

POST RETIREMENT EMPLOYMENT

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Glenn A. Donnelson

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines "agency" to clarify the applicability of reemployment restrictions for certain retirees;
- ▶ requires that a retiree's retirement allowance be cancelled if the retiree is reemployed on any basis or is retained on contract by the same agency within 12 months of retirement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:

AMENDS:

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

49-11-504, as last amended by Chapter 116, Laws of Utah 2005



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

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

30 **49-11-102. Definitions.**

31 As used in this title:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58 (9) "Beneficiary" means any person entitled to receive a payment under this title

59 through a relationship with or designated by a member, participant, covered individual, or
60 alternate payee of a defined contribution plan.

61 (10) "Board" means the Utah State Retirement Board established under Section
62 49-11-202.

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

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

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

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

72 (15) "Current service" means covered service as defined in Chapters 12, 13, 14, 15, 16,
73 17, 18, and 19.

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

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

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

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

81 (c) any school district and its instrumentalities;

82 (d) any vocational and technical school; and

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

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

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

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

91 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
92 49-14-203, 49-15-203, or 49-16-203; and

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

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

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

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

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

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

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

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

115 (a) the member; and

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

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

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

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

123 (28) "Participating employer" means a participating employer, as defined by Chapters
124 12, 13, 14, 15, 16, 17, and 18, or an agency financed in whole or in part by public funds which
125 is participating in a system or plan as of January 1, 2002.

126 (29) "Pension" means monthly payments derived from participating employer
127 contributions.

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

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

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

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

138 (32) "Program" means the Public Employees' Insurance Program created under Chapter
139 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
140 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
141 Disability Act.

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

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

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

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

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

154 (38) "Service credit" means:

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

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

160 (39) "System" means the individual retirement systems created by Chapters 12, 13, 14,
161 15, 16, 17, and 18.

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

164 Section 2. Section **49-11-504** is amended to read:

165 **49-11-504. Reemployment of a retiree -- Restrictions.**

166 (1) As used in this section, "full-time" employment means employment requiring 20
167 hours of work per week or more or at least a half-time teaching contract.

168 ~~[(1)]~~ (2) A person who retires from a nonparticipating employer is not subject to any
169 postretirement restrictions under this title.

170 ~~[(2)]~~ (3) A retiree of an agency who returns to work at a different agency:

171 (a) is not subject to any postretirement restrictions under this section; and

172 (b) may not earn additional service credit.

173 ~~[(3) For the purposes of Subsections (4) and (5), "full-time" employment means~~
174 ~~employment requiring 20 hours of work per week or more or at least a half-time teaching~~
175 ~~contract.]~~

176 (4) ~~[(A)]~~ For the first 12 months from the date of retirement, a retiree of an agency who
177 is reemployed on [a full-time] any basis by the same agency [within six months of the date of
178 retirement] or who is retained by contract by the same agency is subject to the following:

179 (a) the agency shall immediately notify the office;

180 (b) the office shall cancel the retiree's allowance and if the retiree is reemployed on a
181 full-time basis, reinstate the retiree to active member status;

182 (c) the allowance cancellation and reinstatement to active member status is effective on

183 the first day of the month following the date of reemployment;

184 (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year
185 period from the date of cancellation of the original allowance, and if the retiree retires again
186 within the two-year period, the original allowance shall be resumed; and

187 (e) a reinstated retiree retiring after the two-year period shall be credited with the
188 service credit in the retiree's account at the time of the first retirement and from that time shall
189 be treated as a member of a system, including the accrual of additional service credit, but
190 subject to recalculation of the allowance under Subsection ~~[(9)]~~ (7).

191 ~~[(5) A retiree of an agency who is reemployed by the same agency within six months of~~
192 ~~retirement on a less than full-time basis by the same agency is subject to the following:]~~

193 ~~[(a) the retiree may earn, without penalty, compensation from that position which is not~~
194 ~~in excess of the exempt earnings permitted by Social Security;]~~

195 ~~[(b) if a retiree receives compensation in a calendar year in excess of the Social~~
196 ~~Security limitation, 25% of the allowance shall be suspended for the remainder of the~~
197 ~~six-month period;]~~

198 ~~[(c) the effective date of a suspension and reinstatement of an allowance shall be set by~~
199 ~~the office; and]~~

200 ~~[(d) any suspension of a retiree's allowance under this Subsection (5) shall be applied~~
201 ~~on a calendar year basis;]~~

202 ~~[(6) For six months immediately following retirement, the retiree and participating~~
203 ~~employer shall:]~~

204 ~~[(a) maintain an accurate record of gross earnings in employment;]~~

205 ~~[(b) report the gross earnings at least monthly to the office;]~~

206 ~~[(c) immediately notify the office in writing of any postretirement earnings under~~
207 ~~Subsection (4); and]~~

208 ~~[(d) immediately notify the office in writing whether postretirement earnings equal or~~
209 ~~exceed the exempt earnings under Subsection (5);]~~

210 ~~[(7)]~~ (5) A retiree of an agency who is reemployed by the same agency after ~~[six]~~ 12
211 months from the retirement date;

212 (a) is not subject to any postretirement restrictions under this title; and

213 (b) may not earn additional service credit.

214 [~~(8)~~] (6) If a participating employer hires a nonexempt retiree who may not earn
215 additional service credit under this section, the participating employer shall contribute the same
216 percentage of a retiree’s salary that the participating employer would have been required to
217 contribute if the retiree were an active member, up to the amount allowed by federal law, to a
218 retiree designated:

219 (a) defined contribution plan administered by the board, if the participating employer
220 participates in the defined contribution plan administered by the board; or

221 (b) defined contribution plan offered by the participating employer if the participating
222 employer does not participate in a defined contribution plan administered by the board.

223 [~~(9)~~] (7) Notwithstanding any other provision of this section, a retiree who has returned
224 to work, accrued additional service credit, and again retires shall have the retiree's allowance
225 recalculated using:

226 (a) the formula in effect at the date of the retiree’s original retirement for all service
227 credit accrued prior to that date; and

228 (b) the formula in effect at the date of the subsequent retirement for all service credit
229 accrued between the first and subsequent retirement dates.

230 [~~(10)~~] (8) This section does not apply to elected positions.

231 [~~(11)~~] (9) The board may make rules to implement this section.

232 Section 3. **Effective date.**

233 This bill takes effect on July 1, 2007.

Legislative Review Note
as of 11-16-06 8:45 AM

Office of Legislative Research and General Counsel

H.B. 260 - Post Retirement Employment

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

If this bill is enacted, some employees covered by the Utah Retirement Systems may face postretirement restrictions that they would not have otherwise.

1/16/2007, 2:39:05 PM, Lead Analyst: Tennert, J.

Office of the Legislative Fiscal Analyst