **EXCLUSIONS**

3   2003 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Brad L. Dee**

6 **This act modifies the Utah State Retirement and Insurance Benefit Act by increasing the**  
7 **cap on the number of positions that a municipality, county, or political subdivision may**  
8 **exclude from membership in the Public Employees' Contributory Retirement System and**  
9 **the Public Employees' Noncontributory Retirement System. This act takes effect on July**  
10 **1, 2003.**

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13                   **49-12-203**, as renumbered and amended by Chapter 250, Laws of Utah 2002

14                   **49-13-203**, as renumbered and amended by Chapter 250, Laws of Utah 2002

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

16                   Section 1. Section **49-12-203** is amended to read:

17                   **49-12-203. Exclusions from membership in system.**

18                   (1) The following employees are not eligible for service credit in this system:

19                   (a) An employee whose employment status is temporary in nature due to the nature or  
20 the type of work to be performed, provided that:

21                   (i) if the term of employment exceeds six months and the employee otherwise qualifies  
22 for service credit in this system, the participating employer shall report and certify to the office  
23 that the employee is a regular full-time employee effective the beginning of the seventh month  
24 of employment; or

25                   (ii) if an employee, previously terminated prior to being eligible for service credit in  
26 this system is reemployed within three months of termination by the same participating  
27 employer, the participating employer shall report and certify that the member is a regular



28 full-time employee when the total of the periods of employment equals six months and the  
29 employee otherwise qualifies for service credit in this system.

30 (b) A full-time student, the spouse of a full-time student, or a person employed in a  
31 trainee relationship who files a formal request for exemption.

32 (c) (i) A current or future employee of a two-year or four-year college or university who  
33 holds, or is entitled to hold, under Section 49-12-204, a retirement annuity contract with the  
34 Teachers' Insurance and Annuity Association of America or with any other public or private  
35 system, organization, or company during any period in which required contributions based on  
36 compensation have been paid on behalf of the employee by the employer.

37 (ii) The employee, upon cessation of the participating employer contributions, shall  
38 immediately become eligible for service credit in this system.

39 (d) An employee serving as an exchange employee from outside the state.

40 (e) An elected official who files a formal request for exemption.

41 (f) An executive department head of the state, a member of the State Tax Commission,  
42 the Public Service Commission, and a member of a full-time or part-time board or commission  
43 who files a formal request for exemption.

44 (g) An employee of the Department of Workforce Services who is covered under  
45 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

46 (h) (i) A person appointed as a city manager or chief city administrator or another  
47 person employed by a municipality, county, or other political subdivision who is not entitled to  
48 merit or civil service protection.

49 (ii) A person eligible for exclusion under Subsection (1)(h)(i) shall file a formal request  
50 for exemption and be employed in a position designated as exempt under an employee  
51 exemption plan developed by the municipality, county, or political subdivision.

52 (2) (a) A municipality, county, or political subdivision may not exempt more than [30]  
53 50 positions or a number equal to 10% of the employees of the municipality, county, or  
54 political subdivision whichever is lesser.

55 (b) A municipality, county, or political subdivision may exempt at least one regular  
56 full-time employee.

57 (3) Each participating employer shall:

58 (a) file employee exemptions annually with the office; and

59 (b) update the employee exemptions in the event of any change.

60 (4) The office may make rules to implement this section.

61 Section 2. Section **49-13-203** is amended to read:

62 **49-13-203. Exclusions from membership in system.**

63 (1) The following employees are not eligible for service credit in this system:

64 (a) An employee whose employment status is temporary in nature due to the nature or  
65 the type of work to be performed, provided that:

66 (i) if the term of employment exceeds six months and the employee otherwise qualifies  
67 for service credit in this system, the participating employer shall report and certify to the office  
68 that the employee is a regular full-time employee effective the beginning of the seventh month  
69 of employment; and

70 (ii) if an employee, previously terminated prior to becoming eligible for service credit  
71 in this system, is reemployed within three months of termination by the same participating  
72 employer, the participating employer shall report and certify to the office that the member is a  
73 regular full-time employee when the total of the periods of employment equals six months and  
74 the employee otherwise qualifies for service credit in this system.

75 (b) A full-time student or the spouse of a full-time student and another person employed  
76 in a trainee relationship who file a formal request for exemption.

77 (c) (i) A current or future employee of a two-year or four-year college or university who  
78 holds, or is entitled to hold, under Section 49-13-204, a retirement annuity contract with the  
79 Teachers' Insurance and Annuity Association of America or with any other public or private  
80 system, organization, or company during any period in which required contributions based on  
81 compensation have been paid on behalf of the employee by the employer.

82 (ii) The employee, upon cessation of the participating employer contributions, shall  
83 immediately become eligible for service credit in this system.

84 (d) An employee serving as an exchange employee from outside the state.

85 (e) An elected official who files a formal request for exemption.

86 (f) An executive department head of the state or a legislative director, senior executive  
87 employed by the governor's office, a member of the State Tax Commission, a member of the  
88 Public Service Commission, the State Olympic Officer, and a member of a full-time or  
89 part-time board or commission who files a formal request for exemption.

90 (g) An employee of the Department of Workforce Services who is covered under  
91 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

92 (h) (i) A person appointed as a city manager or chief city administrator or another  
93 person employed by a municipality, county, or other political subdivision, who is not entitled to  
94 merit or civil service protection.

95 (ii) A person eligible for exclusion under Subsection (1)(h)(i) shall file a formal request  
96 for exemption and be employed in a position designated as exempt under an employee  
97 exemption plan developed by the municipality, county, or political subdivision.

98 (2) (a) A municipality, county, or political subdivision may not exempt more than [30]  
99 50 positions or a number equal to 10% of the employees of the municipality, county, or  
100 political subdivision, whichever is lesser.

101 (b) A municipality, county, or political subdivision may exempt at least one regular  
102 full-time employee.

103 (3) Each participating employer shall:

104 (a) file employee exemptions annually with the office; and

105 (b) update the employee exemptions in the event of any change.

106 (4) The office may make rules to implement this section.

107 **Section 3. Effective date.**

108 This act takes effect on July 1, 2003.

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**Legislative Review Note**  
**as of 1-21-03 2:10 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Retirement Systems Membership Exclusions***30-Jan-03***Bill Number HB0225***8:58 AM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

Some additional local government employees could be exempted from membership in the retirement systems.

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**Office of the Legislative Fiscal Analyst**