

1 **DEPARTMENT OF CORRECTIONS RETIREMENT**

2 **AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Eric K. Hutchings**

6 Senate Sponsor: Jerry W. Stevenson

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Public Safety Contributory Retirement Act and the Public Safety
11 Noncontributory Retirement Act by amending system membership provisions for
12 employees of the Department of Corrections.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ provides that an employee of the Department of Corrections shall continue to earn
16 public safety service credit in the Public Safety Retirement System if the employee's
17 position is no longer covered for new employees and the employee:

- 18 • remains employed by the Department of Corrections;
- 19 • meets the eligibility requirements of the system;
- 20 • was hired into a covered position prior to July 1, 2015; and
- 21 • has not had a break in service on or after July 1, 2015; and

22 ▶ makes technical changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **49-14-201**, as last amended by Laws of Utah 2014, Chapter 15

30 **49-15-201**, as last amended by Laws of Utah 2014, Chapter 15



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **49-14-201** is amended to read:

34 **49-14-201. System membership -- Eligibility.**

35 (1) Except as provided in Section **49-15-201**, a public safety service employee of a
36 participating employer participating in this system is eligible for service credit in this system at
37 the earliest of:

38 (a) July 1, 1969, if the public safety service employee was employed by the
39 participating employer on July 1, 1969, and the participating employer was participating in this
40 system on that date;

41 (b) the date the participating employer begins participating in this system if the public
42 safety service employee was employed by the participating employer on that date; or

43 (c) the date the public safety service employee is employed by the participating
44 employer and is eligible to perform public safety service, except that a public safety service
45 employee initially entering employment with a participating employer on or after July 1, 2011,
46 who does not have service credit accrued before July 1, 2011, in a Tier I system or plan
47 administered by the board, may not participate in this system.

48 (2) (a) (i) A participating employer that has public safety service and firefighter service
49 employees that require cross-training and duty shall enroll those dual purpose employees in the
50 system in which the greatest amount of time is actually worked.

51 (ii) The employees shall either be full-time public safety service or full-time firefighter
52 service employees of the participating employer.

53 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
54 participating employer shall receive written permission from the office.

55 (ii) The office may request documentation to verify the appropriateness of the transfer.

56 (3) The board may combine or segregate the actuarial experience of participating
57 employers in this system for the purpose of setting contribution rates.

58 (4) (a) (i) Each participating employer participating in this system shall annually
59 submit to the office a schedule indicating the positions to be covered under this system in
60 accordance with this chapter.

61 (ii) The office may require documentation to justify the inclusion of any position under
62 this system.

63 (b) If there is a dispute between the office and a participating employer or employee
64 over any position to be covered, the disputed position shall be submitted to the Peace Officer
65 Standards and Training Council established under Section 53-6-106 for determination.

66 (c) (i) The Peace Officer Standards and Training Council's authority to decide
67 eligibility for public safety service credit is limited to claims for coverage under this system for
68 time periods after July 1, 1989.

69 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
70 to service credit earned in another system prior to July 1, 1989.

71 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
72 Standards and Training Council granting a position coverage under this system may only be
73 applied prospectively from the date of that decision.

74 (iv) A decision of the Peace Officer Standards and Training Council granting a position
75 coverage under this system may be applied retroactively only if:

76 (A) the participating employer covered other similarly situated positions under this
77 system during the time period in question; and

78 (B) the position otherwise meets all eligibility requirements for receiving service credit
79 in this system during the period for which service credit is to be granted.

80 (5) The Peace Officer Standards and Training Council may use a subcommittee to
81 provide a recommendation to the council in determining disputes between the office and a
82 participating employer or employee over a position to be covered under this system.

83 (6) The Peace Officer Standards and Training Council shall comply with Title 63G,
84 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

85 (7) A public safety employee who is transferred or promoted to an administration

86 position not covered by this system shall continue to earn public safety service credit in this
87 system as long as the employee remains employed in the same department.

88 (8) An employee of the Department of Corrections shall continue to earn public safety
89 service credit in this system if:

90 (a) the employee's position is no longer covered under this system for new employees
91 hired on or after July 1, 2015; and

92 (b) the employee:

93 (i) remains employed by the Department of Corrections;

94 (ii) meets the eligibility requirements of this system;

95 (iii) was hired into a position covered by this system prior to July 1, 2015; and

96 (iv) has not had a break in service on or after July 1, 2015.

97 ~~[(8) Any]~~ (9) An employee who is reassigned to the Department of Technology
98 Services or to the Department of Human Resource Management, and who was a member of
99 this system, ~~[shall be]~~ is entitled to remain a member of this system.

100 ~~[(9)]~~ (10) (a) To determine that a position is covered under this system, the office and,
101 if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that
102 the position requires the employee to:

103 (i) place the employee's life or personal safety at risk; and

104 (ii) complete training as provided in Section [53-13-103](#), [53-13-104](#), or [53-13-105](#).

105 (b) If a position satisfies the requirements of Subsection ~~[(9)]~~ (10)(a), the office and the
106 Peace Officer Standards and Training Council shall consider whether or not the position
107 requires the employee to:

108 (i) perform duties that consist primarily of actively preventing or detecting crime and
109 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

110 (ii) perform duties that consist primarily of providing community protection; and

111 (iii) respond to situations involving threats to public safety and make emergency
112 decisions affecting the lives and health of others.

113 ~~[(10)]~~ (11) If a subcommittee is used to recommend the determination of disputes to

114 the Peace Officer Standards and Training Council, the subcommittee shall comply with the
115 requirements of Subsection [~~(9)~~] (10) in making its recommendation.

116 [~~(11)~~] (12) A final order of the Peace Officer Standards and Training Council regarding
117 a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
118 Procedures Act.

119 [~~(12)~~] (13) Except as provided under Subsection [~~(13)~~] (14), if a participating
120 employer's public safety service employees are not covered by this system or under Chapter 15,
121 Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety
122 service employees who may otherwise qualify for membership in this system shall, at the
123 discretion of the participating employer, remain in their current retirement system.

124 [~~(13)~~] (14) (a) A public safety service employee employed by an airport police
125 department, which elects to cover its public safety service employees under the Public Safety
126 Noncontributory Retirement System under Subsection [~~(12)~~] (13), may elect to remain in the
127 public safety service employee's current retirement system.

128 (b) The public safety service employee's election to remain in the current retirement
129 system under Subsection [~~(13)~~] (14)(a):

130 (i) shall be made at the time the employer elects to move its public safety service
131 employees to a public safety retirement system;

132 (ii) documented by written notice to the participating employer; and

133 (iii) is irrevocable.

134 [~~(14)~~] (15) Notwithstanding any other provision of this section, a person initially
135 entering employment with a participating employer on or after July 1, 2011, who does not have
136 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
137 may not participate in this system.

138 Section 2. Section **49-15-201** is amended to read:

139 **49-15-201. System membership -- Eligibility.**

140 (1) (a) A public safety service employee employed by the state after July 1, 1989, but
141 before July 1, 2011, is eligible for service credit in this system.

142 (b) A public safety service employee employed by the state prior to July 1, 1989, may
143 either elect to receive service credit in this system or continue to receive service credit under
144 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
145 following the procedures established by the board under this chapter.

146 (2) (a) Public safety service employees of a participating employer other than the state
147 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
148 System shall be eligible only for service credit in that system.

149 (b) (i) A participating employer other than the state that elected on or before July 1,
150 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
151 service employee to elect to participate in either this system or the Public Safety Contributory
152 Retirement System.

153 (ii) Except as expressly allowed by this title, the election of the public safety service
154 employee is final and may not be changed.

155 (c) A public safety service employee hired by a participating employer other than the
156 state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

157 (d) A public safety service employee of a participating employer other than the state
158 who began participation in this system after July 1, 1989, but before July 1, 2011, is only
159 eligible for service credit in this system.

160 (e) A person initially entering employment with a participating employer on or after
161 July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system
162 or plan administered by the board, may not participate in this system.

163 (3) (a) (i) A participating employer that has public safety service and firefighter service
164 employees that require cross-training and duty shall enroll those dual purpose employees in the
165 system in which the greatest amount of time is actually worked.

166 (ii) The employees shall either be full-time public safety service or full-time firefighter
167 service employees of the participating employer.

168 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
169 participating employer shall receive written permission from the office.

170 (ii) The office may request documentation to verify the appropriateness of the transfer.

171 (4) The board may combine or segregate the actuarial experience of participating
172 employers in this system for the purpose of setting contribution rates.

173 (5) (a) (i) Each participating employer participating in this system shall annually
174 submit to the office a schedule indicating the positions to be covered under this system in
175 accordance with this chapter.

176 (ii) The office may require documentation to justify the inclusion of any position under
177 this system.

178 (b) If there is a dispute between the office and a participating employer or employee
179 over any position to be covered, the disputed position shall be submitted to the Peace Officer
180 Standards and Training Council established under Section 53-6-106 for determination.

181 (c) (i) The Peace Officer Standards and Training Council's authority to decide
182 eligibility for public safety service credit is limited to claims for coverage under this system for
183 time periods after July 1, 1989.

184 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
185 to service credit earned in another system prior to July 1, 1989.

186 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
187 Standards and Training Council granting a position coverage under this system may only be
188 applied prospectively from the date of that decision.

189 (iv) A decision of the Peace Officer Standards and Training Council granting a position
190 coverage under this system may be applied retroactively only if:

191 (A) the participating employer covered other similarly situated positions under this
192 system during the time period in question; and

193 (B) the position otherwise meets all eligibility requirements for receiving service credit
194 in this system during the period for which service credit is to be granted.

195 (6) The Peace Officer Standards and Training Council may use a subcommittee to
196 provide a recommendation to the council in determining disputes between the office and a
197 participating employer or employee over a position to be covered under this system.

198 (7) The Peace Officer Standards and Training Council shall comply with Title 63G,
199 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

200 (8) A public safety service employee who is transferred or promoted to an
201 administration position not covered by this system shall continue to earn public safety service
202 credit in this system as long as the employee remains employed in the same department.

203 (9) An employee of the Department of Corrections shall continue to earn public safety
204 service credit in this system if:

205 (a) the employee's position is no longer covered under this system for new employees
206 hired on or after July 1, 2015; and

207 (b) the employee:

208 (i) remains employed by the Department of Corrections;

209 (ii) meets the eligibility requirements of this system;

210 (iii) was hired into a position covered by this system prior to July 1, 2015; and

211 (iv) has not had a break in service on or after July 1, 2015.

212 [~~9~~] (10) Any employee who is reassigned to the Department of Technology Services
213 or to the Department of Human Resource Management, and who was a member in this system,
214 shall be entitled to remain a member in this system.

215 [~~10~~] (11) (a) To determine that a position is covered under this system, the office and,
216 if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that
217 the position requires the employee to:

218 (i) place the employee's life or personal safety at risk; and

219 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

220 (b) If a position satisfies the requirements of Subsection [~~10~~] (11)(a), the office and
221 Peace Officer Standards and Training Council shall consider whether the position requires the
222 employee to:

223 (i) perform duties that consist primarily of actively preventing or detecting crime and
224 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

225 (ii) perform duties that consist primarily of providing community protection; and

226 (iii) respond to situations involving threats to public safety and make emergency
227 decisions affecting the lives and health of others.

228 [~~(11)~~] (12) If a subcommittee is used to recommend the determination of disputes to
229 the Peace Officer Standards and Training Council, the subcommittee shall comply with the
230 requirements of Subsection [~~(10)~~] (11) in making its recommendation.

231 [~~(12)~~] (13) A final order of the Peace Officer Standards and Training Council regarding
232 a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
233 Procedures Act.

234 [~~(13)~~] (14) Except as provided under Subsection [~~(14)~~] (15), if a participating
235 employer's public safety service employees are not covered by this system or under Chapter 14,
236 Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service
237 employees who may otherwise qualify for membership in this system shall, at the discretion of
238 the participating employer, remain in their current retirement system.

239 [~~(14)~~] (15) (a) A public safety service employee employed by an airport police
240 department, which elects to cover its public safety service employees under the Public Safety
241 Noncontributory Retirement System under Subsection [~~(13)~~] (14), may elect to remain in the
242 public safety service employee's current retirement system.

243 (b) The public safety service employee's election to remain in the current retirement
244 system under Subsection [~~(14)~~] (15)(a):

245 (i) shall be made at the time the employer elects to move its public safety service
246 employees to a public safety retirement system;

247 (ii) shall be documented by written notice to the participating employer; and

248 (iii) is irrevocable.

249 [~~(15)~~] (16) Notwithstanding any other provision of this section, a person initially
250 entering employment with a participating employer on or after July 1, 2011, who does not have
251 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
252 may not participate in this system.