

1 **RETIREMENT AND INSURANCE BENEFIT CLAIMS**

2 **LIMITS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kraig Powell**

6 Senate Sponsor: Todd Weiler

7

8 **LONG TITLE**

9 **Committee Note:**

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

11 **General Description:**

12 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
13 provisions relating to limitations of retirement systems claims and actions.

14 **Highlighted Provisions:**

15 This bill:

16 ▶ provides that a request for a ruling to the executive director by a person who
17 disputes a benefit, right, obligation, or employment right under the Utah State
18 Retirement and Insurance Benefit Act shall constitute the initiation of an action for
19 purposes of the limitations periods;

20 ▶ specifies the time period a person has to request a review of a claim by a hearing
21 officer for a person who is dissatisfied by a ruling of the executive director with
22 respect to any benefit, right, obligation, or employment right;

23 ▶ requires that certain actions regarding a benefit, right, obligation, or employment
24 right brought under the Utah State Retirement and Insurance Benefit Act be
25 commenced only within a certain time frame;

26 ▶ provides that a cause of action accrues under the Utah State Retirement and
27 Insurance Benefit Act and the limitation period runs from the date when the



28 aggrieved party became aware, or through the exercise of reasonable diligence should have
29 become aware, of the facts giving rise to the cause of action;

- 30 ▶ provides that if a claim involves a retirement service credit issue:
 - 31 • a cause of action specifically accrues at the time the requisite retirement
 - 32 contributions relating to that retirement service credit are paid or should have
 - 33 been paid to the office; and
 - 34 • the person is deemed to be on notice of the payment or nonpayment of those
 - 35 retirement contributions;
 - 36 ▶ provides exceptions to the limitations period for certain actions; and
 - 37 ▶ makes technical and conforming changes.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **49-11-613**, as last amended by Laws of Utah 2011, Chapter 439

45 ENACTS:

46 **49-11-613.5**, Utah Code Annotated 1953



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

49 Section 1. Section **49-11-613** is amended to read:

50 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**
51 **reconsideration -- Judicial review.**

52 (1) (a) A member, retiree, participant, alternative payee, covered individual, employer,
53 participating employer, and covered employer shall inform themselves of their rights and
54 obligations under this title.

55 (b) Subject to the provisions in Subsection (8), any dispute regarding a benefit, right,
56 obligation, or employment right under this title is subject to the procedures provided under this
57 section.

58 (c) (i) A person who disputes a benefit, right, obligation, or employment right under

59 this title shall request a ruling by the executive director who may delegate the decision to the
60 deputy director.

61 (ii) A request for a ruling to the executive director under this section shall constitute
62 the initiation of an action for purposes of the limitations periods prescribed in Section
63 [49-11-613.5](#).

64 (d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any
65 benefit, right, obligation, or employment right under this title shall have 30 days from the date
66 of the ruling to request a review of that claim by a hearing officer.

67 (e) The executive director, on behalf of the board, may request that the hearing officer
68 review a dispute regarding any benefit, right, obligation, or employment right under this title by
69 filing a notice of board action and providing notice to all affected parties in accordance with
70 rules adopted by the board.

71 (2) The hearing officer shall:

72 (a) be hired by the executive director after consultation with the board;

73 (b) follow the procedures and requirements of Title 63G, Chapter 4, Administrative
74 Procedures Act, except as specifically modified under this title;

75 (c) hear and determine all facts relevant to a decision, including facts pertaining to
76 applications for benefits under any system, plan, or program under this title and all matters
77 pertaining to the administration of the office; and

78 (d) make conclusions of law in determining the person's rights under any system, plan,
79 or program under this title and matters pertaining to the administration of the office.

80 (3) The board shall review and approve or deny all decisions of the hearing officer in
81 accordance with rules adopted by the board.

82 (4) The moving party in any proceeding brought under this section shall bear the
83 burden of proof.

84 (5) A party may file an application for reconsideration by the board upon any of the
85 following grounds:

86 (a) that the board acted in excess of its powers;

87 (b) that the order or award was procured by fraud;

88 (c) that the evidence does not justify the determination of the hearing officer; or

89 (d) that the party has discovered new material evidence that could not, with reasonable

90 diligence, have been discovered or procured prior to the hearing.

91 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or
92 remand the application to the hearing officer for further consideration.

93 (7) A party aggrieved by the board's decision may obtain judicial review by complying
94 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

95 (8) The program shall provide an appeals process for medical claims that complies
96 with federal law.

97 (9) The board may make rules to implement this section.

98 Section 2. Section **49-11-613.5** is enacted to read:

99 **49-11-613.5. Limitation of actions -- Cause of action.**

100 (1) Subject to the procedures provided in Section [49-11-613](#) and except as provided in
101 Subsection (3), an action regarding a benefit, right, obligation, or employment right brought
102 under this title may be commenced only within four years of the date that the cause of action
103 accrues.

104 (2) (a) A cause of action accrues under this title and the limitation period in this section
105 runs from the date when the aggrieved party became aware, or through the exercise of
106 reasonable diligence should have become aware, of the facts giving rise to the cause of action,
107 including when:

108 (i) a benefit, right, or employment right is or should have been granted;

109 (ii) a payment is or should have been made; or

110 (iii) an obligation is or should have been performed.

111 (b) If a claim involves a retirement service credit issue under this title:

112 (i) a cause of action specifically accrues at the time the requisite retirement
113 contributions relating to that retirement service credit are paid or should have been paid to the
114 office; and

115 (ii) the person is deemed to be on notice of the payment or nonpayment of those
116 retirement contributions.

117 (3) If an aggrieved party fails to discover the facts giving rise to the cause of action due
118 to misrepresentation, fraud, intentional nondisclosure, or other affirmative steps to conceal the
119 cause of action, a limitation period prescribed in this section does not begin to run until the
120 aggrieved party actually discovers the existence of the cause of action.

121 (4) The person claiming a benefit, right, obligation, or employment right arising under
122 this title has the burden of bringing the action within the period prescribed in this section.

123 (5) Nothing in this section relieves a member, retiree, participant, alternative payee,
124 covered individual, employer, participating employer, or covered employer of the obligations
125 under this title.

126 (6) The office is not required to bring a claim on behalf of a member, retiree,
127 participant, alternative payee, covered individual, employer, participating employer, or covered
128 employer.

129 (7) (a) A limitation period provided in this section does not apply to actions for which
130 a specific limit is otherwise specified in this title or by contract, including master policies or
131 other insurance contracts.

132 (b) For actions arising under this title, this section supersedes any applicable limitation
133 period provided in Title 78B, Chapter 2, Statutes of Limitations.

Legislative Review Note
Office of Legislative Research and General Counsel