

**ENHANCED PUBLIC SAFETY RETIREMENT  
SYSTEMS COLA OPTION**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carlene M. Walker**

House Sponsor: John Dougall

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**LONG TITLE**

**Committee Note:**

The Retirement and Independent Entities Interim Committee recommended this bill.

**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by allowing participating employers to provide an enhanced maximum annual cost-of-living adjustment for certain public safety retirees.

**Highlighted Provisions:**

This bill:

- ▶ repeals the Public Safety Retirees' Cost-of-Living Increase Restricted Account and deposits its balance and future revenue into the public safety trust funds to fund a portion of the increase in the maximum annual cost-of-living adjustment for public safety retirees;

- ▶ for purposes of determining contribution rates, provides for additional subdivisions of the Public Safety Contributory Retirement System and the Public Safety Noncontributory Retirement System to allow for different maximum annual cost-of-living adjustments;

- ▶ provides a maximum annual cost-of-living adjustment of 4% for state agency public safety members and retirees in lieu of the current 2.5%;

- ▶ allows other participating employers the option to offer a maximum annual



28 cost-of-living adjustment of 4% for public safety members and retirees in lieu of the current  
29 2.5%;

30       ▶ allows a participating employer to make a one-time election to offer the enhanced  
31 cost-of-living adjustment, if made within a certain period of time;

32       ▶ provides certain eligibility requirements for covered employees and retirees to  
33 receive the increased benefit;

34       ▶ provides for procedures and rules to make the election and have the enhanced  
35 cost-of-living adjustment to become effective;

36       ▶ provides that the enhanced cost-of-living adjustment may not be applied to a  
37 retirement allowance already received; and

38       ▶ makes technical changes.

39 **Monies Appropriated in this Bill:**

40       None

41 **Other Special Clauses:**

42       This bill takes effect on July 1, 2008.

43 **Utah Code Sections Affected:**

44 AMENDS:

45       **49-11-902**, as enacted by Laws of Utah 2004, Chapter 262

46       **49-14-301**, as last amended by Laws of Utah 2004, Chapter 118

47       **49-14-403**, as renumbered and amended by Laws of Utah 2002, Chapter 250

48       **49-15-301**, as last amended by Laws of Utah 2004, Chapter 118

49       **49-15-403**, as renumbered and amended by Laws of Utah 2002, Chapter 250

50 REPEALS:

51       **49-11-901**, as enacted by Laws of Utah 2004, Chapter 262

52 **Uncodified Material Affected:**

53 ENACTS UNCODIFIED MATERIAL



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

56       Section 1. Section **49-11-902** is amended to read:

57       **49-11-902. Premium tax revenues -- Formula -- Deposits.**

58       (1) (a) If the premium tax revenue received by the office under Subsection

59 49-16-301(6), when calculated as a percentage of the certified contribution rate for members in  
 60 Division A and B, as defined under Section 49-16-301, exceeds the percentage of the certified  
 61 contribution rate paid to the Firefighters' Retirement Trust Fund in accordance with Subsection  
 62 49-16-301(6) on July 1, 2004, the office shall deposit the difference in the [~~Public Safety~~  
 63 ~~Retirees' Cost-of-Living Increase Restricted Account created under Section 49-11-901~~] Public  
 64 Safety Contributory Trust Fund created under Section 49-14-104 and the Public Safety  
 65 Noncontributory Retirement Trust Fund created under Section 49-15-104.

66 (b) If the premium tax revenue does not exceed the percentage of the certified  
 67 contribution rate paid to the Firefighters' Retirement Trust Fund in accordance with Subsection  
 68 49-16-301(6) on July 1, 2004 as calculated under Subsection (1)(a), the board may not make a  
 69 deposit under Subsection (1)(a).

70 (2) The monies deposited under this section shall be used to fund an increase for  
 71 retirees in the public safety retirement systems from a 2.5% maximum annual cost-of-living  
 72 adjustment to a 4% maximum annual cost-of-living adjustment under Sections 49-14-403 and  
 73 49-15-403 in the public safety retirement systems.

74 [~~(2) The~~] (3) As required to implement this section, the office shall make the  
 75 calculations[;] and deposits for the equitable apportionment of monies between:

76 (a) Division [A and B;] A1 and B1; and [deposits required to implement this section:]

77 (b) the contributory and noncontributory trust funds.

78 Section 2. Section **49-14-301** is amended to read:

79 **49-14-301. Contributions -- Two divisions -- Election by employer to pay**  
 80 **employee contributions -- Accounting for and vesting of member contributions --**  
 81 **Deductions.**

82 (1) Participating employers and members shall jointly pay the certified contribution  
 83 rates to the office to maintain this system on a financially and actuarially sound basis.

84 (2) For purposes of determining contribution rates, this system is divided into two  
 85 divisions according to Social Security coverage as follows:

86 (a) members of this system with on-the-job Social Security coverage are in Division A;  
 87 and

88 (b) members of this system without on-the-job Social Security coverage are in Division  
 89 B.

90 (3) In addition to the divisions under Subsection (2) and for the purpose of determining  
91 contribution rates, each division under Subsection (2) is further divided as follows:

92 (a) members of this system with a maximum annual cost-of-living adjustment under  
93 Subsection 49-14-403(2)(b) are in Divisions A1 and B1; and

94 (b) members of this system with a maximum annual cost-of-living adjustment under  
95 Subsection 49-14-403(2)(a) are in Divisions A2 and B2.

96 [~~3~~] (4) (a) A participating employer may elect to pay all or part of the required  
97 member contributions, in addition to the required participating employer contributions.

98 (b) Any amount contributed by a participating employer under this section shall vest to  
99 the member's benefit as though the member had made the contribution.

100 (c) The required member contributions shall be reduced by the amount that is paid by  
101 the participating employer.

102 [~~4~~] (5) (a) All member contributions are credited by the office to the account of the  
103 individual member.

104 (b) This amount, plus refund interest, is held in trust for the payment of benefits to the  
105 member or the member's beneficiaries.

106 (c) All member contributions are vested and nonforfeitable.

107 [~~5~~] (6) (a) Each member is considered to consent to payroll deductions of member  
108 contributions.

109 (b) The payment of compensation less these payroll deductions is considered full  
110 payment for services rendered by the member.

111 [~~6~~] (7) Contribution rates for a participating employer may be different than for other  
112 participating employers based on the participating employer's current funding status and  
113 actuarial experience.

114 Section 3. Section **49-14-403** is amended to read:

115 **49-14-403. Annual cost-of-living adjustment.**

116 (1) The office shall make an annual cost-of-living adjustment to:

117 (a) an original allowance paid under Section 49-14-402 and Part 5, Death Benefit, of  
118 this chapter if the allowance has been paid for at least one year; and

119 (b) an original payment made to an alternate payee under a domestic relations order, if  
120 the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

121 (2) (a) ~~[The]~~ Unless Subsection (2)(b) applies, the original allowance shall be increased  
122 by the annual increase in the Consumer Price Index up to a maximum of 2.5%.

123 (b) If the participating employer has made an election under Subsection (5), and in lieu  
124 of the annual increase under Subsection (2)(a), the original allowance shall be increased by the  
125 annual increase in the Consumer Price Index up to a maximum of 4%.

126 ~~[(b)]~~ (c) Annual increases in the Consumer Price Index in excess of ~~[2.5%]~~ the  
127 applicable maximum annual increase under this Subsection (2), shall be accumulated and used  
128 in subsequent adjustments when the annual increase in the Consumer Price Index is less than  
129 ~~[2.5%]~~ the applicable maximum annual increase under this Subsection (2).

130 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
131 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

132 (4) The cost-of-living adjustment made under this section may not decrease the  
133 allowance.

134 (5) (a) A participating employer may make a one-time election to provide the annual  
135 cost-of-living adjustment under Subsection (2)(b), in lieu of the annual cost-of-living  
136 adjustment under Subsection (2)(a), for the participating employer's current and future retirees.

137 (b) A participating employer shall make the election under this Subsection (5), prior to  
138 December 1, 2009.

139 (c) The participating employer shall indicate whether or not it elects to participate in  
140 this benefit by enacting a resolution or ordinance to that effect and making an application to the  
141 office.

142 (d) The effective date for the annual cost-of-living adjustment under Subsection (2)(b)  
143 is January 1 of the year following an election under Subsection (5)(a).

144 (e) Notwithstanding the election provided under this section, the state, as a  
145 participating employer, shall provide the annual cost-of-living adjustment under Subsection  
146 (2)(b) to its eligible employees and retirees effective on January 1, 2009.

147 (6) (a) To be eligible for the annual cost-of-living adjustment under Subsection (2)(b),  
148 a retiring employee shall earn the final 72 months of service credit prior to initial retirement:

149 (i) as an employee of a participating employer who:

150 (A) has made the election under Subsection (5)(a); or

151 (B) is included under Subsection (5)(e); and

152 (ii) in a covered position under Title 49, Chapter 14, Public Safety Contributory  
153 Retirement System Act or under Title 49, Chapter 15, Public Safety Noncontributory  
154 Retirement System Act.

155 (b) The eligibility requirements under Subsection (6)(a)(i), do not apply to a person  
156 who retires prior to July 1, 2008.

157 (c) The annual cost-of-living adjustment under Subsection (2)(b) may not be paid to a  
158 retiree who is not eligible under this Subsection (6).

159 (7) An allowance adjustment made under Subsections (2)(b) and (5) may not be paid  
160 prior to the effective date of the enhanced cost-of-living adjustment for the participating  
161 employer.

162 (8) The board may adopt rules for:

163 (a) the administration of the election provided under Subsection (5); and

164 (b) the effective date of the enhanced cost-of-living adjustment for participating  
165 employers.

166 Section 4. Section **49-15-301** is amended to read:

167 **49-15-301. Contributions -- Two divisions.**

168 (1) Participating employers shall pay the certified contribution rates to the office to  
169 maintain this system on a financially and actuarially sound basis.

170 (2) For purposes of determining contribution rates, this system is divided into two  
171 divisions according to Social Security coverage[-:];

172 (a) members of this system with on-the-job Social Security coverage are Division A[-:];  
173 and

174 (b) members of this system without on-the-job Social Security coverage are in Division  
175 B.

176 (3) In addition to the divisions under Subsection (2) and for the purposes of  
177 determining contribution rates, each division under Subsection (2) is further divided as follows:

178 (a) members of this system with an annual cost-of-living adjustment under Subsection  
179 49-15-403(2)(b) are in Divisions A1 and B1; and

180 (b) members of this system with an annual cost-of-living adjustment under Subsection  
181 49-15-403(2)(a) are in Divisions A2 and B2.

182 [~~3~~] (4) Contribution rates for a participating employer may be different than for other

183 participating employers based on the participating employer's current funding status and  
184 actuarial experience.

185 Section 5. Section **49-15-403** is amended to read:

186 **49-15-403. Annual cost-of-living adjustment.**

187 (1) The office shall make an annual cost-of-living adjustment to:

188 (a) an original allowance paid under Section 49-15-402 and Part 5, Death Benefit, of  
189 this chapter if the allowance has been paid for at least one year; and

190 (b) an original payment made to an alternate payee under a domestic relations order if  
191 the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

192 (2) (a) ~~[The]~~ Unless Subsection (2)(b) applies, the original allowance shall be increased  
193 by the annual increase in the Consumer Price Index up to a maximum of 2.5%.

194 (b) If the participating employer has made an election under Subsection (5), and in lieu  
195 of the annual increase under Subsection (2)(a), the original allowance shall be increased by the  
196 annual increase in the Consumer Price Index up to a maximum of 4%.

197 ~~[(b)]~~ (c) Annual increases in the Consumer Price Index in excess of ~~[2.5%]~~ the  
198 applicable maximum annual increase under this Subsection (2), shall be accumulated and used  
199 in subsequent adjustments when the annual increase in the Consumer Price Index is less than  
200 ~~[2.5%]~~ the applicable maximum annual increase under this Subsection (2).

201 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
202 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

203 (4) The cost-of-living adjustment made under this section may not decrease the  
204 allowance.

205 (5) (a) A participating employer may make a one-time election to provide the annual  
206 cost-of-living adjustment under Subsection (2)(b), in lieu of the annual cost-of-living  
207 adjustment under Subsection (2)(a), for the participating employer's current and future retirees.

208 (b) A participating employer shall make the election under this Subsection (5), prior to  
209 December 1, 2009.

210 (c) The participating employer shall indicate whether or not it elects to participate in  
211 this benefit by enacting a resolution or ordinance to that effect and making an application to the  
212 office.

213 (d) The effective date for the annual cost-of-living adjustment under Subsection (2)(b)

214 is January 1 of the year following an election under Subsection (5)(a).

215 (e) Notwithstanding the election provided under this section, the state, as a  
216 participating employer, shall provide the annual cost-of-living adjustment under Subsection  
217 (2)(b) to its eligible employees and retirees effective on January 1, 2009.

218 (6) (a) To be eligible for the annual cost-of-living adjustment under Subsection (2)(b),  
219 a retiring employee shall earn the final 72 months of service credit prior to initial retirement  
220 effective on January 1, 2009:

221 (i) as an employee of a participating employer who:

222 (A) has made the election under Subsection (5)(a); or

223 (B) is included under Subsection (5)(e); and

224 (ii) in a covered position under Title 49, Chapter 14, Public Safety Contributory  
225 Retirement System Act or under Title 49, Chapter 15, Public Safety Noncontributory  
226 Retirement System Act.

227 (b) The eligibility requirements under Subsection (6)(a)(i), do not apply to a person  
228 who retires prior to July 1, 2008.

229 (c) The annual cost-of-living adjustment under Subsection (2)(b) may not be paid to a  
230 retiree who is not eligible under this Subsection (6).

231 (7) An allowance adjustment made under Subsections (2)(b) and (5) may not be paid  
232 prior to the effective date of the enhanced cost-of-living adjustment for the participating  
233 employer.

234 (8) The board may adopt rules for:

235 (a) the administration of the election provided under Subsection (5); and

236 (b) the effective date of the enhanced cost-of-living adjustment for participating  
237 employers.

238 **Section 6. Deposit of remaining account balance.**

239 Any balance remaining in the Public Safety Retirees' Cost-of-Living Increase Restricted  
240 Account created under the former Section 49-11-901 on June 30, 2008, shall be deposited as  
241 provided under Section 49-11-902 on July 1, 2008.

242 **Section 7. Repealer.**

243 This bill repeals:

244 **Section 49-11-901, Public Safety Retirees' Cost-of-Living Increase Restricted**

245 **Account.**

246 Section 8. **Effective date.**

247 This bill takes effect on July 1, 2008.

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**Legislative Review Note**  
as of 11-14-07 12:53 PM

**Office of Legislative Research and General Counsel**

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**S.B. 19 - Enhanced Public Safety Retirement Systems Cola Option**

**Fiscal Note**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this bill will cause retirement contribution rates to increase for all current employees covered by the public safety retirement plans. This require an appropriation of approximately \$3.2 million distributed to state agencies that employ individuals covered by these plans.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$2,923,500	\$2,923,500	\$0	\$0	\$0
Transportation Fund	\$0	\$1,200	\$1,200	\$0	\$0	\$0
Federal Funds	\$0	\$18,000	\$18,000	\$0	\$0	\$0
Dedicated Credits	\$0	\$68,800	\$68,800	\$0	\$0	\$0
Restricted Funds	\$0	\$161,300	\$161,300	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$3,172,800</b>	<b>\$3,172,800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill will affect local governments if they make a one-time election to offer the enhanced cost-of-living adjustment. Retirement rates for employees who are covered by this election would see an increase in contribution rates between 2.21 and 3.38 percentage points. The individual impact on local employers and employees who make the one-time election will vary based on whether or not employees pay a portion of their pension contributions.