

COUNTY HOSPITAL RETIREMENT

PROVISIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act to allow certain employers and employees to be excluded from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System.

Highlighted Provisions:

This bill:

▶ allows an employer that is a hospital created as a special service district to elect to be excluded from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System under certain circumstances;

▶ provides procedures for the exclusion;

▶ excludes new and existing employees of a special service district hospital from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System under certain circumstances; and

▶ makes technical changes.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **49-12-202**, as last amended by Laws of Utah 2005, Chapter 71

33 **49-12-203**, as last amended by Laws of Utah 2008, Chapter 335

34 **49-13-202**, as last amended by Laws of Utah 2005, Chapter 71

35 **49-13-203**, as last amended by Laws of Utah 2008, Chapter 335



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

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

39 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
40 **requirements -- Exceptions -- Nondiscrimination requirements.**

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

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

46 (2) The following employers may be excluded from participation in this system:

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

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

52 [~~(b)~~] (ii) the employer offers another collectively bargained retirement benefit and has
53 continued to do so on an uninterrupted basis since that date[~~;~~];

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

57 (c) an employer that is a hospital created as a special service district under Title 17D,
58 Chapter 1, Special Service District Act, that makes an election of nonparticipation in

59 accordance with Subsection (4).

60 [~~(4)~~] (3) An employer who did not become a participating employer in this system
61 prior to July 1, 1986, may not participate in this system.

62 (4) (a) Until June 30, 2009, a employer that is a hospital created as a special service
63 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
64 nonparticipation as an employer for retirement programs under this chapter.

65 (b) An election provided under Subsection (4)(a):

66 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

67 (ii) shall be documented by a resolution adopted by the governing body of the special
68 service district;

69 (iii) is irrevocable; and

70 (iv) applies to the special service district as the employer and to all employees of the
71 special service district.

72 (c) The governing body of the special service district may offer employee benefit plans
73 for its employees:

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

75 or

76 (ii) under any other program.

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

82 Section 2. Section **49-12-203** is amended to read:

83 **49-12-203. Exclusions from membership in system.**

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

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

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

90 of employment; or

91 (ii) if an employee, previously terminated prior to being eligible for service credit in
92 this system is reemployed within three months of termination by the same participating
93 employer, the participating employer shall report and certify that the member is a regular
94 full-time employee when the total of the periods of employment equals six months and the
95 employee otherwise qualifies for service credit in this system.

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

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

103 (c) An employee serving as an exchange employee from outside the state.

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

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

109 (f) (i) An employee who is employed on or after July 1, 2009 with an employer that has
110 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection
111 49-12-202(2)(c).

112 (ii) Notwithstanding the provisions of this Subsection (1)(f), any eligibility for service
113 credit earned by an employee under this chapter before July 1, 2009 is not affected under this
114 Subsection (1)(f).

115 (2) Upon filing a written request for exemption with the office, the following
116 employees shall be exempt from coverage under this system:

117 (a) a full-time student or the spouse of a full-time student and individuals employed in
118 a trainee relationship;

119 (b) an elected official;

120 (c) an executive department head of the state, a member of the State Tax Commission,

121 a member of the Public Service Commission, and a member of a full-time or part-time board or
122 commission;

123 (d) an employee of the Governor's Office of Planning and Budget;

124 (e) an employee of the Governor's Office of Economic Development;

125 (f) an employee of the Commission on Criminal and Juvenile Justice;

126 (g) an employee of the Governor's Office;

127 (h) an employee of the State Auditor's Office;

128 (i) an employee of the State Treasurer's Office;

129 (j) any other member who is permitted to make an election under Section 49-11-406;

130 (k) a person appointed as a city manager or chief city administrator or another person
131 employed by a municipality, county, or other political subdivision, who is an at-will employee;
132 and

133 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
134 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
135 membership in a labor organization that provides retirement benefits to its members.

136 (3) (a) Each participating employer shall prepare a list designating those positions
137 eligible for exemption under Subsection (2).

138 (b) An employee may not be exempted unless the employee is employed in a position
139 designated by the participating employer.

140 (4) (a) In accordance with this section, a municipality, county, or political subdivision
141 may not exempt more than 50 positions or a number equal to 10% of the employees of the
142 municipality, county, or political subdivision whichever is lesser.

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

145 (5) Each participating employer shall:

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

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

148 (6) The office may make rules to implement this section.

149 Section 3. Section **49-13-202** is amended to read:

150 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
151 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

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

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

157 (2) The following employers may be excluded from participation in this system:

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

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

163 [~~(b)~~] (ii) the employer offers another collectively bargained retirement benefit and has
164 continued to do so on an uninterrupted basis since that date[~~;~~];

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

168 (c) an employer that is a hospital created as a special service district under Title 17D,
169 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
170 accordance with Subsection (5).

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

176 [~~(5)~~] (4) (a) [~~Any~~] An employer may, by resolution of its governing body, apply for
177 admission to this system.

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

180 (5) (a) Until June 30, 2009, a employer that is a hospital created as a special service
181 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
182 nonparticipation as an employer for retirement programs under this chapter.

- 183 (b) An election provided under Subsection (5)(a):
- 184 (i) is a one-time election made no later than the time specified under Subsection (5)(a);
- 185 (ii) shall be documented by a resolution adopted by the governing body of the special
- 186 service district;
- 187 (iii) is irrevocable; and
- 188 (iv) applies to the special service district as the employer and to all employees of the
- 189 special service district.

190 (c) The governing body of the special service district may offer employee benefit plans
191 for its employees:

- 192 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;
- 193 or
- 194 (ii) under any other program.

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

200 Section 4. Section **49-13-203** is amended to read:

201 **49-13-203. Exclusions from membership in system.**

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

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

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

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

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

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

221 (c) An employee serving as an exchange employee from outside the state.

222 (d) An executive department head of the state or a legislative director, senior executive
223 employed by the governor's office, a member of the State Tax Commission, a member of the
224 Public Service Commission, and a member of a full-time or part-time board or commission
225 who files a formal request for exemption.

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

228 (f) (i) An employee who is employed on or after July 1, 2009 with an employer that has
229 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection
230 49-13-202(2)(c).

231 (ii) Notwithstanding the provisions of this Subsection (1)(f), any eligibility for service
232 credit earned by an employee under this chapter before July 1, 2009 is not affected under this
233 Subsection (1)(f).

234 (2) Upon filing a written request for exemption with the office, the following
235 employees shall be exempt from coverage under this system:

236 (a) a full-time student or the spouse of a full-time student and individuals employed in
237 a trainee relationship;

238 (b) an elected official;

239 (c) an executive department head of the state, a member of the State Tax Commission,
240 a member of the Public Service Commission, and a member of a full-time or part-time board or
241 commission;

242 (d) an employee of the Governor's Office of Planning and Budget;

243 (e) an employee of the Governor's Office of Economic Development;

244 (f) an employee of the Commission on Criminal and Juvenile Justice;

- 245 (g) an employee of the Governor's Office;
- 246 (h) an employee of the State Auditor's Office;
- 247 (i) an employee of the State Treasurer's Office;
- 248 (j) any other member who is permitted to make an election under Section 49-11-406;
- 249 (k) a person appointed as a city manager or chief city administrator or another person
- 250 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 251 and
- 252 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
- 253 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
- 254 membership in a labor organization that provides retirement benefits to its members.
- 255 (3) (a) Each participating employer shall prepare a list designating those positions
- 256 eligible for exemption under Subsection (2).
- 257 (b) An employee may not be exempted unless the employee is employed in a position
- 258 designated by the participating employer.
- 259 (4) (a) In accordance with this section, a municipality, county, or political subdivision
- 260 may not exempt more than 50 positions or a number equal to 10% of the employees of the
- 261 municipality, county, or political subdivision, whichever is lesser.
- 262 (b) A municipality, county, or political subdivision may exempt at least one regular
- 263 full-time employee.
- 264 (5) Each participating employer shall:
- 265 (a) file employee exemptions annually with the office; and
- 266 (b) update the employee exemptions in the event of any change.
- 267 (6) The office may make rules to implement this section.

Legislative Review Note
as of 2-12-09 11:02 AM

Office of Legislative Research and General Counsel

H.B. 167 - County Hospital Retirement Provisions

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
