

1 **POST RETIREMENT EMPLOYMENT**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Glenn A. Donnelson**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
10 reemployment restrictions for certain retirees.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines "agency" to clarify the applicability of reemployment restrictions for certain
14 retirees; and
15 ▶ makes technical changes.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **49-11-102**, as last amended by Chapter 116, Laws of Utah 2005

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

25 Section 1. Section **49-11-102** is amended to read:

26 **49-11-102. Definitions.**

27 As used in this title:

28 (1) (a) "Active member" means a member who is employed or who has been employed
29 by a participating employer within the previous 120 days.

30 (b) "Active member" does not include retirees.

31 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the
32 basis of mortality tables as recommended by the actuary and adopted by the executive director,
33 including regular interest.

34 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and
35 adopted by the board upon which the funding of system costs and benefits are computed.

36 (4) (a) "Agency" means:

37 [~~(a)~~] (i) a department, division, agency, office, authority, commission, board,
38 institution, or hospital of the state;

39 [~~(b)~~] (ii) a county, municipality, school district, or special district;

40 [~~(c)~~] (iii) a state college or university; or

41 [~~(d)~~] (iv) any other participating employer.

42 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a
43 subdivision of another entity listed under Subsection (4)(a).

44 (5) "Allowance" means the pension plus the annuity, including any cost of living or
45 other authorized adjustments to the pension and annuity.

46 (6) "Alternate payee" means a member's former spouse or family member eligible to
47 receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

48 (7) "Annuity" means monthly payments derived from member contributions.

49 (8) "Appointive officer" means an employee appointed to a position for a definite and
50 fixed term of office by official and duly recorded action of a participating employer whose
51 appointed position is designated in the participating employer's charter, creation document, or
52 similar document, and who earns during the first full month of the term of office \$500 or more,
53 indexed as of January 1, 1990, as provided in Section 49-12-407.

54 (9) "Beneficiary" means any person entitled to receive a payment under this title
55 through a relationship with or designated by a member, participant, covered individual, or
56 alternate payee of a defined contribution plan.

57 (10) "Board" means the Utah State Retirement Board established under Section

58 49-11-202.

59 (11) "Board member" means a person serving on the Utah State Retirement Board as
60 established under Section 49-11-202.

61 (12) "Contributions" means the total amount paid by the participating employer and the
62 member into a system or to the Utah Governors' and Legislators' Retirement Plan under
63 Chapter 19, Utah Governor's and Legislators' Retirement Act.

64 (13) "Council member" means a person serving on the Membership Council
65 established under Section 49-11-202.

66 (14) "Covered individual" means any individual covered under Chapter 20, Public
67 Employees' Benefit and Insurance Program Act.

68 (15) "Current service" means covered service as defined in Chapters 12, 13, 14, 15, 16,
69 17, 18, and 19.

70 (16) "Defined contribution" or "defined contribution plan" means any defined
71 contribution plan authorized under the Internal Revenue Code and administered by the board.

72 (17) "Educational institution" means a political subdivision or instrumentality of the
73 state or a combination thereof primarily engaged in educational activities or the administration
74 or servicing of educational activities, including:

75 (a) the State Board of Education and its instrumentalities;

76 (b) any institution of higher education and its branches;

77 (c) any school district and its instrumentalities;

78 (d) any vocational and technical school; and

79 (e) any entity arising out of a consolidation agreement between entities described under
80 this Subsection (17).

81 (18) (a) "Employer" means any department, educational institution, or political
82 subdivision of the state eligible to participate in a government-sponsored retirement system
83 under federal law.

84 (b) "Employer" may also include an agency financed in whole or in part by public
85 funds.

86 (19) "Exempt employee" means an employee working for a participating employer:

87 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
88 49-14-203, 49-15-203, or 49-16-203; and

89 (b) for whom a participating employer is not required to pay contributions or
90 nonelective contributions.

91 (20) "Final average monthly salary" means the amount computed by dividing the
92 compensation received during the final average salary period under each system by the number
93 of months in the final average salary period.

94 (21) "Fund" means any fund created under this title for the purpose of paying benefits
95 or costs of administering a system, plan, or program.

96 (22) (a) "Inactive member" means a member who has not been employed by a
97 participating employer for a period of at least 120 days.

98 (b) "Inactive member" does not include retirees.

99 (23) (a) "Member" means a person, except a retiree, with contributions on deposit with
100 a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, or with a
101 terminated system.

102 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)
103 of the Internal Revenue Code, if the employees have contributions on deposit with the office.
104 If leased employees constitute less than 20% of the participating employer's work force that is
105 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,
106 "member" does not include leased employees covered by a plan described in Section 414(n)(5)
107 of the federal Internal Revenue Code.

108 (24) "Member contributions" means the sum of the contributions paid to a system or
109 the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a
110 system, and which are made by:

111 (a) the member; and

112 (b) the participating employer on the member's behalf under Section 414(h) of the
113 Internal Revenue Code.

114 (25) "Nonelective contribution" means an amount contributed by a participating
115 employer into a participant's defined contribution account.

116 (26) "Office" means the Utah State Retirement Office.

117 (27) "Participant" means an individual with voluntary deferrals or nonelective
118 contributions on deposit with the defined contribution plans administered under this title.

119 (28) "Participating employer" means a participating employer, as defined by Chapters
120 12, 13, 14, 15, 16, 17, and 18, or an agency financed in whole or in part by public funds which
121 is participating in a system or plan as of January 1, 2002.

122 (29) "Pension" means monthly payments derived from participating employer
123 contributions.

124 (30) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by
125 Chapter 19 or the defined contribution plans created under Section 49-11-801.

126 (31) (a) "Political subdivision" means any local government entity, including cities,
127 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally
128 separate and distinct from the state and only if its employees are not by virtue of their
129 relationship to the entity employees or the state.

130 (b) "Political subdivision" includes special districts or authorities created by the
131 Legislature or by local governments, including the office.

132 (c) "Political subdivision" does not include a project entity created under Title 11,
133 Chapter 13, Interlocal Cooperation Act.

134 (32) "Program" means the Public Employees' Insurance Program created under Chapter
135 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
136 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
137 Disability Act.

138 (33) "Public funds" means those funds derived, either directly or indirectly, from public
139 taxes or public revenue, dues or contributions paid or donated by the membership of the
140 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,
141 the governmental, educational, and social programs and systems of the state or its political

142 subdivisions.

143 (34) "Refund interest" means the amount accrued on member contributions at a rate
144 adopted by the board.

145 (35) "Retiree" means an individual who has qualified for an allowance under this title.

146 (36) "Retirement" means the status of an individual who has become eligible, applies
147 for, and is entitled to receive an allowance under this title.

148 (37) "Retirement date" means the date selected by the member on which the member's
149 retirement becomes effective with the office.

150 (38) "Service credit" means:

151 (a) the period during which an employee is employed and compensated by a
152 participating employer and meets the eligibility requirements for membership in a system or the
153 Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are
154 paid to the office; and

155 (b) periods of time otherwise purchasable under this title.

156 (39) "System" means the individual retirement systems created by Chapters 12, 13, 14,
157 15, 16, 17, and 18.

158 (40) "Voluntary deferrals" means an amount contributed by a participant into that
159 participant's defined contribution account.