

POST-RETIREMENT BENEFITS**RESTRICTIONS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: _____

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:

- ▶ provides that employees that are reemployed prior to April 30, 2007 by a participating employer may be given a defined contribution at the same percentage of a retiree's salary that the participating employer would have been required to contribute if the retiree were an active member;
- ▶ requires a participating employer that hires a retiree beginning April 30, 2007, to contribute 1.5 percent of the retiree's salary to a retiree designated defined contribution plan;
- ▶ prohibits a participating employer from providing health care coverage to the retiree or the retiree's dependents during any period that the retiree is the primary covered individual of a post-retirement health insurance plan;
- ▶ provides for certain exceptions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None



Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

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

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

Section 1. Section **49-11-504** is amended to read:

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

(1) A person who retires from a nonparticipating employer is not subject to any postretirement restrictions under this title.

(2) A retiree of an agency who returns to work at a different agency is not subject to any postretirement restrictions under this section and may not earn additional service credit.

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

(4) A retiree of an agency who is reemployed on a full-time basis by the same agency within six months of the date of retirement is subject to the following:

(a) the agency shall immediately notify the office;

(b) the office shall cancel the retiree's allowance and reinstate the retiree to active member status;

(c) the allowance cancellation and reinstatement to active member status is effective on the first day of the month following the date of reemployment;

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

(e) a reinstated retiree retiring after the two-year period shall be credited with the service credit in the retiree's account at the time of the first retirement and from that time shall be treated as a member of a system, including the accrual of additional service credit, but subject to recalculation of the allowance under Subsection ~~[(9)]~~ (10).

(5) A retiree of an agency who is reemployed by the same agency within six months of

retirement on a less than full-time basis by the same agency is subject to the following:

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

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

(c) the effective date of a suspension and reinstatement of an allowance shall be set by the office; and

(d) any suspension of a retiree's allowance under this Subsection (5) shall be applied on a calendar year basis.

(6) For six months immediately following retirement, the retiree and participating employer shall:

(a) maintain an accurate record of gross earnings in employment;

(b) report the gross earnings at least monthly to the office;

(c) immediately notify the office in writing of any postretirement earnings under Subsection (4); and

(d) immediately notify the office in writing whether postretirement earnings equal or exceed the exempt earnings under Subsection (5).

(7) A retiree of an agency who is reemployed by the same agency after six months from the retirement date is not subject to any postretirement restrictions under this title and may not earn additional service credit.

(8) [H] Until April 29, 2007, if a participating employer hires a nonexempt retiree who retired from a system administered under this title and who may not earn additional service credit under this section, the participating employer shall contribute the same percentage of a retiree's salary that the participating employer would have been required to contribute if the retiree were an active member, up to the amount allowed by federal law, to a retiree designated:

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

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

(9) (a) Beginning April 30, 2007, if a participating employer hires a retiree of a system administered under this title, and the retiree may not earn additional service credit under this

section, the following restrictions apply, subject to federal law:

(i) the participating employer shall contribute 1.5 percent of the retiree's salary to a retiree designated:

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

(B) defined contribution plan offered by the participating employer if the participating employer does not participate in a defined contribution plan administered by the board;

(ii) the participating employer may not provide health care coverage to the reemployed retiree during any period that the retiree is the primary covered individual of a post-retirement health insurance plan offered by a participating employer.

(b) The contribution limit under Subsection (9)(a)(i) does not apply to a person that:

(i) is exempt or excluded from coverage under a system under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and

(ii) does not receive a defined benefit from a system administered by the board.

(c) The restrictions under Subsection (9)(a) do not apply if the retiree's allowance is canceled and the retiree is reinstated to active member status.

~~[(9)]~~ (10) Notwithstanding any other provision of this section, a retiree who has returned to work, accrued additional service credit, and again retires shall have the retiree's allowance recalculated using:

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

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

~~[(10)]~~ (11) This section does not apply to elected positions.

~~[(11)]~~ (12) The board may make rules to implement this section.

Legislative Review Note

as of 1-29-07 1:57 PM

Office of Legislative Research and General Counsel

H.B. 387 - Post-retirement Benefits Restrictions

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. State contributions to the 401(K) accounts of retirees rehired after April 29, 2007, will decrease but potential savings cannot be quantified.

Individual, Business and/or Local Impact

If this bill is enacted, local government contributions to 401(K) accounts of retirees rehired after April 29, 2007, will decrease but potential savings cannot be quantified.

Members of the Utah Retirement Systems who retire and are rehired after April 29, 2007, will receive lower employer contributions to their 401(K) accounts than they would have otherwise.
