

1 **INSURANCE AND RETIREMENT FOR**
2 **CHARTER SCHOOL EMPLOYEES**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Merlynn T. Newbold**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the State System of Public Education Code and the Utah State
10 Retirement and Insurance Benefit Act to amend employee benefit provisions for charter
11 schools.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ allows a charter school applying for sponsorship to make an election of
- 15 nonparticipation in the state retirement systems for its employees at the time of the
- 16 application as a charter school;
- 17 ▶ provides a window for existing charter schools sponsored by the State Board of
- 18 Education to make an election of nonparticipation in the state retirement systems for
- 19 its employees;
- 20 ▶ allows a charter school discretion to select and offer employee benefit plans; and
- 21 ▶ makes technical corrections.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill takes effect on July 1, 2004.

26 **Utah Code Sections Affected:**

27 AMENDS:



28 49-12-202, as renumbered and amended by Chapter 250, Laws of Utah 2002

29 49-13-202, as last amended by Chapter 240, Laws of Utah 2003

30 53A-1a-512, as last amended by Chapter 224, Laws of Utah 2000

31 53A-17a-125, as last amended by Chapter 320, Laws of Utah 2003



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

34 Section 1. Section 49-12-202 is amended to read:

35 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
36 **requirements -- Exceptions -- Nondiscrimination requirements.**

37 (1) (a) Unless excluded under Subsection (2) or (3), an employer is a participating
38 employer and may not withdraw from participation in this system.

39 (b) In addition to their participation in this system, participating employers may
40 provide or participate in public or private retirement, supplemental or defined contribution
41 plan, either directly or indirectly, for their employees.

42 (2) An employer not initially admitted or included as a participating employer in this
43 system prior to January 1, 1982, may be excluded from participation in this system if:

44 (a) the employer elects not to provide or participate in any type of private or public
45 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
46 employees, except for social security; or

47 (b) the employer offers another collectively bargained retirement benefit and has
48 continued to do so on an uninterrupted basis since that date.

49 (3) An employer that is a charter school sponsored by the State Board of Education that
50 makes an election of nonparticipation in accordance with Section 53A-1a-512 may be excluded
51 as a participating employer.

52 [~~3~~] (4) An employer who did not become a participating employer in this system
53 prior to July 1, 1986, may not participate in this system.

54 [~~4~~] (5) If a participating employer purchases service credit on behalf of regular
55 full-time employees for service rendered prior to the participating employer's admission to this
56 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all
57 current and former regular full-time employees who were eligible for service credit at the time
58 service was rendered.

59 Section 2. Section **49-13-202** is amended to read:

60 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
61 **requirements -- Nondiscrimination requirements.**

62 (1) (a) Unless excluded under Subsection (2) or (3), an employer is a participating
63 employer and may not withdraw from participation in this system.

64 (b) In addition to their participation in this system, participating employers may
65 provide or participate in any additional public or private retirement, supplemental or defined
66 contribution plan, either directly or indirectly, for their employees.

67 (2) An employer not initially admitted or included as a participating employer in this
68 system prior to January 1, 1982, may be excluded from participation in this system if:

69 (a) the employer elects not to provide or participate in any type of private or public
70 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
71 employees, except for Social Security; or

72 (b) the employer offers another collectively bargained retirement benefit and has
73 continued to do so on an uninterrupted basis since that date.

74 (3) An employer that is a charter school sponsored by the State Board of Education that
75 makes an election of nonparticipation in accordance with Section 53A-1a-512 shall be
76 excluded as a participating employer.

77 [~~(3)~~] (4) If an employer, except an employer that maintains a collectively bargained
78 plan under Subsection (2)(b), elects at any time to provide or participate in any type of public
79 or private retirement, supplemental or defined contribution plan, either directly or indirectly,
80 except for Social Security, the employer shall be a participating employer in this system.

81 [~~(4)~~] (5) (a) Any employer may by resolution of its governing body apply for admission
82 to this system.

83 (b) Upon approval of the board, the employer is a participating employer in this system
84 and is subject to this title.

85 [~~(5)~~] (6) If a participating employer purchases service credit on behalf of regular
86 full-time employees for service rendered prior to the participating employer's admission to this
87 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all
88 current and former regular full-time employees who were eligible for service credit at the time
89 service was rendered.

90 Section 3. Section **53A-1a-512** is amended to read:

91 **53A-1a-512. Employees of charter schools.**

92 (1) A charter school shall select its own employees.

93 (2) The school's governing body shall determine the level of compensation and all
94 terms and conditions of employment, except as otherwise provided in Subsections (5) and (6)
95 and under this part.

96 (3) (a) To accommodate differentiated staffing and better meet student needs, a charter
97 school, under rules adopted by the State Board of Education, shall employ teachers who:

98 (i) are licensed; or

99 (ii) on the basis of demonstrated competency, would qualify to teach under alternative
100 certification or authorization programs.

101 (b) The school's governing body shall disclose the qualifications of its teachers to the
102 parents of its students.

103 (4) (a) An employee of a school district may request a leave of absence in order to
104 work in a charter school upon approval of the local school board.

105 (b) While on leave, the employee may retain seniority accrued in the school district and
106 may continue to be covered by the benefit program of the district if the charter school and the
107 locally elected school board mutually agree.

108 (5) Except as provided under Subsection (6), an employee of a charter school shall be a
109 member of a retirement system under Title 49, Utah State Retirement and Insurance Act.

110 (6) (a) At the time of application for a charter school, whether sponsored by the state or
111 a school district, a proposed charter school may make an election of nonparticipation as an
112 employer for retirement programs under Title 49, Chapter 12, Public Employees' Contributory
113 Retirement Act and under Title 49, Chapter 13, Public Employees' Noncontributory Retirement
114 Act.

115 (b) A charter school that was approved prior to July 1, 2004 may make an election of
116 nonparticipation prior to December 31, 2004.

117 (c) An election provided under this Subsection (6):

118 (i) is a one-time election made at the time specified under Subsection (6)(a) or (b);

119 (ii) shall be documented by a resolution adopted by the governing body of the charter
120 school;

121 (iii) is irrevocable; and
122 (iv) applies to the charter school as the employer and to all employees of the charter
123 school.

124 (d) The governing body of a charter school may offer employee benefit plans for its
125 employees:

126 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

127 or

128 (ii) under any other program.

129 Section 4. Section **53A-17a-125** is amended to read:

130 **53A-17a-125. Appropriation for retirement and Social Security.**

131 (1) The employee's retirement contribution shall be 1% for employees who are under
132 the state's contributory retirement program.

133 (2) The employer's contribution under the state's contributory retirement program is
134 determined under Section 49-12-301, subject to the 1% contribution under Subsection (1).

135 (3) (a) The employer-employee contribution rate for employees who are under the
136 state's noncontributory retirement program is determined under Section 49-13-301.

137 (b) The same contribution rate used under Subsection (3)(a) shall be used to calculate
138 the appropriation for charter schools described under Subsection (5).

139 (4) (a) Money appropriated to the State Board of Education in Section 53A-17a-104 for
140 retirement and Social Security monies shall be allocated to school districts and charter schools
141 based on a district's or charter school's total weighted pupil units compared to the total
142 weighted pupil units for all districts in the state.

143 (b) The monies needed to support retirement and Social Security shall be determined
144 by taking the district's prior year allocation and adjusting it for:

145 (i) student growth;

146 (ii) the percentage increase in the value of the weighted pupil unit; and

147 (iii) the effect of any change in the rates for retirement, Social Security, or both.

148 (5) A charter school that has made an election of nonparticipation in the Utah State
149 Retirement Systems in accordance with Section 53A-1a-512 and Title 49, Utah State
150 Retirement and Insurance Benefit Act, may use the funds described under this section for
151 retirement to provide its own compensation, benefit, and retirement programs.

152 Section 5. **Effective date.**
153 This bill takes effect on July 1, 2004.

Legislative Review Note
as of 1-21-04 10:18 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0108

Insurance and Retirement for Charter School Employees

05-Feb-04

11:08 AM

State Impact

This bill has no specific fiscal impact. However, the practice of allowing small groups the discretion of participating in the Utah Retirement Systems could, over time, adversely affect its actuarial soundness.

Individual and Business Impact

An individual's retirement benefits could be affected as determined by the elections available in this bill.

Office of the Legislative Fiscal Analyst