



28 **Monies Appropriated in this Bill:**

29 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 the  
48 employer, at which all employees of the political subdivision shall be given an opportunity to  
49 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 to  
58 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 employer  
65 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 lieu  
77 of the annual increase under Subsection (2)(a), the original allowance shall be increased by the  
78 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 maximum  
80 annual increase under this Subsection (2), shall be accumulated and used in subsequent  
81 adjustments when the annual increase in the Consumer Price Index is less than the applicable  
82 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 the  
94 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 who  
109 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 lieu
- 129 of the annual increase under Subsection (2)(a), the original allowance shall be increased by the
- 130 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 maximum
- 132 annual increase under this Subsection (2), shall be accumulated and used in subsequent
- 133 adjustments when the annual increase in the Consumer Price Index is less than the applicable
- 134 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 the
- 146 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 who  
162 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.

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**Legislative Review Note**  
**as of 1-12-09 10:56 AM**

**Office of Legislative Research and General Counsel**

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**S.B. 139 - Employer Election Retirement Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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