

Summary of Items in Draft Legislation, “Utah Retirement Systems Amendments”

10/17/2019

- This draft bill represents the administrative and technical amendments to Title 49 recommended annually to the Legislature by the Utah Retirement Systems (URS).
- These changes are not substantive benefit modifications nor is it anticipated that the bill will have any fiscal impact.
- In recognition of the nature of these changes, the bill has an effective date of July 1, 2020.
- After presentation, URS requests a favorable vote for this legislation to be a recommended committee bill for the 2020 General Session.

Key changes include:

1. Participation elections.

- Sections 49-11-406, 49-12-203, 49-12-204, 49-13-203, 49-13-204, 49-14-203, 49-15-203, 49-16-203, 49-19-403, 49-22-203, 49-22-204, 49-22-205, and 49-23-203. (*For example, lines 75-76 and 502-505*)
- Employee exclusions, exemptions, participation, or elections are the subject of many Utah Code sections in Title 49.
- The Retirement Board is required by statute to: “ensure that the systems, plans, programs, and funds are administered according to law”; “maintain, in conjunction with participating employers and members, the systems, plans, and programs on an actuarially sound basis”; “protect the tax qualified status of the systems, plans, and programs under its control . . .”; and make rules.
- The board has made rules. The purpose of these language additions is to improve notice to those who read the statutes that these provisions are also subject to federal law and board rules.

2. Employer contributions for certain working retirees.

- Section 49-11-504 (*Lines 152-163*).
- For working retirees who were reemployed prior to July 1, 2010, the employer may make an elective retirement related contribution in an amount up to the normal cost rate.
- With the implementation of Tier 2, all employers now participate in the URS defined contribution plans.
- Some employers, particularly those that are exempt from Social Security, would prefer to utilize a 457 plan, which is not a qualified defined contribution plan.
- This statutory change will allow employer flexibility to utilize the 457 plan, while ensuring that URS can continue to administer and monitor these post-retirement contributions.

3. Payments to certain survivors.

- Sections 49-11-609 (*Lines 217-218*).
- Clarifies the application process for payments to certain survivors based upon an affidavit if there are not designated beneficiaries for the deceased member.

4. Insurance premium payments for firefighter and public safety retirees.

- Section 49-11-612 (*Lines 257-259*).
- Under federal law, eligible retired firefighters and public safety officers can exclude from taxable income a certain part of their retirement benefits that is used to pay the premiums for health insurance, if such payments are made directly from the retirement plan.
- In addition to premium payments from a retirement allowance, this change would allow such payments to be made from a URS defined contribution plan.

5. Post-retirement reemployment.

- Section 49-11-1204 (*Lines 294-320*).
- This is not a substantive change to the post-retirement reemployment restrictions.
- This change simply clarifies that a retiree may be eligible to earn additional service credit in a reemployed position, whether the retirement allowance was cancelled by URS or the retiree's election.
- In either case, the retirement allowance is resumed following termination of the reemployed position. If the retiree earned two or more years of service credit following retirement, an additional retirement allowance amount will be calculated and also paid to the retiree when the allowances are resumed.

6. Forfeiture of retirement benefits for employment-related felony convictions.

- Section 49-11-1401 (*Lines 335-338 and 375-378*).
- The first change clarifies that reduced charges in accordance with all plea agreements may be considered as convictions.
- The second change in this section allows employer procedures to be used for an employee appeal of the employer's determination if the Administrative Procedures Act is not applicable to that employer.

7. Exchange employees.

- Sections 49-12-203, 49-13-203, 49-22-203, and 49-22-205 (*For example, lines 419-421 and 484-487*).
- An “exchange employee” means an employee of a participating employer with a valid nonimmigrant visa for participation in exchange visitor programs in the United States, including the Exchange Visitor Visas (J category) and the Cultural Exchange Visas (Q category).
- Statute currently automatically excludes exchange employees from retirement participation, but some employers would like to cover these individuals as part of an incentive to get them to stay longer while other employers do not want to provide coverage.
- This change will allow, but does not require, an employer to elect to make all of its exchange employees eligible for retirement participation. Individual exchange employees of such employers could file a request for exemption from retirement participation, subject to applicable laws and rules.

8. Death Benefits for Tier 2 Public Safety/Firefighter Defined Contribution (DC) only plan members.

- Section 49-23-501 (*Lines 1089-1091*).
- The purpose of this language addition is to clearly state and provide notice of the available death benefits for Tier 2 Public Safety/Firefighter DC only plan members.
- All active Tier 2 Public Safety/Firefighter members are covered by a lump-sum death benefit payable to a beneficiary; the cost of this benefit is paid by an addition to the contribution rate.
- Hybrid retirement system members are eligible for an ongoing monthly death benefit for a surviving spouse; the cost of this benefit is included in the hybrid system contribution rates.
- DC only plan members are not eligible for retirement benefits, including a surviving spouse ongoing benefit; such benefits are not funded since contributions are paid to the member’s DC account.
- A DC only plan member’s beneficiary is entitled to receive the amounts in the member’s DC account.

9. Technical corrections.