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RETIREMENT OFFICE AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann W. Hardy

Senate Sponsor: Beverly Ann Evans

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act to make certain technical and administrative amendments.

Highlighted Provisions:

This bill:

- ▶ amends purchase of retirement service credit in the Utah State Retirement System:

- for employment in a private school based in the United States, the purchase is allowed only if the member received an employer paid retirement benefit for the employment;

- to include public employment in a territory of the United States; and

- by requiring payments to be made to the retirement system in which the member is currently covered;

- ▶ requires that a court order on the distribution of benefits be made within 12 months of the death of the member;

- ▶ requires rather than allows the Consumer Price Index used in calculating annual cost-of-living adjustments in the Public Employees' Noncontributory Retirement System to be a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board;

- ▶ requires the Public Employees' Benefit and Insurance Program to provide for health insurance coverage for state employees who receive a disability benefit rather than provide a waiver of the cost of the coverage;

- ▶ clarifies that a member's spouse at the time of death is entitled to the spouse's

- 30 allowance upon the death of a governor or legislator receiving a retirement allowance;
- 31 ▶ changes from a participating employer to a risk pool as the entity that may elect to
- 32 provide a waiver for its employees for health insurance coverage; and
- 33 ▶ makes technical changes.

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40 **49-11-403**, as last amended by Chapter 116, Laws of Utah 2005
- 41 **49-11-612**, as last amended by Chapter 118, Laws of Utah 2004
- 42 **49-12-102**, as last amended by Chapter 240, Laws of Utah 2003
- 43 **49-13-102**, as last amended by Chapter 240, Laws of Utah 2003
- 44 **49-13-407**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 45 **49-14-203**, as last amended by Chapter 176, Laws of Utah 2005
- 46 **49-19-501**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 47 **49-20-409**, as enacted by Chapter 116, Laws of Utah 2005

48

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

50 Section 1. Section **49-11-403** is amended to read:

51 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

52 (1) A member, a participating employer, or a member and a participating employer
53 jointly may purchase service credit equal to the period of the member's employment in the
54 following:

- 55 (a) United States federal employment;
- 56 (b) employment in a private school based in the United States, if the member received
57 an employer paid retirement benefit for the employment;

58 (c) public employment in another state or territory of the United States which qualifies
59 the member for membership in the public plan or system covering the employment, but only if
60 the member does not qualify for any retirement benefits based on the employment;

61 (d) forfeited service credit in this state if the member does not qualify for an allowance
62 based on the service credit;

63 (e) full-time public service while on an approved leave of absence;

64 (f) the period of time for which disability benefits were paid if:

65 (i) the member was receiving:

66 (A) long-term disability benefits;

67 (B) short-term disability benefits; or

68 (C) worker's compensation disability benefits; and

69 (ii) the member's employer had not entered into a benefit protection contract under
70 Section 49-11-404 during the period the member was disabled due to sickness or accident; or

71 (g) employment covered by a Teachers Insurance and Annuity Association of America
72 retirement plan if the member forfeits any retirement benefit from that retirement plan for the
73 period of employment to be purchased under this Subsection (1)(g).

74 (2) A member shall have:

75 (a) at least four years of service credit before a purchase can be made under this
76 section; and

77 (b) forfeited service credit under any other retirement system or plan based on the
78 ~~public~~ employment for which service credit is being purchased.

79 (3) (a) To purchase credit under this section, the member, a participating employer, or a
80 member and a participating employer jointly shall make payment to the system ~~in an~~ under
81 which the member is currently covered.

82 (b) The amount of the payment shall be determined by the office based on a formula
83 that is:

84 (i) recommended by the actuary; and

85 (ii) adopted by the board.

86 (4) The purchase may be made through payroll deductions or through a lump sum
87 deposit based upon the present value of future payments.

88 (5) Total payment must be completed prior to the member's effective date of retirement
89 or service credit will be prorated in accordance with the amount paid.

90 (6) (a) If any of the factors used to determine the cost of a service credit purchase
91 change at or before the member's retirement date, the cost of the purchase shall be recalculated
92 at the time of retirement.

93 (b) If the recalculated cost exceeds the amount paid for the purchase, the member, a
94 participating employer, or a member and a participating employer jointly may:

95 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or

96 (ii) not pay the increased cost and have the purchased service credit prorated.

97 (7) If the recalculated cost under Subsection (6) is less than the amount paid for the
98 purchase, the office shall refund the excess payment to the member or participating employer
99 who paid for the purchase.

100 (8) (a) The board may adopt rules under which a member may make the necessary
101 payments to the office for purchases under this title as permitted by federal law.

102 (b) The office may reject any payments if the office determines the tax status of the
103 system, plans, or programs would be jeopardized by allowing the payment.

104 Section 2. Section **49-11-612** is amended to read:

105 **49-11-612. Nonassignability of benefits or payments -- Exemption from legal**
106 **process.**

107 (1) Except as provided in Subsections (2), (3), and (4), the right of any member, retiree,
108 participant, or beneficiary to any retirement benefit, retirement payment, or any other
109 retirement right accrued or accruing under this title and the assets of the funds created by this
110 title are not subject to alienation or assignment by the member, retiree, participant, or their
111 beneficiaries and are not subject to attachment, execution, garnishment, or any other legal or
112 equitable process.

113 (2) The office may, upon the request of the retiree, deduct from the retiree's allowance

114 insurance premiums or other dues payable on behalf of the retiree, but only to those entities
115 that have received the deductions prior to February 1, 2002.

116 (3) (a) The office shall provide for the division of an allowance, defined contribution
117 account, continuing monthly death benefit, or refund of member contributions upon
118 termination to former spouses and family members under an order of a court of competent
119 jurisdiction with respect to domestic relations matters on file with the office.

120 (b) The court order shall specify the manner in which the allowance, defined
121 contribution account, continuing monthly death benefit, or refund of member contributions
122 shall be partitioned, whether as a fixed amount or as a percentage of the benefit.

123 (c) Allowances, continuing monthly death benefits, and refunds of member
124 contributions split under a domestic relations order are subject to the following:

125 (i) the amount to be paid or the period for which payments shall be made under the
126 original domestic relations order may not be altered if the alteration affects the actuarial
127 calculation of the allowance;

128 (ii) payments to an alternate payee shall begin at the time the member or beneficiary
129 begins receiving payments; and

130 (iii) the alternate payee shall receive payments in the same form as allowances received
131 by the member or beneficiary.

132 (d) A court order under this section may not be issued more than 12 months after the
133 death of the member.

134 (4) In accordance with federal law, the board may deduct the required amount from any
135 benefit, payment, or other right accrued or accruing to any member of a system, plan, or
136 program under this title to offset any amount that member owes to a system, plan, or program
137 administered by the board.

138 (5) The board shall make rules to implement this section.

139 Section 3. Section **49-12-102** is amended to read:

140 **49-12-102. Definitions.**

141 As used in this chapter:

142 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total amount
143 of payments made by a participating employer to a member of this system for services rendered
144 to the participating employer, including:

- 145 (i) bonuses;
- 146 (ii) cost-of-living adjustments;
- 147 (iii) other payments currently includable in gross income and that are subject to Social
148 Security deductions, including any payments in excess of the maximum amount subject to
149 deduction under Social Security law;
- 150 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
151 or other benefits authorized by federal law; and
- 152 (v) member contributions.

153 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
154 under Internal Revenue Code, Section 401(a)(17).

155 (c) "Compensation" does not include:

- 156 (i) the monetary value of remuneration paid in kind, including a residence or use of
157 equipment;
- 158 (ii) the cost of any employment benefits paid for by the participating employer;
- 159 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
160 otherwise ineligible for service credit;
- 161 (iv) any payments upon termination, including accumulated vacation, sick leave
162 payments, severance payments, compensatory time payments, or any other special payments; or
- 163 (v) any allowances or payments to a member for costs or expenses paid by the
164 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
165 housing costs, insurance costs, equipment costs, and dependent care costs.

166 (d) The executive director may determine if a payment not listed under this Subsection
167 (1) falls within the definition of compensation.

168 (2) "Final average salary" means the amount computed by averaging the highest five
169 years of annual compensation preceding retirement subject to Subsections (2)(a), (b), (c), and

170 (d).

171 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
172 compensation in any one of the years used may not exceed the previous year's compensation by
173 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
174 of the dollar during the previous year, as measured by a United States Bureau of Labor
175 Statistics Consumer Price Index average as determined by the board.

176 (b) In cases where the participating employer provides acceptable documentation to the
177 office, the limitation in Subsection (2)(a) may be exceeded if:

- 178 (i) the member has transferred from another agency; or
- 179 (ii) the member has been promoted to a new position.

180 (c) If the member retires more than six months from the date of termination of
181 employment, the member is considered to have been in service at the member's last rate of pay
182 from the date of the termination of employment to the effective date of retirement for purposes
183 of computing the member's final average salary only.

184 (d) If the member has less than five years of service credit in this system, final average
185 salary means the average annual compensation paid to the member during the full period of
186 service credit.

187 (3) "Participating employer" means an employer which meets the participation
188 requirements of Sections 49-12-201 and 49-12-202.

189 (4) (a) "Regular full-time employee" means an employee whose term of employment
190 for a participating employer contemplates continued employment during a fiscal or calendar
191 year and whose employment normally requires an average of 20 hours or more per week,
192 except as modified by the board, and who receives benefits normally provided by the
193 participating employer.

194 (b) "Regular full-time employee" includes:

195 (i) a teacher whose term of employment for a participating employer contemplates
196 continued employment during a school year and who teaches half-time or more [or];

197 (ii) a classified school employee whose employment normally requires an average of

198 20 hours per week or more for a participating employer, regardless of benefits provided;

199 ~~[(ii)]~~ (iii) an officer, elective or appointive, who earns during the first full month of the
200 term of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-12-407;

201 ~~[(iii)]~~ (iv) a faculty member or employee of an institution of higher education who is
202 considered full-time by that institution of higher education; and

203 ~~[(iv)]~~ (v) an individual who otherwise meets the definition of this Subsection (4) who
204 performs services for a participating employer through an employee leasing or similar
205 arrangement.

206 (5) "System" means the Public Employees' Contributory Retirement System created
207 under this chapter.

208 (6) "Years of service credit" means:

209 (a) a period, consisting of 12 full months as determined by the board;

210 (b) a period determined by the board, whether consecutive or not, during which a
211 regular full-time employee performed services for a participating employer, including any time
212 the regular full-time employee was absent on a paid leave of absence granted by a participating
213 employer or was absent in the service of the United States government on military duty as
214 provided by this chapter; or

215 (c) the regular school year consisting of not less than eight months of full-time service
216 for a regular full-time employee of an educational institution.

217 Section 4. Section **49-13-102** is amended to read:

218 **49-13-102. Definitions.**

219 As used in this chapter:

220 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total
221 amount of payments made by a participating employer to a member of this system for services
222 rendered to the participating employer, including:

223 (i) bonuses;

224 (ii) cost-of-living adjustments;

225 (iii) other payments currently includable in gross income and that are subject to Social

226 Security deductions, including any payments in excess of the maximum amount subject to
227 deduction under Social Security law; and

228 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
229 or other benefits authorized by federal law.

230 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
231 under Internal Revenue Code, Section 401(a)(17).

232 (c) "Compensation" does not include:

233 (i) the monetary value of remuneration paid in kind, including a residence or use of
234 equipment;

235 (ii) the cost of any employment benefits paid for by the participating employer;

236 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
237 otherwise ineligible for service credit;

238 (iv) any payments upon termination, including accumulated vacation, sick leave
239 payments, severance payments, compensatory time payments, or any other special payments; or

240 (v) any allowances or payments to a member for costs or expenses paid by the
241 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
242 housing costs, insurance costs, equipment costs, and dependent care costs.

243 (d) The executive director may determine if a payment not listed under this Subsection
244 (1) falls within the definition of compensation.

245 (2) "Final average salary" means the amount computed by averaging the highest three
246 years of annual compensation preceding retirement subject to the following:

247 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
248 compensation in any one of the years used may not exceed the previous year's compensation by
249 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
250 of the dollar during the previous year, as measured by a United States Bureau of Labor
251 Statistics Consumer Price Index average as determined by the board.

252 (b) In cases where the participating employer provides acceptable documentation to the
253 office, the limitation in Subsection (2)(a) may be exceeded if:

254 (i) the member has transferred from another agency; or

255 (ii) the member has been promoted to a new position.

256 (c) If the member retires more than six months from the date of termination of
257 employment and for purposes of computing the member's final average salary only, the
258 member is considered to have been in service at his last rate of pay from the date of the
259 termination of employment to the effective date of retirement.

260 (3) "Participating employer" means an employer which meets the participation
261 requirements of Sections 49-13-201 and 49-13-202.

262 (4) (a) "Regular full-time employee" means an employee whose term of employment
263 for a participating employer contemplates continued employment during a fiscal or calendar
264 year and whose employment normally requires an average of 20 hours or more per week,
265 except as modified by the board, and who receives benefits normally provided by the
266 participating employer.

267 (b) "Regular full-time employee" includes:

268 (i) a teacher whose term of employment for a participating employer contemplates
269 continued employment during a school year and who teaches half-time or more ~~[or]~~;

270 (ii) a classified school employee whose employment normally requires an average of
271 20 hours per week or more for a participating employer, regardless of benefits provided;

272 ~~[(ii)]~~ (iii) an officer, elective or appointive, who earns during the first full month of the
273 term of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-13-407;

274 ~~[(iii)]~~ (iv) a faculty member or employee of an institution of higher education who is
275 considered full-time by that institution of higher education; and

276 ~~[(iv)]~~ (v) an individual who otherwise meets the definition of this Subsection (4) who
277 performs services for a participating employer through an employee leasing or similar
278 arrangement.

279 (5) "System" means the Public Employees' Noncontributory Retirement System.

280 (6) "Years of service credit" means:

281 (a) a period, consisting of 12 full months as determined by the board;

282 (b) a period determined by the board, whether consecutive or not, during which a
283 regular full-time employee performed services for a participating employer, including any time
284 the regular full-time employee was absent on a paid leave of absence granted by a participating
285 employer or was absent in the service of the United States government on military duty as
286 provided by this chapter; or

287 (c) the regular school year consisting of not less than eight months of full-time service
288 for a regular full-time employee of an educational institution.

289 Section 5. Section **49-13-407** is amended to read:

290 **49-13-407. Annual cost-of-living adjustment.**

291 (1) The office shall make an annual cost-of-living adjustment to:

292 (a) an original allowance paid under Section 49-13-402 or 49-13-405, if the allowance
293 has been paid for at least one year; and

294 (b) an original payment made to an alternate payee under a domestic relations order, if
295 the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

296 (2) (a) The original allowance shall be increased by the annual increase in the
297 Consumer Price Index up to a maximum of 4%.

298 (b) Annual increases in the Consumer Price Index in excess of 4% shall be
299 accumulated and used in subsequent adjustments when the annual increase in the Consumer
300 Price Index is less than 4%.

301 (3) The Consumer Price Index used in calculating adjustments [~~may~~] shall be a United
302 States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

303 (4) The cost-of-living adjustment made under this section may not decrease the
304 allowance.

305 Section 6. Section **49-14-203** is amended to read:

306 **49-14-203. Exemption of certain employees from coverage.**

307 (1) A public safety service employee serving as the Commissioner of Public Safety, or
308 as the elected or appointed sheriff or chief of police of a public safety organization, is excluded
309 from coverage under this system if that public safety service employee files a formal written

310 request seeking exemption.

311 (2) Except as provided in Subsection (3), the public safety service employee may not
312 continue employment with the same participating employer and receive an allowance from the
313 office based on public safety service at the same time.

314 (3) The Commissioner of Public Safety or an elected sheriff who is eligible to retire
315 under Section 49-14-401 may:

- 316 (a) retire from this system and receive an allowance;
- 317 (b) continue in the elected or appointed position; and
- 318 (c) file for the exemption under Subsection (1).

319 Section 7. Section **49-19-501** is amended to read:

320 **49-19-501. Death of member or retiree -- Surviving spouse benefit.**

321 (1) Upon the death of a governor or legislator who has not yet retired and who has
322 completed four or more years in the elected office, the member's spouse at the time of death
323 shall receive an allowance equal to 50% of the allowance to which the governor or legislator
324 would have been entitled upon reaching age 65, if the governor or legislator and surviving
325 spouse had been married at least six months.

326 (2) Upon the death of a governor or legislator receiving an allowance under this plan,
327 the member's spouse at the time of death is entitled to an allowance equal to 50% of the
328 allowance being paid to the member at the time of death.

329 Section 8. Section **49-20-409** is amended to read:

330 **49-20-409. Long-term disability -- Cost of health coverage waiver.**

331 (1) Under the direction of the board, the program shall provide [~~a waiver of the cost of~~]
332 for health insurance coverage for state employees who receive a monthly disability benefit
333 under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

334 (2) A [~~participating employer~~] risk pool, other than the state risk pool, may elect to
335 provide a waiver for its employees similar to the waiver provided under Subsection (1).