

1                                   **STATE EMPLOYEE RETIREMENT BENEFITS**

2   **AMENDMENTS**

3   2006 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: John Dougall**

6   Senate Sponsor: Sheldon L. Killpack

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies the Utah State Retirement and Insurance Benefit Act adding certain  
11 positions that may be excluded from membership in the Public Employees'  
12 Contributory Retirement System and the Public Employees' Noncontributory  
13 Retirement System.

14                   **Highlighted Provisions:**

15                   This bill:

16                   ▶ allows the following at-will employees to be excluded, upon written request, from  
17 coverage under the Public Employees' Contributory Retirement System and the  
18 Public Employees' Noncontributory Retirement System:

19                   • a person appointed by the speaker of the House of Representatives, the House of  
20 Representatives minority leader, the president of the Senate, or the Senate  
21 minority leader; or

22                   • an employee of the Governor's Office of Economic Development who has been  
23 hired directly from a position not covered by a system; and

24                   ▶ makes technical changes.

25                   **Monies Appropriated in this Bill:**

26                   None

27                   **Other Special Clauses:**



28 ~~H~~→ [None] This bill provides an immediate effective date. ←~~H~~

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **49-12-203**, as last amended by Chapter 116, Laws of Utah 2005

32 **49-13-203**, as last amended by Chapter 116, Laws of Utah 2005



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

35 Section 1. Section **49-12-203** is amended to read:

36 **49-12-203. Exclusions from membership in system.**

37 (1) The following employees are not eligible for service credit in this system:

38 (a) An employee whose employment status is temporary in nature due to the nature or  
39 the type of work to be performed, provided that:

40 (i) if the term of employment exceeds six months and the employee otherwise qualifies  
41 for service credit in this system, the participating employer shall report and certify to the office  
42 that the employee is a regular full-time employee effective the beginning of the seventh month  
43 of employment; or

44 (ii) if an employee, previously terminated prior to being eligible for service credit in  
45 this system is reemployed within three months of termination by the same participating  
46 employer, the participating employer shall report and certify that the member is a regular  
47 full-time employee when the total of the periods of employment equals six months and the  
48 employee otherwise qualifies for service credit in this system.

49 (b) (i) A current or future employee of a two-year or four-year college or university  
50 who holds, or is entitled to hold, under Section 49-12-204, a retirement annuity contract with  
51 the Teachers' Insurance and Annuity Association of America or with any other public or private  
52 system, organization, or company during any period in which required contributions based on  
53 compensation have been paid on behalf of the employee by the employer.

54 (ii) The employee, upon cessation of the participating employer contributions, shall  
55 immediately become eligible for service credit in this system.

56 (c) An employee serving as an exchange employee from outside the state.

57 (d) An executive department head of the state, a member of the State Tax Commission,  
58 the Public Service Commission, and a member of a full-time or part-time board or commission

59 who files a formal request for exemption.

60 (e) An employee of the Department of Workforce Services who is covered under  
61 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

62 (2) Upon filing a written request for exemption with the office, the following  
63 employees shall be exempt from coverage under this system:

64 (a) a full-time student or the spouse of a full-time student and individuals employed in  
65 a trainee relationship;

66 (b) an elected official;

67 (c) an executive department head of the state or a legislative director, senior executive  
68 employed by the governor's office, a member of the State Tax Commission, a member of the  
69 Public Service Commission, and a member of a full-time or part-time board or commission;

70 [~~and~~]

71 (d) an at-will employee who:

72 (i) is a person appointed by the speaker of the House of Representatives, the House of  
73 Representatives minority leader, the president of the Senate, or the Senate minority leader; or

74 (ii) is an employee of the Governor's Office of Economic Development who has been  
75 hired directly from a position not covered by a system; and

76 [~~(d)~~] (e) a person appointed as a city manager or chief city administrator or another  
77 person employed by a municipality, county, or other political subdivision, who is not entitled to  
78 merit or civil service protection.

79 (3) (a) Each participating employer shall prepare a list designating those positions  
80 eligible for exemption under Subsection (2).

81 (b) An employee may not be exempted unless they are employed in a position  
82 designated by the participating employer.

83 (4) (a) In accordance with this section, a municipality, county, or political subdivision  
84 may not exempt more than 50 positions or a number equal to 10% of the employees of the  
85 municipality, county, or political subdivision whichever is lesser.

86 (b) A municipality, county, or political subdivision may exempt at least one regular  
87 full-time employee.

88 (5) Each participating employer shall:

89 (a) file employee exemptions annually with the office; and

90 (b) update the employee exemptions in the event of any change.

91 (6) The office may make rules to implement this section.

92 Section 2. Section **49-13-203** is amended to read:

93 **49-13-203. Exclusions from membership in system.**

94 (1) The following employees are not eligible for service credit in this system:

95 (a) An employee whose employment status is temporary in nature due to the nature or  
96 the type of work to be performed, provided that:

97 (i) if the term of employment exceeds six months and the employee otherwise qualifies  
98 for service credit in this system, the participating employer shall report and certify to the office  
99 that the employee is a regular full-time employee effective the beginning of the seventh month  
100 of employment; and

101 (ii) if an employee, previously terminated prior to becoming eligible for service credit  
102 in this system, is reemployed within three months of termination by the same participating  
103 employer, the participating employer shall report and certify to the office that the member is a  
104 regular full-time employee when the total of the periods of employment equals six months and  
105 the employee otherwise qualifies for service credit in this system.

106 (b) (i) A current or future employee of a two-year or four-year college or university  
107 who holds, or is entitled to hold, under Section 49-13-204, a retirement annuity contract with  
108 the Teachers' Insurance and Annuity Association of America or with any other public or private  
109 system, organization, or company during any period in which required contributions based on  
110 compensation have been paid on behalf of the employee by the employer.

111 (ii) The employee, upon cessation of the participating employer contributions, shall  
112 immediately become eligible for service credit in this system.

113 (c) An employee serving as an exchange employee from outside the state.

114 (d) An executive department head of the state or a legislative director, senior executive  
115 employed by the governor's office, a member of the State Tax Commission, a member of the  
116 Public Service Commission, and a member of a full-time or part-time board or commission  
117 who files a formal request for exemption.

118 (e) An employee of the Department of Workforce Services who is covered under  
119 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

120 (2) Upon filing a written request for exemption with the office, the following

121 employees shall be exempt from coverage under this system:

122 (a) a full-time student or the spouse of a full-time student and individuals employed in  
123 a trainee relationship;

124 (b) an elected official;

125 (c) an executive department head of the state or a legislative director, senior executive  
126 employed by the governor's office, a member of the State Tax Commission, a member of the  
127 Public Service Commission, and a member of a full-time or part-time board or commission;  
128 [~~and~~]

129 (d) an at-will employee who:

130 (i) is a person appointed by the speaker of the House of Representatives, the House of  
131 Representatives minority leader, the president of the Senate, or the Senate minority leader; or

132 (ii) is an employee of the Governor's Office of Economic Development who has been  
133 hired directly from a position not covered by a system; and

134 [~~(d)~~] (e) a person appointed as a city manager or chief city administrator or another  
135 person employed by a municipality, county, or other political subdivision, who is not entitled to  
136 merit or civil service protection.

137 (3) (a) Each participating employer shall prepare a list designating those positions  
138 eligible for exemption under Subsection (2).

139 (b) An employee may not be exempted unless they are employed in a position  
140 designated by the participating employer.

141 (4) (a) In accordance with this section, a municipality, county, or political subdivision  
142 may not exempt more than 50 positions or a number equal to 10% of the employees of the  
143 municipality, county, or political subdivision, whichever is lesser.

144 (b) A municipality, county, or political subdivision may exempt at least one regular  
145 full-time employee.

146 (5) Each participating employer shall:

147 (a) file employee exemptions annually with the office; and

148 (b) update the employee exemptions in the event of any change.

149 (6) The office may make rules to implement this section.

149a **Ĥ→ Section 3. Effective date.**

149b **If approved by two-thirds of all the members elected to each house, this bill takes effect**  
149c **upon approval by the governor, or the day following the constitutional time limit of Utah**  
149d **Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,**  
149e **the date of veto override. ←Ĥ**

**Legislative Review Note**

**as of 1-26-06 6:10 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0346**

**State Employee Retirement Benefits Amendments**

*30-Jan-06*

*10:05 AM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

Any fiscal impact will be dependent on choices made by at-will employees.

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**Office of the Legislative Fiscal Analyst**