

**RETIREMENT AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lee B. Perry**

Senate Sponsor: John L. Valentine

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**LONG TITLE**

**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions for postretirement reemployment.

**Highlighted Provisions:**

This bill:

- ▶ allows a reemployed retiree to be considered as having completed the one-year separation requirement from a participating employer, if the retiree:
  - suffered an injury while performing the duties of employment as a public safety service employee, which resulted in the inability to perform the duties of the employment; and
  - is reemployed with a different participating employer; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**49-11-505**, as last amended by Laws of Utah 2013, Chapter 48

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

29 Section 1. Section **49-11-505** is amended to read:

30 **49-11-505. Reemployment of a retiree -- Restrictions.**

31 (1) (a) For purposes of this section, "retiree":

32 (i) means a person who:

33 (A) retired from a participating employer; and

34 (B) begins reemployment on or after July 1, 2010, with a participating employer;

35 (ii) does not include a person:

36 (A) who was reemployed by a participating employer before July 1, 2010; and

37 (B) whose participating employer that reemployed the person under Subsection

38 (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with  
39 Section [49-11-621](#) after July 1, 2010; and

40 (iii) does not include a person who is reemployed as an active senior judge appointed  
41 to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah  
42 Constitution.

43 (b) (i) This section does not apply to employment as an elected official if the elected  
44 official's position is not full time as certified by the participating employer.

45 (ii) The provisions of this section apply to an elected official whose elected position is  
46 full time as certified by the participating employer.

47 (2) A retiree may not for the same period of reemployment:

48 (a) (i) earn additional service credit; or

49 (ii) receive any retirement related contribution from a participating employer; and

50 (b) receive a retirement allowance.

51 (3) (a) Except as provided under Subsection (3)(b) or (10), the office shall cancel the  
52 retirement allowance of a retiree if the reemployment with a participating employer begins  
53 within one year of the retiree's retirement date.

54 (b) The office may not cancel the retirement allowance of a retiree who is reemployed  
55 with a participating employer within one year of the retiree's retirement date if:

56 (i) the retiree is not reemployed by a participating employer for a period of at least 60  
57 days from the retiree's retirement date;

58 (ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree

59 does not receive any employer provided benefits, including:

60 (A) medical benefits;

61 (B) dental benefits;

62 (C) other insurance benefits except for workers' compensation as provided under Title  
63 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state  
64 law for Social Security, Medicare, and unemployment insurance; or

65 (D) paid time off, including sick, annual, or other type of leave; and

66 (iii) the retiree does not earn in any calendar year of reemployment an amount in excess  
67 of the lesser of:

68 (A) \$15,000; or

69 (B) one-half of the retiree's final average salary upon which the retiree's retirement  
70 allowance is based.

71 (c) Beginning January 1, 2013, the board shall adjust the amount under Subsection  
72 (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar  
73 year as measured by a United States Bureau of Labor Statistics Consumer Price Index average  
74 as determined by the board.

75 (d) The office shall cancel the retirement allowance of a retiree for the remainder of the  
76 calendar year if the reemployment with a participating employer exceeds the limitations under  
77 Subsection (3)(b)(iii).

78 (e) If a retiree is reemployed under the provisions of Subsection (3)(b), the termination  
79 date of the reemployment, as confirmed in writing by the participating employer, is considered  
80 the retiree's retirement date for the purpose of calculating the separation requirement under  
81 Subsection (3)(a).

82 (4) If a reemployed retiree has completed the one-year separation from employment  
83 with a participating employer required under Subsection (3)(a), the retiree may elect to:

84 (a) earn additional service credit in accordance with this title and cancel the retiree's  
85 retirement allowance; or

86 (b) continue to receive the retiree's retirement allowance and forfeit any retirement  
87 related contribution from the participating employer who reemployed the retiree.

88 (5) A participating employer who reemploys a retiree shall contribute to the office the  
89 amortization rate, as defined in Section 49-11-102, to be applied to the system that would have

90 covered the retiree, if the reemployed retiree:

91 (a) has completed the one-year separation from employment with a participating  
92 employer required under Subsection (3)(a); and

93 (b) makes an election under Subsection (4)(b) to continue to receive a retirement  
94 allowance while reemployed.

95 (6) (a) A participating employer shall immediately notify the office:

96 (i) if the participating employer reemploys a retiree;

97 (ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

98 (iii) of any election by the retiree under Subsection (4).

99 (b) A participating employer shall certify to the office whether the position of an  
100 elected official is or is not full time.

101 (c) A participating employer is liable to the office for a payment or failure to make a  
102 payment in violation of this section.

103 (d) If a participating employer fails to notify the office in accordance with this section,  
104 the participating employer is immediately subject to a compliance audit by the office.

105 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in  
106 accordance with Subsection (7)(b) if the office receives notice or learns of:

107 (i) the reemployment of a retiree in violation of Subsection (3); or

108 (ii) the election of a reemployed retiree under Subsection (4)(a).

109 (b) If the retiree is eligible for retirement coverage in the reemployed position, the  
110 office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the  
111 retiree to active member status on the first day of the month following the date of:

112 (i) reemployment if the retiree is subject to Subsection (3); or

113 (ii) an election by an employee under Subsection (4)(a).

114 (c) If the retiree is not otherwise eligible for retirement coverage in the reemployed  
115 position:

116 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

117 (ii) the participating employer shall pay the amortization rate to the office on behalf of  
118 the retiree.

119 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date  
120 of reemployment:

- 121 (i) is not entitled to a recalculated retirement benefit; and
- 122 (ii) will resume the allowance that was being paid at the time of cancellation.
- 123 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under
- 124 Subsection (7) and who retires two or more years after the date of reinstatement to active
- 125 membership shall:
  - 126 (i) resume receiving the allowance that was being paid at the time of cancellation; and
  - 127 (ii) receive an additional allowance based on the formula in effect at the date of the
  - 128 subsequent retirement for all service credit accrued between the first and subsequent retirement
  - 129 dates.
- 130 (9) (a) A retiree subject to this section shall report to the office the status of the
- 131 reemployment under Subsection (3) or (4).
  - 132 (b) If the retiree fails to inform the office of an election under Subsection (4), the office
  - 133 shall withhold one month's benefit for each month the retiree fails to inform the office under
  - 134 Subsection (9)(a).
- 135 (10) A retiree shall be considered as having completed the one-year separation from
- 136 employment with a participating employer required under Subsection (3)(a), if the retiree:
  - 137 (a) before retiring:
    - 138 (i) was employed with a participating employer as a public safety service employee as
    - 139 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);
    - 140 (ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury
    - 141 resulting from external force or violence while performing the duties of the employment, and
    - 142 for which injury the retiree would have been approved for total disability in accordance with
    - 143 the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if
    - 144 years of service are not considered;
    - 145 (iii) had less than 30 years of service credit but had sufficient service credit to retire,
    - 146 with an unreduced allowance making the public safety service employee ineligible for
    - 147 long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term
    - 148 Disability Act, or a substantially similar long-term disability program; and
    - 149 (iv) does not receive any long-term disability benefits from any participating employer;
    - 150 and
    - 151 (b) is reemployed by a different participating employer.

152            [~~(10)~~] (11) The board may make rules to implement this section.

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**Legislative Review Note**  
**as of 2-11-14 3:39 PM**

**Office of Legislative Research and General Counsel**