

1 **RETIREMENT SYSTEMS AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel Hemmert**

5 House Sponsor: _____

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 retirement and insurance provisions.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ modifies the responsibility for certain functions within the Utah Retirement
16 Systems;
- 17 ▶ modifies certain retiree notification and benefit conversion provisions relating to
18 retirement options affected by death or divorce;
- 19 ▶ specifies additional names for the Public Employees' Benefit and Insurance
20 Program; and
- 21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill provides a special effective date.

26 **Utah Code Sections Affected:**

27 AMENDS:



- 28 49-11-602, as last amended by Laws of Utah 2013, Chapter 109
- 29 49-11-603, as last amended by Laws of Utah 2015, Chapter 243
- 30 49-12-402, as last amended by Laws of Utah 2014, Chapter 15
- 31 49-13-402, as last amended by Laws of Utah 2014, Chapter 15
- 32 49-20-103, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 33 49-22-305, as last amended by Laws of Utah 2011, Chapter 439
- 34 49-23-304, as last amended by Laws of Utah 2011, Chapter 439

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

37 Section 1. Section 49-11-602 is amended to read:

38 **49-11-602. Participating employer to maintain records -- Time limit -- Penalties**
 39 **for failure to comply.**

40 (1) A participating employer shall:

41 (a) maintain records necessary to calculate benefits under this title and other records
 42 necessary for proper administration of this title as required by the office; and

43 (b) maintain records that indicate whether an employee is receiving:

44 (i) a benefit under state or federal law that, under Subsection 49-12-102(1)(b)(vi) or
 45 (vii), is excluded from the definition of benefits normally provided for purposes of Chapter 12,
 46 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
 47 Noncontributory Retirement Act, or Chapter 22, New Public Employees' Tier II Contributory
 48 Retirement Act; or

49 (ii) a benefit under a benefit package generally offered to similarly situated employees.

50 (2) A participating employer shall maintain the records required under Subsection (1)
 51 until the earliest of:

52 (a) three years after the date of retirement of the employee from a system or plan;

53 (b) three years after the date of death of the employee; or

54 (c) 65 years from the date of employment with the participating employer.

55 (3) A participating employer shall be liable to the office for:

56 (a) any liabilities and expenses, including administrative expenses and the cost of
 57 increased benefits to members, resulting from the participating employer's failure to maintain
 58 records under this section; and

59 (b) a penalty equal to 1% of the participating employer's last month's contributions.

60 (4) The executive director may waive all or any part of the interest, penalties, expenses,
61 and fees if the executive director finds there were extenuating circumstances surrounding the
62 participating employer's failure to comply with this section.

63 (5) The ~~[executive director]~~ office may estimate the length of service, compensation, or
64 age of any member, if that information is not contained in the records.

65 (6) (a) A participating employer shall enroll an employee, make reports, submit
66 contributions, and provide other requested information electronically in a manner approved by
67 the office.

68 (b) A participating employer shall treat any information provided electronically or
69 otherwise by the office as subject to the confidentiality provisions of this title.

70 Section 2. Section **49-11-603** is amended to read:

71 **49-11-603. Participating employer to report and certify -- Time limit -- Penalties**
72 **for failure to comply.**

73 (1) As soon as administratively possible, but in no event later than 30 days after the
74 end of each pay period, a participating employer shall report and certify to the office:

75 (a) the eligibility for service credit accrual of:

76 (i) each current employee;

77 (ii) each new employee as the new employee begins employment; and

78 (iii) any changes to eligibility for service credit accrual of each employee;

79 (b) the compensation of each current employee eligible for service credit; and

80 (c) other factors relating to the proper administration of this title as required by the
81 executive director.

82 (2) Each participating employer shall submit the reports required under Subsection (1)
83 in a format approved by the office.

84 (3) A participating employer shall be liable to the office for:

85 (a) any liabilities and expenses, including administrative expenses and the cost of
86 increased benefits to employees, resulting from the participating employer's failure to correctly
87 report and certify records under this section;

88 (b) a penalty equal to the greater of:

89 (i) \$250; or

90 (ii) 50% of the total contributions for the employees for the period of the reporting
91 error; and

92 (c) attorney fees.

93 (4) The executive director may waive all or any part of the interest, penalties, expenses,
94 and fees if the executive director finds there were extenuating circumstances surrounding the
95 participating employer's failure to comply with this section.

96 (5) The [~~executive director~~] office may estimate the length of service, compensation, or
97 age of any employee, if that information is not contained in the records.

98 Section 3. Section **49-12-402** is amended to read:

99 **49-12-402. Service retirement plans -- Calculation of retirement allowance --**

100 **Social security limitations.**

101 (1) (a) Except as provided under Section **49-12-701**, retirees of this system may choose
102 from the six retirement options described in this section.

103 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
104 calculation.

105 (2) The Option One benefit is an annual allowance calculated as follows:

106 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
107 credit, the allowance is:

108 (i) an amount equal to 1.25% of the retiree's final average monthly salary multiplied by
109 the number of years of service credit accrued prior to July 1, 1975; plus

110 (ii) an amount equal to 2% of the retiree's final average monthly salary multiplied by
111 the number of years of service credit accrued on and after July 1, 1975.

112 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
113 each year of retirement from age 60 to age 65, unless the member has 30 or more years of
114 accrued credit in which event no reduction is made to the allowance.

115 (c) (i) Years of service includes any fractions of years of service to which the retiree
116 may be entitled.

117 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
118 service credit is within 1/10 of one year of the total years of service credit required for
119 retirement, the retiree shall be considered to have the total years of service credit required for
120 retirement.

121 (d) An Option One allowance is only payable to the member during the member's
122 lifetime.

123 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
124 by reducing an Option One benefit based on actuarial computations to provide the following:

125 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
126 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
127 member contributions, the remaining balance of the retiree's member contributions shall be
128 paid in accordance with Sections 49-11-609 and 49-11-610.

129 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
130 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
131 the lifetime of the retiree's lawful spouse at the time of retirement.

132 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
133 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid
134 to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

135 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
136 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
137 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
138 retiree's life, beginning on the first day of the month following the month in which the:

139 (i) spouse died, if [~~the application is~~] notification and supporting documentation for the
140 death are received by the office within 90 days of the spouse's death; or

141 (ii) [~~application is~~] notification and supporting documentation for the death are
142 received by the office, if the [~~application is~~] notification and supporting documentation are
143 received by the office more than 90 days after the spouse's death.

144 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
145 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
146 of initial retirement under Option One shall be paid to the retiree for the remainder of the
147 retiree's life, beginning on the first day of the month following the month in which the:

148 (i) spouse died, if [~~the application is~~] notification and supporting documentation for the
149 death are received by the office within 90 days of the spouse's death; or

150 (ii) [~~application is~~] notification and supporting documentation for the death are
151 received by the office, if the [~~application is~~] notification and supporting documentation are

152 received by the office more than 90 days after the spouse's death.

153 (4) (a) (i) The final average salary is limited in the computation of that part of an
154 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
155 received employer contributions on a portion of compensation from an educational institution
156 toward the payment of the premium required on a retirement annuity contract with a public or
157 private system, organization, or company designated by the State Board of Regents to \$4,800.

158 (ii) This limitation is not applicable to retirees who elected to continue in this system
159 by July 1, 1967.

160 (b) Periods of employment which are exempt from this system under Subsection
161 49-12-203(1)(b), may be purchased by the member for the purpose of retirement only if all
162 benefits from a public or private system, organization, or company designated by the State
163 Board of Regents based on this period of employment are forfeited.

164 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
165 date, the retirement is canceled and the death shall be considered as that of a member before
166 retirement.

167 (b) Any payments made to the retiree shall be deducted from the amounts due to the
168 beneficiary.

169 (6) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the
170 retiree may elect to convert the benefit to a Option One benefit at the time of divorce, if there is
171 no court order filed in the matter.

172 (b) A conversion to an Option One benefit under this Subsection (6) begins on the first
173 day of the month following the month in which the notification and supporting documentation
174 for the divorce is received by the office.

175 Section 4. Section 49-13-402 is amended to read:

176 **49-13-402. Service retirement plans -- Calculation of retirement allowance --**
177 **Social security limitations.**

178 (1) (a) Except as provided under Section 49-13-701, retirees of this system may choose
179 from the six retirement options described in this section.

180 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
181 calculation.

182 (2) The Option One benefit is an allowance calculated as follows:

183 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
184 credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary
185 multiplied by the number of years of service credit accrued.

186 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
187 each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of
188 retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which
189 event no reduction is made to the allowance.

190 (c) (i) Years of service include any fractions of years of service to which the retiree
191 may be entitled.

192 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
193 service credit is within 1/10 of one year of the total years of service credit required for
194 retirement, the retiree shall be considered to have the total years of service credit required for
195 retirement.

196 (d) An Option One allowance is only payable to the member during the member's
197 lifetime.

198 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
199 by reducing an Option One benefit based on actuarial computations to provide the following:

200 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
201 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
202 member contributions, the remaining balance of the retiree's member contributions shall be
203 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).

204 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
205 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
206 the lifetime of the retiree's lawful spouse at the time of retirement.

207 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
208 retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance
209 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

210 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
211 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
212 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
213 retiree's life, beginning on the first day of the month following the month in which the:

214 (i) spouse died, if [~~the application is~~] notification and supporting documentation for the
215 death are received by the office within 90 days of the spouse's death; or

216 (ii) [~~application is~~] notification and supporting documentation for the death are
217 received by the office, if the [~~application is~~] notification and supporting documentation are
218 received by the office more than 90 days after the spouse's death.

219 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
220 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
221 of initial retirement under Option One shall be paid to the retiree for the remainder of the
222 retiree's life, beginning on the first day of the month following the month in which the:

223 (i) spouse died, if [~~the application is~~] notification and supporting documentation for the
224 death are received by the office within 90 days of the spouse's death; or

225 (ii) [~~application is~~] notification and supporting documentation for the death are
226 received by the office, if the [~~application is~~] notification and supporting documentation are
227 received by the office more than 90 days after the spouse's death.

228 (4) (a) (i) The final average salary is limited in the computation of that part of an
229 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
230 received employer contributions on a portion of compensation from an educational institution
231 toward the payment of the premium required on a retirement annuity contract with a public or
232 private system, organization, or company designated by the State Board of Regents to \$4,800.

233 (ii) This limitation is not applicable to retirees who elected to continue in the Public
234 Employees' Contributory Retirement System by July 1, 1967.

235 (b) Periods of employment which are exempt from this system as permitted under
236 Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement
237 only if all benefits from a public or private system, organization, or company designated by the
238 State Board of Regents based on this period of employment are forfeited.

239 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
240 date, the retirement is canceled and the death shall be considered as that of a member before
241 retirement.

242 (b) Any payments made to the retiree shall be deducted from the amounts due to the
243 beneficiary.

244 (6) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the

245 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
246 is no court order filed in the matter.

247 (b) A conversion to an Option One benefit under this Subsection (6) begins on the first
248 day of the month following the month in which the notification and supporting documentation
249 for the divorce is received by the office.

250 Section 5. Section **49-20-103** is amended to read:

251 **49-20-103. Creation of insurance program.**

252 (1) There is created for the employees of the state, its educational institutions, and
253 political subdivisions the "Public Employees' Benefit and Insurance Program" within the office.

254 (2) The program may also be known and function as the Public Employees' Health
255 Program, PEHP, or PEHP Health and Benefits.

256 Section 6. Section **49-22-305** is amended to read:

257 **49-22-305. Defined benefit service retirement plans -- Calculation of retirement**
258 **allowance -- Social security limitations.**

259 (1) (a) The retirees of this system may choose from the six retirement options described
260 in this section.

261 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
262 calculation.

263 (2) The Option One benefit is an annual allowance calculated as follows:

264 (a) If the retiree is at least 65 years of age or has accrued at least 35 years of service
265 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied
266 by the number of years of service credit accrued on and after July 1, 2011.

267 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
268 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 35
269 or more years of accrued credit in which event no reduction is made to the allowance.

270 (c) (i) Years of service includes any fractions of years of service to which the retiree
271 may be entitled.

272 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
273 service credit is within one-tenth of one year of the total years of service credit required for
274 retirement, the retiree shall be considered to have the total years of service credit required for
275 retirement.

276 (d) An Option One allowance is only payable to the member during the member's
277 lifetime.

278 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
279 by reducing an Option One benefit based on actuarial computations to provide the following:

280 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
281 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
282 member contributions, the remaining balance of the retiree's member contributions shall be
283 paid in accordance with Sections 49-11-609 and 49-11-610.

284 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
285 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout
286 the lifetime of the retiree's lawful spouse at the time of retirement.

287 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
288 retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance
289 is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

290 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
291 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
292 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
293 retiree's life, beginning on the first day of the month following the month in which the:

294 (i) [~~following the month in which the~~] spouse died, if [~~the application is~~] notification
295 and supporting documentation for the death are received by the office within 90 days of the
296 spouse's death; or

297 (ii) [~~following the month in which the application is~~] notification and supporting
298 documentation for the death are received by the office, if the [~~application is~~] notification and
299 supporting documentation are received by the office more than 90 days after the spouse's death.

300 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
301 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
302 of initial retirement under Option One shall be paid to the retiree for the remainder of the
303 retiree's life, beginning on the first day of the month following the month in which the:

304 (i) [~~following the month in which the~~] spouse died, if [~~the application is~~] notification
305 and supporting documentation for the death are received by the office within 90 days of the
306 spouse's death; or

307 (ii) ~~[following the month in which the application is]~~ notification and supporting
308 documentation for the death are received by the office, if the [application is] notification and
309 supporting documentation are received by the office more than 90 days after the spouse's death.

310 (4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement
311 date, the retirement is canceled and the death shall be considered as that of a member before
312 retirement.

313 (b) Any payments made to the retiree shall be deducted from the amounts due to the
314 beneficiary.

315 (5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the
316 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
317 is no court order filed in the matter.

318 (b) A conversion to an Option One benefit under this Subsection (5) begins on the first
319 day of the month following the month in which the notification and supporting documentation
320 for the divorce is received by the office.

321 Section 7. Section **49-23-304** is amended to read:

322 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**
323 **allowance -- Social security limitations.**

324 (1) (a) The retirees of this system may choose from the six retirement options described
325 in this section.

326 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
327 calculation.

328 (2) The Option One benefit is an annual allowance calculated as follows:

329 (a) If the retiree is at least 65 years of age or has accrued at least 25 years of service
330 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied
331 by the number of years of service credit accrued on and after July 1, 2011.

332 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
333 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25
334 or more years of accrued credit in which event no reduction is made to the allowance.

335 (c) (i) Years of service includes any fractions of years of service to which the retiree
336 may be entitled.

337 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,

338 service credit is within 1/10 of one year of the total years of service credit required for
339 retirement, the retiree shall be considered to have the total years of service credit required for
340 retirement.

341 (d) An Option One allowance is only payable to the member during the member's
342 lifetime.

343 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
344 by reducing an Option One benefit based on actuarial computations to provide the following:

345 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
346 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
347 member contributions, the remaining balance of the retiree's member contributions shall be
348 paid in accordance with Sections 49-11-609 and 49-11-610.

349 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
350 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout
351 the lifetime of the retiree's lawful spouse at the time of retirement.

352 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
353 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is
354 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

355 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
356 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
357 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
358 retiree's life, beginning on the first day of the month following the month in which the:

359 (i) ~~[following the month in which the]~~ spouse died, if ~~[the application is]~~ notification
360 and supporting documentation for the death are received by the office within 90 days of the
361 spouse's death; or

362 (ii) ~~[following the month in which the application is]~~ notification and supporting
363 documentation for the death are received by the office, if the ~~[application is]~~ notification and
364 supporting documentation are received by the office more than 90 days after the spouse's death.

365 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
366 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
367 of initial retirement under Option One shall be paid to the retiree for the remainder of the
368 retiree's life, beginning on the first day of the month following the month in which the:

369 (i) ~~[following the month in which the]~~ spouse died, if ~~[the application is]~~ notification
370 and supporting documentation for the death are received by the office within 90 days of the
371 spouse's death; or

372 (ii) ~~[following the month in which the application is]~~ notification and supporting
373 documentation for the death are received by the office, if the ~~[application is]~~ notification and
374 supporting documentation are received by the office more than 90 days after the spouse's death.

375 (4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement
376 date, the retirement is canceled and the death shall be considered as that of a member before
377 retirement.

378 (b) Any payments made to the retiree shall be deducted from the amounts due to the
379 beneficiary.

380 (5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the
381 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
382 is no court order filed in the matter.

383 (b) A conversion to an Option One benefit under this Subsection (5) begins on the first
384 day of the month following the month in which the notification and supporting documentation
385 for the divorce is received by the office.

386 Section 8. **Effective date.**

387 This bill takes effect on July 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel