

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **49-14-201**, as last amended by Laws of Utah 2014, Chapter 15

32 **49-15-201**, as last amended by Laws of Utah 2014, Chapter 15



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

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

36 **49-14-201. System membership -- Eligibility.**

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

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

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

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

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

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

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

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

58 (3) The board may combine or segregate the actuarial experience of participating

59 employers in this system for the purpose of setting contribution rates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

94 (b) the employee:

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

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

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

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

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

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

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

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

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

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

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

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

115 ~~[(10)]~~ (11) If a subcommittee is used to recommend the determination of disputes to
116 the Peace Officer Standards and Training Council, the subcommittee shall comply with the
117 requirements of Subsection ~~[(9)]~~ (10) in making its recommendation.

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

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

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

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

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

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

135 (iii) is irrevocable.

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

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

141 **49-15-201. System membership -- Eligibility.**

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

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

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

151 (b) (i) A participating employer other than the state that elected on or before July 1,

152 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
153 service employee to elect to participate in either this system or the Public Safety Contributory
154 Retirement System.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

209 (b) the employee:

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

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

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

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

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

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

- 220 (i) place the employee's life or personal safety at risk; and
- 221 (ii) complete training as provided in Section [53-13-103](#), [53-13-104](#), or [53-13-105](#).

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

- 225 (i) perform duties that consist primarily of actively preventing or detecting crime and
226 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- 227 (ii) perform duties that consist primarily of providing community protection; and
- 228 (iii) respond to situations involving threats to public safety and make emergency
229 decisions affecting the lives and health of others.

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

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

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

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

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

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

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

250 (iii) is irrevocable.

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

Legislative Review Note
as of 11-13-14 1:10 PM

Office of Legislative Research and General Counsel