

**PUBLIC SAFETY RETIREMENT FOR  
DISPATCHERS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: DeMar Bud Bowman**

Senate Sponsor: Carlene M. Walker

Cosponsor: Paul Ray

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**LONG TITLE**

**General Description:**

This bill allows certain certified dispatchers to be covered in the public safety retirement systems.

**Highlighted Provisions:**

This bill:

- ▶ provides definitions;
- ▶ requires the state to cover its certified dispatchers under the public safety retirement systems;
- ▶ authorizes other participating employers to elect to cover its certified dispatchers under the public safety retirement systems; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2006.

**Utah Code Sections Affected:**

AMENDS:

**49-14-102**, as last amended by Chapter 240, Laws of Utah 2003



28           **49-14-201**, as last amended by Chapter 265, Laws of Utah 2005

29           **49-15-102**, as last amended by Chapters 131 and 240, Laws of Utah 2003

30           **49-15-201**, as last amended by Chapter 265, Laws of Utah 2005

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

33           Section 1. Section **49-14-102** is amended to read:

34           **49-14-102. Definitions.**

35           As used in this chapter:

36           (1) (a) "Compensation" means the total amount of payments that are includable in  
37 gross income which are received by a public safety service employee as base income for the  
38 regularly scheduled work period. The participating employer shall establish the regularly  
39 scheduled work period. Base income shall be determined prior to the deduction of member  
40 contributions or any amounts the public safety service employee authorizes to be deducted for  
41 salary deferral or other benefits authorized by federal law.

42           (b) "Compensation" includes performance-based bonuses and cost-of-living  
43 adjustments.

44           (c) "Compensation" does not include:

45           (i) overtime;

46           (ii) sick pay incentives;

47           (iii) retirement pay incentives;

48           (iv) the monetary value of remuneration paid in kind, including a residence, use of  
49 equipment or uniform, travel, or similar payments;

50           (v) a lump-sum payment or special payments covering accumulated leave; and

51           (vi) all contributions made by a participating employer under this system or under any  
52 other employee benefit system or plan maintained by a participating employer for the benefit of  
53 a member or participant.

54           (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
55 under Internal Revenue Code Section 401(a)(17).

56           (2) "Dispatcher" means an employee of a public safety agency of the state or any of its  
57 political subdivisions:

58           (a) whose primary duties are to:

59 (i) (A) receive calls for one or a combination of emergency police, fire, and medical  
60 services, and to dispatch the appropriate personnel and equipment in response to the calls; and

61 (B) make urgent decisions affecting the life, health, and welfare of the public and  
62 public safety employees; or

63 (ii) supervise dispatchers or direct a dispatch communication center; and

64 (b) who is a certified dispatcher in accordance with Title 53, Chapter 6, Part 3,  
65 Dispatcher Training and Certification Act.

66 ~~[(2)]~~ (3) "Final average salary" means the amount computed by averaging the highest  
67 three years of annual compensation preceding retirement, subject to Subsections ~~[(2)]~~ (3)(a)  
68 and (b).

69 (a) Except as provided in Subsection ~~[(2)]~~ (3)(b), the percentage increase in annual  
70 compensation in any one of the years used may not exceed the previous year's compensation by  
71 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
72 of the dollar during the previous year, as measured by a United States Bureau of Labor  
73 Statistics Consumer Price Index average as determined by the board.

74 (b) In cases where the participating employer provides acceptable documentation to the  
75 office, the limitation in Subsection ~~[(2)]~~ (3)(a) may be exceeded if:

76 (i) the public safety service employee has transferred from another agency; or

77 (ii) the public safety service employee has been promoted to a new position.

78 ~~[(3)]~~ (4) "Line-of-duty death" means a death resulting from external force, violence, or  
79 disease occasioned by an act of duty as a public safety service employee.

80 ~~[(4)]~~ (5) "Participating employer" means an employer which meets the participation  
81 requirements of Section 49-14-201.

82 ~~[(5)]~~ (6) (a) "Public safety service" means employment normally requiring an average  
83 of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

84 (i) law enforcement officer in accordance with Section 53-13-103;

85 (ii) correctional officer in accordance with Section 53-13-104; ~~[and]~~

86 (iii) special function officer approved in accordance with Sections 49-14-201 and  
87 53-13-105~~[-]; and~~

88 (iv) dispatcher in accordance with Subsection (2).

89 (b) "Public safety service" also requires that in the course of employment the

90 employee's life or personal safety is at risk. This Subsection (6)(b) does not apply to a  
91 dispatcher.

92 (c) Except for the minimum hour requirement, Subsections [~~(5)~~] (6)(a) and (b) do not  
93 apply to any person who was eligible for service credit in this system prior to January 1, 1984.

94 [~~(6)~~] (7) "Public safety service employee" means an employee of a participating  
95 employer who performs public safety service under this chapter.

96 [~~(7)~~] (8) "System" means the Public Safety Contributory Retirement System created  
97 under this chapter.

98 [~~(8)~~] (9) "Years of service credit" means the number of periods, each to consist of 12  
99 full months as determined by the board, whether consecutive or not, during which a public  
100 safety service employee was employed by a participating employer, including time the public  
101 safety service employee was absent in the service of the United States government on military  
102 duty.

103 Section 2. Section **49-14-201** is amended to read:

104 **49-14-201. System membership -- Eligibility.**

105 (1) Except as provided in Section 49-15-201, a public safety service employee of a  
106 participating employer participating in this system is eligible for service credit in this system at  
107 the earliest of:

108 (a) July 1, 1969, if the public safety service employee was employed by the  
109 participating employer on July 1, 1969, and the participating employer was participating in this  
110 system on that date;

111 (b) the date the participating employer begins participating in this system if the public  
112 safety service employee was employed by the participating employer on that date; or

113 (c) the date the public safety service employee is employed by the participating  
114 employer and is eligible to perform public safety service.

115 (2) (a) (i) A participating employer that has public safety service and firefighter service  
116 employees that require cross-training and duty shall enroll those dual purpose employees in the  
117 system in which the greatest amount of time is actually worked.

118 (ii) The employees shall either be full-time public safety service or full-time firefighter  
119 service employees of the participating employer.

120 (b) (i) Prior to transferring a dual purpose employee from one system to another, the

121 participating employer shall receive written permission from the office.

122 (ii) The office may request documentation to verify the appropriateness of the transfer.

123 (3) The board may combine or segregate the actuarial experience of participating  
124 employers in this system for the purpose of setting contribution rates.

125 (4) (a) (i) Each participating employer participating in this system shall annually  
126 submit to the office a schedule indicating the positions to be covered under this system in  
127 accordance with this chapter.

128 (ii) The office may require documentation to justify the inclusion of any position under  
129 this system.

130 (b) If there is a dispute between the office and a participating employer or employee  
131 over any position to be covered, the disputed position shall be submitted to the Peace Officer  
132 Standards and Training Council established under Section 53-6-106 for determination.

133 (c) (i) The Peace Officer Standards and Training Council's authority to decide  
134 eligibility for public safety service credit is limited to claims for coverage under this system for  
135 time periods after July 1, 1989.

136 (ii) A decision of the Peace Officer Standards and Training Council may not be applied  
137 to service credit earned in another system prior to July 1, 1989.

138 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer  
139 Standards and Training Council granting a position coverage under this system may only be  
140 applied prospectively from the date of that decision.

141 (iv) A decision of the Peace Officer Standards and Training Council granting a position  
142 coverage under this system may be applied retroactively only if:

143 (A) the participating employer covered other similarly situated positions under this  
144 system during the time period in question; and

145 (B) the position otherwise meets all eligibility requirements for receiving service credit  
146 in this system during the period for which service credit is to be granted.

147 (5) The Peace Officer Standards and Training Council may use a subcommittee to  
148 provide a recommendation to the council in determining disputes between the office and a  
149 participating employer or employee over a position to be covered under this system.

150 (6) The Peace Officer Standards and Training Council shall comply with Title 63,  
151 Chapter 46b, Administrative Procedures Act, in resolving coverage disputes in this system.

152 (7) A public safety employee who is transferred or promoted to an administration  
153 position not covered by this system shall continue to earn public safety service credit in this  
154 system as long as the employee remains employed in the same department.

155 (8) Any employee who is transferred to the Division of Information Technology  
156 Services from the Department of Public Safety prior to January 1, 1992, and who was a  
157 member of this system, shall be entitled to remain a member of this system regardless of  
158 whether or not the employee's current position is covered by this system.

159 (9) (a) To determine that a position is covered under this system, the office and, if a  
160 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the  
161 position requires the employee to:

- 162 (i) place the employee's life or personal safety at risk; and
- 163 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

164 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace  
165 Officer Standards and Training Council shall consider whether or not the position requires the  
166 employee to:

- 167 (i) perform duties that consist primarily of actively preventing or detecting crime and  
168 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- 169 (ii) perform duties that consist primarily of providing community protection; and
- 170 (iii) respond to situations involving threats to public safety and make emergency  
171 decisions affecting the lives and health of others.

172 (10) If a subcommittee is used to recommend the determination of disputes to the  
173 Peace Officer Standards and Training Council, the subcommittee shall comply with the  
174 requirements of Subsection (9) in making its recommendation.

175 (11) A final order of the Peace Officer Standards and Training Council regarding a  
176 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative  
177 Procedures Act.

178 (12) Except as provided under Subsection (13), if a participating employer's public  
179 safety service employees are not covered by this system or under Chapter 15, Public Safety  
180 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees  
181 who may otherwise qualify for membership in this system shall, at the discretion of the  
182 participating employer, remain in their current retirement system.

183 (13) (a) A public safety service employee employed by an airport police department,  
184 which elects to cover its public safety service employees under the Public Safety  
185 Noncontributory Retirement System under Subsection (12), may elect to remain in the public  
186 safety service employee's current retirement system.

187 (b) The public safety service employee's election to remain in the current retirement  
188 system under Subsection (13)(a):

189 (i) shall be made at the time the employer elects to move its public safety service  
190 employees to a public safety retirement system;

191 (ii) documented by written notice to the participating employer; and

192 (iii) is irrevocable.

193 (14) (a) A public safety service employee who is a dispatcher employed by the state  
194 shall be eligible for service credit in this system.

195 (b) A public safety service employee who is a dispatcher employed by a participating  
196 employer other than the state shall be eligible for service credit in this system if the dispatcher's  
197 participating employer elects to cover its dispatchers under this system.

198 Section 3. Section **49-15-102** is amended to read:

199 **49-15-102. Definitions.**

200 As used in this chapter:

201 (1) (a) "Compensation" means the total amount of payments that are includable in  
202 gross income received by a public safety service employee as base income for the regularly  
203 scheduled work period. The participating employer shall establish the regularly scheduled  
204 work period. Base income shall be determined prior to the deduction of any amounts the  
205 public safety service employee authorizes to be deducted for salary deferral or other benefits  
206 authorized by federal law.

207 (b) "Compensation" includes performance-based bonuses and cost-of-living  
208 adjustments.

209 (c) "Compensation" does not include:

210 (i) overtime;

211 (ii) sick pay incentives;

212 (iii) retirement pay incentives;

213 (iv) the monetary value of remuneration paid in kind, as in a residence, use of

214 equipment or uniform, travel, or similar payments;

215 (v) a lump-sum payment or special payment covering accumulated leave; and

216 (vi) all contributions made by a participating employer under this system or under any  
217 other employee benefit system or plan maintained by a participating employer for the benefit of  
218 a member or participant.

219 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
220 under Internal Revenue Code Section 401(a)(17).

221 (2) "Dispatcher" means an employee of a public safety agency of the state or any of its  
222 political subdivisions:

223 (a) whose primary duties are to:

224 (i) (A) receive calls for one or a combination of emergency police, fire, and medical  
225 services, and to dispatch the appropriate personnel and equipment in response to the calls; and

226 (B) make urgent decisions affecting the life, health, and welfare of the public and  
227 public safety employees; or

228 (ii) supervise dispatchers or direct a dispatch communication center; and

229 (b) who is a certified dispatcher in accordance with Title 53, Chapter 6, Part 3,

230 Dispatcher Training and Certification Act.

231 [~~2~~] (3) "Final average salary" means the amount computed by averaging the highest  
232 three years of annual compensation preceding retirement subject to Subsections [~~2~~] (3)(a) and  
233 (b).

234 (a) Except as provided in Subsection [~~2~~] (3)(b), the percentage increase in annual  
235 compensation in any one of the years used may not exceed the previous year's compensation by  
236 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
237 of the dollar during the previous year, as measured by a United States Bureau of Labor  
238 Statistics Consumer Price Index average as determined by the board.

239 (b) In cases where the participating employer provides acceptable documentation to the  
240 office, the limitation in Subsection [~~2~~] (3)(a) may be exceeded if:

241 (i) the public safety service employee has transferred from another agency; or

242 (ii) the public safety service employee has been promoted to a new position.

243 [~~3~~] (4) "Line-of-duty death" means a death resulting from external force, violence, or  
244 disease occasioned by an act of duty as a public safety service employee.



245           ~~[(4)]~~ (5) "Participating employer" means an employer which meets the participation  
246 requirements of Section 49-15-201.

247           ~~[(5)]~~ (6) (a) "Public safety service" means employment normally requiring an average  
248 of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

249           (i) law enforcement officer in accordance with Section 53-13-103;

250           (ii) correctional officer in accordance with Section 53-13-104; ~~[and]~~

251           (iii) special function officer approved in accordance with Sections 49-15-201 and  
252 53-13-105~~[-]; and~~

253           (iv) dispatcher in accordance with Subsection (2).

254           (b) "Public safety service" also requires that in the course of employment the  
255 employee's life or personal safety is at risk. This Subsection (6)(b) does not apply to a  
256 dispatcher.

257           ~~[(6)]~~ (7) "Public safety service employee" means an employee of a participating  
258 employer who performs public safety service under this chapter.

259           ~~[(7)]~~ (8) "System" means the Public Safety Noncontributory Retirement System created  
260 under this chapter.

261           ~~[(8)]~~ (9) "Years of service credit" means the number of periods, each to consist of 12  
262 full months as determined by the board, whether consecutive or not, during which a public  
263 safety service employee was employed by a participating employer, including time the public  
264 safety service employee was absent in the service of the United States government on military  
265 duty.

266           Section 4. Section **49-15-201** is amended to read:

267           **49-15-201. System membership -- Eligibility.**

268           (1) (a) A public safety service employee employed by the state after July 1, 1989, is  
269 eligible for service credit in this system.

270           (b) A public safety service employee employed by the state prior to July 1, 1989, may  
271 either elect to receive service credit in this system or continue to receive service credit under  
272 the system established under Chapter 14, Public Safety Contributory Retirement Act, by  
273 following the procedures established by the board under this chapter.

274           (2) (a) Public safety service employees of a participating employer other than the state  
275 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement

276 System shall be eligible only for service credit in that system.

277 (b) (i) A participating employer other than the state that elected on or before July 1,  
278 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety  
279 service employee to elect to participate in either this system or the Public Safety Contributory  
280 Retirement System.

281 (ii) Except as expressly allowed by this title, the election of the public safety service  
282 employee is final and may not be changed.

283 (c) A public safety service employee hired by a participating employer other than the  
284 state after July 1, 1989, shall become a member in this system.

285 (d) A public safety service employee of a participating employer other than the state  
286 who began participation in this system after July 1, 1989, is only eligible for service credit in  
287 this system.

288 (3) (a) (i) A participating employer that has public safety service and firefighter service  
289 employees that require cross-training and duty shall enroll those dual purpose employees in the  
290 system in which the greatest amount of time is actually worked.

291 (ii) The employees shall either be full-time public safety service or full-time firefighter  
292 service employees of the participating employer.

293 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
294 participating employer shall receive written permission from the office.

295 (ii) The office may request documentation to verify the appropriateness of the transfer.

296 (4) The board may combine or segregate the actuarial experience of participating  
297 employers in this system for the purpose of setting contribution rates.

298 (5) (a) (i) Each participating employer participating in this system shall annually  
299 submit to the office a schedule indicating the positions to be covered under this system in  
300 accordance with this chapter.

301 (ii) The office may require documentation to justify the inclusion of any position under  
302 this system.

303 (b) If there is a dispute between the office and a participating employer or employee  
304 over any position to be covered, the disputed position shall be submitted to the Peace Officer  
305 Standards and Training Council established under Section 53-6-106 for determination.

306 (c) (i) The Peace Officer Standards and Training Council's authority to decide

307 eligibility for public safety service credit is limited to claims for coverage under this system for  
308 time periods after July 1, 1989.

309 (ii) A decision of the Peace Officer Standards and Training Council may not be applied  
310 to service credit earned in another system prior to July 1, 1989.

311 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer  
312 Standards and Training Council granting a position coverage under this system may only be  
313 applied prospectively from the date of that decision.

314 (iv) A decision of the Peace Officer Standards and Training Council granting a position  
315 coverage under this system may be applied retroactively only if:

316 (A) the participating employer covered other similarly situated positions under this  
317 system during the time period in question; and

318 (B) the position otherwise meets all eligibility requirements for receiving service credit  
319 in this system during the period for which service credit is to be granted.

320 (6) The Peace Officer Standards and Training Council may use a subcommittee to  
321 provide a recommendation to the council in determining disputes between the office and a  
322 participating employer or employee over a position to be covered under this system.

323 (7) The Peace Officer Standards and Training Council shall comply with Title 63,  
324 Chapter 46b, Administrative Procedures Act, in resolving coverage disputes in this system.

325 (8) A public safety service employee who is transferred or promoted to an  
326 administration position not covered by this system shall continue to earn public safety service  
327 credit in this system as long as the employee remains employed in the same department.

328 (9) Any employee who is transferred to the Division of Information Technology  
329 Services from the Department of Public Safety prior to January 1, 1992, and who was a  
330 member in this system, shall be entitled to remain a member in this system regardless of  
331 whether or not the employee's current position is covered by this system.

332 (10) (a) To determine that a position is covered under this system, the office and, if a  
333 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the  
334 position requires the employee to:

335 (i) place the employee's life or personal safety at risk; and

336 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

337 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace

338 Officer Standards and Training Council shall consider whether the position requires the  
339 employee to:

340 (i) perform duties that consist primarily of actively preventing or detecting crime and  
341 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

342 (ii) perform duties that consist primarily of providing community protection; and

343 (iii) respond to situations involving threats to public safety and make emergency  
344 decisions affecting the lives and health of others.

345 (11) If a subcommittee is used to recommend the determination of disputes to the  
346 Peace Officer Standards and Training Council, the subcommittee shall comply with the  
347 requirements of Subsection (10) in making its recommendation.

348 (12) A final order of the Peace Officer Standards and Training Council regarding a  
349 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative  
350 Procedures Act.

351 (13) Except as provided under Subsection (14), if a participating employer's public  
352 safety service employees are not covered by this system under Chapter 14, Public Safety  
353 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who  
354 may otherwise qualify for membership in this system shall, at the discretion of the participating  
355 employer, remain in their current retirement system.

356 (14) (a) A public safety service employee employed by an airport police department,  
357 which elects to cover its public safety service employees under the Public Safety  
358 Noncontributory Retirement System under Subsection (13), may elect to remain in the public  
359 safety service employee's current retirement system.

360 (b) The public safety service employee's election to remain in the current retirement  
361 system under Subsection (14)(a):

362 (i) shall be made at the time the employer elects to move its public safety service  
363 employees to a public safety retirement system;

364 (ii) documented by written notice to the participating employer; and

365 (iii) is irrevocable.

366 (15) (a) A public safety service employee who is a dispatcher employed by the state  
367 shall be eligible for service credit in this system.

368 (b) A public safety service employee who is a dispatcher employed by a participating

369 employer other than the state shall be eligible for service credit in this system if the dispatcher's  
370 participating employer elects to cover its dispatchers under this system.

371 Section 5. **Effective date.**

372 This bill takes effect on July 1, 2006.

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**Legislative Review Note**

**as of 1-20-06 10:22 AM**

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**

**State Impact**

The bill will require an increase in the retirement contribution rates for certain dispatchers participating in the Utah Retirement Systems. The rates (as a percentage of salary) for State-employed dispatchers in the Contributory and Noncontributory Retirement systems will increase by 11.02 percentage points and 11.03 percentage points, respectively. This increase in rates will require an appropriation of \$267,800 from various funding sources.

The rate increases for certain dispatchers employed by local governments would vary between entities, ranging from 8.40 to 25.14 percentage points.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$219,600	\$219,600	\$0	\$0
Dedicated Credits	\$48,200	\$48,200	\$0	\$0
<b>TOTAL</b>	<b>\$267,800</b>	<b>\$267,800</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

This bill could increase the retirement benefit and change retirement eligibility requirements for some public dispatchers.

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