

**INSURANCE AND RETIREMENT FOR
CHARTER SCHOOL EMPLOYEES**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Merlynn T. Newbold

LONG TITLE

General Description:

This bill modifies the State System of Public Education Code and the Utah State Retirement and Insurance Benefit Act to amend employee benefit provisions for charter schools.

Highlighted Provisions:

This bill:

- ▶ allows a charter school applying for sponsorship to make an election of nonparticipation in the state retirement systems for its employees at the time of the application as a charter school;
- ▶ provides a window for existing charter schools to make an election of nonparticipation in the state retirement systems for its employees;
- ▶ allows a charter school discretion to select and offer employee benefit plans; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2004.

Utah Code Sections Affected:

AMENDS:

49-12-202, as renumbered and amended by Chapter 250, Laws of Utah 2002

49-13-202, as last amended by Chapter 240, Laws of Utah 2003

53A-1a-512, as last amended by Chapter 224, Laws of Utah 2000

53A-17a-125, as last amended by Chapter 320, Laws of Utah 2003

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

Section 1. Section **49-12-202** is amended to read:

49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Exceptions -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2) or (3), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) An employer not initially admitted or included as a participating employer in this system prior to January 1, 1982, may be excluded from participation in this system if:

(a) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for social security; or

(b) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date.

(3) An employer that is a charter school sponsored by the State Board of Education or a local school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 may be excluded as a participating employer.

~~[(3)]~~ (4) An employer who did not become a participating employer in this system prior to July 1, 1986, may not participate in this system.

~~[(4)]~~ (5) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.

Section 2. Section **49-13-202** is amended to read:

49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2) or (3), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to their participation in this system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.

(2) An employer not initially admitted or included as a participating employer in this system prior to January 1, 1982, may be excluded from participation in this system if:

(a) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or

(b) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date.

(3) An employer that is a charter school sponsored by the State Board of Education or a local school district that makes an election of nonparticipation in accordance with Section 53A-1a-512 shall be excluded as a participating employer.

~~[(3)]~~ (4) If an employer, except an employer that maintains a collectively bargained plan under Subsection (2)(b), elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system.

~~[(4)]~~ (5) (a) Any employer may by resolution of its governing body apply for admission to this system.

(b) Upon approval of the board, the employer is a participating employer in this system and is subject to this title.

~~[(5)]~~ (6) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former

regular full-time employees who were eligible for service credit at the time service was rendered.

Section 3. Section **53A-1a-512** is amended to read:

53A-1a-512. Employees of charter schools.

(1) A charter school shall select its own employees.

(2) The school's governing body shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (5) and (6) and under this part.

(3) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who:

(i) are licensed; or

(ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.

(b) The school's governing body shall disclose the qualifications of its teachers to the parents of its students.

(4) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.

(b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.

(5) Except as provided under Subsection (6), an employee of a charter school shall be a member of a retirement system under Title 49, Utah State Retirement and Insurance Act.

(6) (a) At the time of application for a charter school, whether sponsored by the state or a school district, a proposed charter school may make an election of nonparticipation as an employer for retirement programs under Title 49, Chapter 12, Public Employees' Contributory Retirement Act and under Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act.

(b) A charter school that was approved prior to July 1, 2004 may make an election of nonparticipation prior to December 31, 2004.

(c) An election provided under this Subsection (6):

(i) is a one-time election made at the time specified under Subsection (6)(a) or (b);

(ii) shall be documented by a resolution adopted by the governing body of the charter school;

(iii) is irrevocable; and

(iv) applies to the charter school as the employer and to all employees of the charter school.

(d) The governing body of a charter school may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

Section 4. Section **53A-17a-125** is amended to read:

53A-17a-125. Appropriation for retirement and Social Security.

(1) The employee's retirement contribution shall be 1% for employees who are under the state's contributory retirement program.

(2) The employer's contribution under the state's contributory retirement program is determined under Section 49-12-301, subject to the 1% contribution under Subsection (1).

(3) (a) The employer-employee contribution rate for employees who are under the state's noncontributory retirement program is determined under Section 49-13-301.

(b) The same contribution rate used under Subsection (3)(a) shall be used to calculate the appropriation for charter schools described under Subsection (5).

(4) (a) Money appropriated to the State Board of Education in Section 53A-17a-104 for retirement and Social Security monies shall be allocated to school districts and charter schools based on a district's or charter school's total weighted pupil units compared to the total weighted pupil units for all districts in the state.

(b) The monies needed to support retirement and Social Security shall be determined by taking the district's prior year allocation and adjusting it for:

(i) student growth;

- (ii) the percentage increase in the value of the weighted pupil unit; and
- (iii) the effect of any change in the rates for retirement, Social Security, or both.

(5) A charter school that has made an election of nonparticipation in the Utah State Retirement Systems in accordance with Section 53A-1a-512 and Title 49, Utah State Retirement and Insurance Benefit Act, shall use the funds described under this section for retirement to provide its own compensation, benefit, and retirement programs.

Section 5. **Effective date.**

This bill takes effect on July 1, 2004.