

1 **BENEFITS AMENDMENTS FOR PART-TIME**

2 **STATE EMPLOYEES**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Leonard M. Blackham**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah State Retirement and Insurance Benefit Act and the State
10 Officers and Employees Code by providing limitations on the state provided retirement,
11 medical, and dental coverage for part-time state employees.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides definitions;
- 15 ▶ makes new state employees who work less than 60 hours per pay period ineligible
16 for medical and dental coverage;
- 17 ▶ limits the state contribution towards the cost of medical and dental coverage for new
18 state employees who work less than 80 hours per pay period;
- 19 ▶ changes the average hours per week of service required for new state employees to
20 be considered full-time employees for retirement service credit purposes; and
- 21 ▶ make technical changes.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill takes effect on July 1, 2004.

26 **Utah Code Sections Affected:**

27 AMENDS:



28 **49-12-102**, as last amended by Chapter 240, Laws of Utah 2003

29 **49-13-102**, as last amended by Chapter 240, Laws of Utah 2003

30 ENACTS:

31 **67-19-42**, Utah Code Annotated 1953



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

34 Section 1. Section **49-12-102** is amended to read:

35 **49-12-102. Definitions.**

36 As used in this chapter:

37 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total amount
38 of payments made by a participating employer to a member of this system for services rendered
39 to the participating employer, including:

40 (i) bonuses;

41 (ii) cost-of-living adjustments;

42 (iii) other payments currently includable in gross income and that are subject to Social
43 Security deductions, including any payments in excess of the maximum amount subject to
44 deduction under Social Security law;

45 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
46 or other benefits authorized by federal law; and

47 (v) member contributions.

48 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
49 under Internal Revenue Code, Section 401(a)(17).

50 (c) "Compensation" does not include:

51 (i) the monetary value of remuneration paid in kind, including a residence or use of
52 equipment;

53 (ii) the cost of any employment benefits paid for by the participating employer;

54 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
55 otherwise ineligible for service credit;

56 (iv) any payments upon termination, including accumulated vacation, sick leave
57 payments, severance payments, compensatory time payments, or any other special payments; or

58 (v) any allowances or payments to a member for costs or expenses paid by the

59 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
60 housing costs, insurance costs, equipment costs, and dependent care costs.

61 (d) The executive director may determine if a payment not listed under this Subsection
62 (1) falls within the definition of compensation.

63 (2) "Final average salary" means the amount computed by averaging the highest five
64 years of annual compensation preceding retirement subject to Subsections (2)(a), (b), (c), and
65 (d).

66 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
67 compensation in any one of the years used may not exceed the previous year's compensation by
68 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
69 of the dollar during the previous year, as measured by a United States Bureau of Labor
70 Statistics Consumer Price Index average as determined by the board.

71 (b) In cases where the participating employer provides acceptable documentation to the
72 office, the limitation in Subsection (2)(a) may be exceeded if:

73 (i) the member has transferred from another agency; or

74 (ii) the member has been promoted to a new position.

75 (c) If the member retires more than six months from the date of termination of
76 employment, the member is considered to have been in service at the member's last rate of pay
77 from the date of the termination of employment to the effective date of retirement for purposes
78 of computing the member's final average salary only.

79 (d) If the member has less than five years of service credit in this system, final average
80 salary means the average annual compensation paid to the member during the full period of
81 service credit.

82 (3) "Participating employer" means an employer which meets the participation
83 requirements of Sections 49-12-201 and 49-12-202.

84 (4) (a) "Regular full-time employee" means an employee;

85 (i) whose term of employment for a participating employer contemplates continued
86 employment during a fiscal or calendar year [~~and~~];

87 (ii) (A) if the person is a state employee hired on or after July 1, 2004, whose
88 employment normally requires an average of 30 hours or more per week; or

89 (B) if Subsection (4)(a)(ii)(A) does not apply, whose employment normally requires an

90 average of 20 hours or more per week, except as modified by the board[;]; and

91 (iii) who receives benefits normally provided by the participating employer.

92 (b) "Regular full-time employee" includes:

93 (i) a teacher whose term of employment for a participating employer contemplates
94 continued employment during a school year and who teaches half-time or more or a classified
95 school employee whose employment normally requires an average of 20 hours per week or
96 more for a participating employer, regardless of benefits provided;

97 (ii) an officer, elective or appointive, who earns during the first full month of the term
98 of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-12-407;

99 (iii) a faculty member or employee of an institution of higher education who is
100 considered full-time by that institution of higher education; and

101 (iv) an individual who otherwise meets the definition of this Subsection (4) who
102 performs services for a participating employer through an employee leasing or similar
103 arrangement.

104 (5) "System" means the Public Employees' Contributory Retirement System created
105 under this chapter.

106 (6) "Years of service credit" means:

107 (a) a period, consisting of 12 full months as determined by the board;

108 (b) a period determined by the board, whether consecutive or not, during which a
109 regular full-time employee performed services for a participating employer, including any time
110 the regular full-time employee was absent on a paid leave of absence granted by a participating
111 employer or was absent in the service of the United States government on military duty as
112 provided by this chapter; or

113 (c) the regular school year consisting of not less than eight months of full-time service
114 for a regular full-time employee of an educational institution.

115 Section 2. Section **49-13-102** is amended to read:

116 **49-13-102. Definitions.**

117 As used in this chapter:

118 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total
119 amount of payments made by a participating employer to a member of this system for services
120 rendered to the participating employer, including:

- 121 (i) bonuses;
- 122 (ii) cost-of-living adjustments;
- 123 (iii) other payments currently includable in gross income and that are subject to Social
124 Security deductions, including any payments in excess of the maximum amount subject to
125 deduction under Social Security law; and
- 126 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
127 or other benefits authorized by federal law.
- 128 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
129 under Internal Revenue Code, Section 401(a)(17).
- 130 (c) "Compensation" does not include:
- 131 (i) the monetary value of remuneration paid in kind, including a residence or use of
132 equipment;
- 133 (ii) the cost of any employment benefits paid for by the participating employer;
- 134 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
135 otherwise ineligible for service credit;
- 136 (iv) any payments upon termination, including accumulated vacation, sick leave
137 payments, severance payments, compensatory time payments, or any other special payments; or
- 138 (v) any allowances or payments to a member for costs or expenses paid by the
139 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
140 housing costs, insurance costs, equipment costs, and dependent care costs.
- 141 (d) The executive director may determine if a payment not listed under this Subsection
142 (1) falls within the definition of compensation.
- 143 (2) "Final average salary" means the amount computed by averaging the highest three
144 years of annual compensation preceding retirement subject to the following:
- 145 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
146 compensation in any one of the years used may not exceed the previous year's compensation by
147 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
148 of the dollar during the previous year, as measured by a United States Bureau of Labor
149 Statistics Consumer Price Index average as determined by the board.
- 150 (b) In cases where the participating employer provides acceptable documentation to the
151 office, the limitation in Subsection (2)(a) may be exceeded if:

- 152 (i) the member has transferred from another agency; or
153 (ii) the member has been promoted to a new position.
154 (c) If the member retires more than six months from the date of termination of
155 employment and for purposes of computing the member's final average salary only, the
156 member is considered to have been in service at his last rate of pay from the date of the
157 termination of employment to the effective date of retirement.
- 158 (3) "Participating employer" means an employer which meets the participation
159 requirements of Sections 49-13-201 and 49-13-202.
- 160 (4) (a) "Regular full-time employee" means an employee;
161 (i) whose term of employment for a participating employer contemplates continued
162 employment during a fiscal or calendar year [~~and~~];
163 (ii) (A) if the person is a state employee hired on or after July 1, 2004, whose
164 employment normally requires an average of 30 hours or more per week; or
165 (B) if Subsection (4)(a)(ii)(A) does not apply, whose employment normally requires an
166 average of 20 hours or more per week, except as modified by the board[;]; and
167 (iii) who receives benefits normally provided by the participating employer.
- 168 (b) "Regular full-time employee" includes:
169 (i) a teacher whose term of employment for a participating employer contemplates
170 continued employment during a school year and who teaches half-time or more or a classified
171 school employee whose employment normally requires an average of 20 hours per week or
172 more for a participating employer, regardless of benefits provided;
173 (ii) an officer, elective or appointive, who earns during the first full month of the term
174 of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-13-407;
175 (iii) a faculty member or employee of an institution of higher education who is
176 considered full-time by that institution of higher education; and
177 (iv) an individual who otherwise meets the definition of this Subsection (4) who
178 performs services for a participating employer through an employee leasing or similar
179 arrangement.
- 180 (5) "System" means the Public Employees' Noncontributory Retirement System.
181 (6) "Years of service credit" means:
182 (a) a period, consisting of 12 full months as determined by the board;

183 (b) a period determined by the board, whether consecutive or not, during which a
184 regular full-time employee performed services for a participating employer, including any time
185 the regular full-time employee was absent on a paid leave of absence granted by a participating
186 employer or was absent in the service of the United States government on military duty as
187 provided by this chapter; or

188 (c) the regular school year consisting of not less than eight months of full-time service
189 for a regular full-time employee of an educational institution.

190 Section 3. Section **67-19-42** is enacted to read:

191 **67-19-42. Part-time state employees -- Medical and dental coverage.**

192 (1) As used in this section:

193 (a) "Employee" means any individual in a paid status employed by any department or
194 unit of Utah state government.

195 (b) "Medical and dental coverage" means coverage described under Title 49, Chapter
196 20, Public Employees' Benefit and Insurance Program Act.

197 (2) An employee in a position which normally requires working less than 60 hours per
198 pay period is ineligible for medical and dental coverage.

199 (3) For an employee in a position which normally requires working less than 80 hours
200 per pay period, the state shall pay an amount equal to 1/2 of the cost of providing group
201 medical and dental coverage for the employee only if the employee pays the amount required to
202 cover the balance of the cost of providing medical and dental coverage for:

203 (a) the employee only;

204 (b) the employee plus one dependent; or

205 (c) the employee plus two or more dependents.

206 (4) Subsections (2) and (3) do not apply to:

207 (a) an employee who was in a position which normally requires working less than 80
208 hours per pay period prior to July 1, 2004; or

209 (b) an employee who is a qualified individual with a disability working less than 80
210 hours per pay period as a reasonable accommodation under the Americans with Disabilities Act
211 of 1990.

212 Section 4. **Effective date.**

213 This bill takes effect on July 1, 2004.

Legislative Review Note

as of 2-24-04 3:35 PM

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

Office of Legislative Research and General Counsel