

PUBLIC EMPLOYEES' LONG-TERM DISABILITY ACT

AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill amends the Public Employees' Long-term Disability Act.

Highlighted Provisions:

This bill:

- clarifies the definition of long term disability.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-21-102, as last amended by Laws of Utah 2011, Chapters 366 and 439

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

Section 1. Section **49-21-102** is amended to read:

49-21-102. Definitions.

As used in this chapter:

(1) "Date of disability" means the date on which a period of continuous disability commences, and may not commence on or before the last day of actual work.

(2) (a) "Eligible employee" means the following employee whose employer provides coverage under this chapter:

30 (i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102,
31 or 49-22-102;

32 (B) any public safety service employee as defined under Section 49-14-102, 49-15-102,
33 or 49-23-102;

34 (C) any firefighter service employee or volunteer firefighter as defined under Section
35 49-23-102 who began firefighter service on or after July 1, 2011;

36 (D) any judge as defined under Section 49-17-102 or 49-18-102; or

37 (E) the governor of the state;

38 (ii) an employee who is exempt from participating in a retirement system under
39 Subsection 49-12-203(2), 49-13-203(2), 49-14-203(1), or 49-15-203(1); and

40 (iii) an employee who is covered by a retirement program offered by the Teachers'
41 Insurance and Annuity Association of America.

42 (b) "Eligible employee" does not include:

43 (i) any employee that is exempt from coverage under Section 49-21-201; or

44 (ii) a retiree.

45 (3) "Elimination period" means the three months at the beginning of each continuous
46 period of total disability for which no benefit will be paid. The elimination period begins on
47 the nearest first day of the month from the date of disability. The elimination period may
48 include a one-time trial return to work period of less than 15 consecutive calendar days.

49 (4) "Maximum benefit period" means the maximum period of time the monthly
50 disability income benefit will be paid under Section 49-21-403 for any continuous period of
51 total disability.

52 (5) "Monthly disability benefit" means the monthly payments and accrual of service
53 credit under Section 49-21-401.

54 (6) "Objective medical impairment" means an impairment resulting from an injury or
55 illness which is diagnosed by a physician and which is based on accepted objective medical
56 tests or findings rather than subjective complaints.

57 (7) "Physician" means a licensed physician.

58 (8) "Regular monthly salary" means the amount certified by the participating employer
59 as the monthly salary of the eligible employee, unless there is a discrepancy between the
60 certified amount and the amount actually paid, in which case the office shall determine the
61 regular monthly salary.

62 (9) "Regular occupation" means either the primary duties performed by the eligible
63 employee for the 12 months preceding the date of disability, or a permanent assignment of duty
64 to the eligible employee.

65 (10) "Rehabilitative employment" means any occupation or employment for wage or
66 profit, for which the eligible employee is reasonably qualified to perform based on education,
67 training, or experience.

68 (11) (a) "Total disability" means the complete inability, due to objective medical
69 impairment, whether physical or mental, to engage in the eligible employee's regular
70 occupation during the elimination period and the first 24 months of disability benefits.

71 (b) (i) "Total disability" means, after the elimination period and the first 24 months of
72 disability benefits, the complete inability, [~~based solely on physical objective medical~~
73 ~~impairment,~~] as determined under Subsection (11)(b)(ii), to engage in any gainful occupation
74 which is reasonable, considering the eligible employee's education, training, and experience.

75 (ii) For purposes of Subsection (11)(b)(i), inability is determined:

76 (A) based solely on physical objective medical impairment; and

77 (B) regardless of the existence or absence of any mental impairment.