

1 **REEMPLOYMENT RESTRICTIONS AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd Weiler**

5 House Sponsor: Merrill F. Nelson

7 **LONG TITLE**

8 **Committee Note:**

9 The Retirement and Independent Entities Interim Committee recommended this bill.

10 **General Description:**

11 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
12 postretirement employment restrictions.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ exempts an active senior justice court judge appointed to hear cases by the Utah
16 Supreme Court ~~§~~ **and a part-time appointed board member** ~~§~~ from postretirement
16a employment restrictions;

17 ▶ exempts a reemployed retiree who serves as a judge from reemployment earnings
18 limitations; and

19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **49-11-505**, as last amended by Laws of Utah 2013, Chapter 48



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 or an active

41 senior justice court judge as described by Utah State Court Rules, appointed to hear cases by

42 the Utah Supreme Court in accordance with Article VIII, Section 4, Utah 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.

46a **Œ→ (c)(i) This section does not apply to employment as a part-time appointed board member**

46b **who does not receive any remuneration, stipend, or other benefit for the part-time appointed**

46c **board member's service.**

46d **(ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does not**

46e **include receipt of per diem and travel expenses up to the amounts established by the Division**

46f **of Finance in:**

46g **(A) Section 63A-3-106;**

46h **(B) Section 63A-3-107; and**

46i **(C) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-**

46j **107. ←Œ**

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), 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 law
64 for Social Security, Medicare, and unemployment insurance; or

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

66 (iii) (A) the retiree does not earn in any calendar year of reemployment an amount in
67 excess of the lesser of ~~[(A)]~~ \$15,000~~;~~ or ~~[(B)]~~ one-half of the retiree's final average salary
68 upon which the retiree's retirement allowance is based~~;~~; or

69 (B) the retiree is reemployed as a judge as defined under Section [78A-11-102](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120 (i) is not entitled to a recalculated retirement benefit; and

- 121 (ii) will resume the allowance that was being paid at the time of cancellation.
- 122 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under
- 123 Subsection (7) and who retires two or more years after the date of reinstatement to active
- 124 membership shall:
 - 125 (i) resume receiving the allowance that was being paid at the time of cancellation; and
 - 126 (ii) receive an additional allowance based on the formula in effect at the date of the
 - 127 subsequent retirement for all service credit accrued between the first and subsequent retirement
 - 128 dates.
- 129 (9) (a) A retiree subject to this section shall report to the office the status of the
- 130 reemployment under Subsection (3) or (4).
- 131 (b) If the retiree fails to inform the office of an election under Subsection (4), the office
- 132 shall withhold one month's benefit for each month the retiree fails to inform the office under
- 133 Subsection (9)(a).
- 134 (10) The board may make rules to implement this section.

Legislative Review Note
as of 10-4-13 3:55 PM

Office of Legislative Research and General Counsel