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**EMPLOYER ELECTION RETIREMENT
AMENDMENTS**

2009 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Curtis S. Bramble
House Sponsor: John Dougall

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by adding a conversion window for certain employees to elect to participate in the Public Employees' Noncontributory Retirement System and by extending the date by which certain participating employers may elect to provide an enhanced maximum annual cost-of-living adjustment for certain public safety retirees.

Highlighted Provisions:

This bill:

- ▶ adds a six-month window for employers of an entity created under the Interlocal Cooperation Act to elect to participate in the Public Employees' Noncontributory Retirement System;
- ▶ provides election and notice procedures for the retirement system conversion election;
- ▶ allows employees of the eligible entity six months to elect to participate in the Public Employees' Noncontributory Retirement System;
- ▶ extends the deadline that a participating employer may elect to provide a maximum 4% COLA, instead of a maximum 2.5% COLA, to its eligible public safety retirees from December 1, 2009 to December 1, 2012; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **49-13-205**, as last amended by Laws of Utah 2005, Chapter 116

35 **49-14-403**, as last amended by Laws of Utah 2008, Chapter 227

36 **49-15-403**, as last amended by Laws of Utah 2008, Chapter 227



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

39 Section 1. Section **49-13-205** is amended to read:

40 **49-13-205. Conversion to system -- Time schedule -- Conversion windows.**

41 (1) An employee governed under Section 49-13-201 shall make the election to
42 participate in this system within six months of July 1, 1986.

43 (2) (a) (i) An employer governed under Sections 49-13-201 and 49-13-202 shall make
44 the election to participate in this system within six months of July 1, 1986.

45 (ii) The employer shall indicate whether or not it elects to participate by enacting a
46 resolution or ordinance to that effect.

47 (iii) Prior to the enactment of the resolution or ordinance, a hearing shall be held by
48 the employer, at which all employees of the political subdivision shall be given an opportunity
49 to be heard on the question of participating in this system.

50 (iv) Notice of the hearing shall be mailed to all employees within 30 days of the
51 hearing and shall contain the time, place, and purpose of the hearing.

52 (b) A regular full-time employee has six months from the date the employer elects to
53 participate in this system in which to make the election to participate in this system and
54 become eligible for service credit in this system.

55 (3) Subsections (1) and (2) shall be used to provide a second time period of conversion
56 to this system beginning July 1, 1990.

57 (4) Subsections (1) and (2) shall be used to provide a third time period of conversion

58 to this system beginning July 1, 1995.

59 (5) Subsection (2) shall be used to provide a fourth time period of conversion to this
60 system beginning July 1, 2009 for an entity created under the authority of Title 11, Chapter 13,
61 Interlocal Cooperation Act, and the entity's employees.

62 [~~5~~] (6) A member of the Contributory Retirement System who is employed by one
63 agency and who either transfers to or is reemployed by another agency shall be enrolled in the
64 Noncontributory Retirement System as of the date of employment, if the participating
65 employer has elected to participate in the Noncontributory Retirement System.

66 Section 2. Section **49-14-403** is amended to read:

67 **49-14-403. Annual cost-of-living adjustment -- Enhanced adjustment --**
68 **Eligibility.**

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

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

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

74 (2) (a) Unless Subsection (2)(b) applies, the original allowance shall be increased by
75 the annual increase in the Consumer Price Index up to a maximum of 2.5%.

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

79 (c) Annual increases in the Consumer Price Index in excess of the applicable
80 maximum annual increase under this Subsection (2), shall be accumulated and used in
81 subsequent adjustments when the annual increase in the Consumer Price Index is less than the
82 applicable maximum annual increase under this Subsection (2).

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

85 (4) The cost-of-living adjustment made under this section may not decrease the

86 allowance.

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

90 (b) A participating employer shall make the election under this Subsection (5) prior to
91 December 1, [~~2009~~] 2012.

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

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

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

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

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

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

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

105 (ii) in a covered position under Title 49, Chapter 14, Public Safety Contributory
106 Retirement System Act or under Title 49, Chapter 15, Public Safety Noncontributory
107 Retirement System Act.

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

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

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

114 employer.

115 (8) The board may adopt rules for:

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

117 (b) the effective date of the enhanced cost-of-living adjustment for participating

118 employers.

119 Section 3. Section **49-15-403** is amended to read:

120 **49-15-403. Annual cost-of-living adjustment.**

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

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

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

126 (2) (a) Unless Subsection (2)(b) applies, the original allowance shall be increased by
127 the annual increase in the Consumer Price Index up to a maximum of 2.5%.

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

131 (c) Annual increases in the Consumer Price Index in excess of the applicable
132 maximum annual increase under this Subsection (2), shall be accumulated and used in
133 subsequent adjustments when the annual increase in the Consumer Price Index is less than the
134 applicable maximum annual increase under this Subsection (2).

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

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

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

142 (b) A participating employer shall make the election under this Subsection (5) prior to
143 December 1, [~~2009~~] 2012.

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

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

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

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

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

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

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

158 (ii) in a covered position under Title 49, Chapter 14, Public Safety Contributory
159 Retirement System Act or under Title 49, Chapter 15, Public Safety Noncontributory
160 Retirement System Act.

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

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

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

168 (8) The board may adopt rules for:

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

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