

1 **ENHANCED PUBLIC SAFETY RETIREMENT**
2 **SYSTEMS COLA OPTION**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Carlene M. Walker**

6 House Sponsor: John Dougall

7 Cosponsors: D. Chris Buttars Brent H. Goodfellow
8 Curtis S. Bramble Gene Davis

9
10 **LONG TITLE**

11 **General Description:**

12 This bill modifies the Utah State Retirement and Insurance Benefit Act by allowing
13 participating employers to provide an enhanced maximum annual cost-of-living
14 adjustment for certain public safety retirees.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ repeals the Public Safety Retirees' Cost-of-Living Increase Restricted Account and
18 deposits its balance and future revenue into the public safety trust funds to fund a
19 portion of the increase in the maximum annual cost-of-living adjustment for public
20 safety retirees;

21 ▶ for purposes of determining contribution rates, provides for additional subdivisions
22 of the Public Safety Contributory Retirement System and the Public Safety
23 Noncontributory Retirement System to allow for different maximum annual
24 cost-of-living adjustments;

25 ▶ provides a maximum annual cost-of-living adjustment of 4% for state agency public
26 safety members and retirees in lieu of the current 2.5%;

27 ▶ allows other participating employers the option to offer a maximum annual
28 cost-of-living adjustment of 4% for public safety members and retirees in lieu of the
29 current 2.5%;

- 30 ▶ allows a participating employer to make a one-time election to offer the enhanced
- 31 cost-of-living adjustment, if made within a certain period of time;
- 32 ▶ provides certain eligibility requirements for covered employees and retirees to
- 33 receive the increased benefit;
- 34 ▶ provides for procedures and rules to make the election and have the enhanced
- 35 cost-of-living adjustment to become effective;
- 36 ▶ provides that the enhanced cost-of-living adjustment may not be applied to a
- 37 retirement allowance already received; and
- 38 ▶ makes technical changes.

39 Monies Appropriated in this Bill:

40 None

41 Other Special Clauses:

42 This bill takes effect on July 1, 2008.

43 Utah Code Sections Affected:

44 AMENDS:

45 **49-11-902**, as enacted by Laws of Utah 2004, Chapter 262

46 **49-14-301**, as last amended by Laws of Utah 2004, Chapter 118

47 **49-14-403**, as renumbered and amended by Laws of Utah 2002, Chapter 250

48 **49-15-301**, as last amended by Laws of Utah 2004, Chapter 118

49 **49-15-403**, as renumbered and amended by Laws of Utah 2002, Chapter 250

50 REPEALS:

51 **49-11-901**, as enacted by Laws of Utah 2004, Chapter 262

52 Uncodified Material Affected:

53 ENACTS UNCODIFIED MATERIAL



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

56 Section 1. Section **49-11-902** is amended to read:

57 **49-11-902. Premium tax revenues -- Formula -- Deposits.**

58 (1) (a) If the premium tax revenue received by the office under Subsection
 59 49-16-301(6), when calculated as a percentage of the certified contribution rate for members in
 60 Division A and B, as defined under Section 49-16-301, exceeds the percentage of the certified
 61 contribution rate paid to the Firefighters' Retirement Trust Fund in accordance with Subsection
 62 49-16-301(6) on July 1, 2004, the office shall deposit the difference in the [~~Public Safety~~
 63 ~~Retirees' Cost-of-Living Increase Restricted Account created under Section 49-11-901~~] Public
 64 Safety Contributory Trust Fund created under Section 49-14-104 and the Public Safety
 65 Noncontributory Retirement Trust Fund created under Section 49-15-104.

66 (b) If the premium tax revenue does not exceed the percentage of the certified
 67 contribution rate paid to the Firefighters' Retirement Trust Fund in accordance with Subsection
 68 49-16-301(6) on July 1, 2004 as calculated under Subsection (1)(a), the board may not make a
 69 deposit under Subsection (1)(a).

70 (2) The monies deposited under this section shall be used to fund an increase for
 71 retirees in the public safety retirement systems from a 2.5% maximum annual cost-of-living
 72 adjustment to a 4% maximum annual cost-of-living adjustment under Sections 49-14-403 and
 73 49-15-403 in the public safety retirement systems.

74 [~~(2) The~~] (3) As required to implement this section, the office shall make the
 75 calculations[;] and deposits for the equitable apportionment of monies between:

76 (a) Division [A and B;] A1 and B1; and [deposits required to implement this section.]

77 (b) the contributory and noncontributory trust funds.

78 Section 2. Section **49-14-301** is amended to read:

79 **49-14-301. Contributions -- Two divisions -- Election by employer to pay**
 80 **employee contributions -- Accounting for and vesting of member contributions --**
 81 **Deductions.**

82 (1) Participating employers and members shall jointly pay the certified contribution rates
 83 to the office to maintain this system on a financially and actuarially sound basis.

84 (2) For purposes of determining contribution rates, this system is divided into two
 85 divisions according to Social Security coverage as follows:

86 (a) members of this system with on-the-job Social Security coverage are in Division A;
87 and

88 (b) members of this system without on-the-job Social Security coverage are in Division
89 B.

90 (3) In addition to the divisions under Subsection (2) and for the purpose of determining
91 contribution rates, each division under Subsection (2) is further divided as follows:

92 (a) members of this system with a maximum annual cost-of-living adjustment under
93 Subsection 49-14-403(2)(b) are in Divisions A1 and B1; and

94 (b) members of this system with a maximum annual cost-of-living adjustment under
95 Subsection 49-14-403(2)(a) are in Divisions A2 and B2.

96 [~~3~~] (4) (a) A participating employer may elect to pay all or part of the required
97 member contributions, in addition to the required participating employer contributions.

98 (b) Any amount contributed by a participating employer under this section shall vest to
99 the member's benefit as though the member had made the contribution.

100 (c) The required member contributions shall be reduced by the amount that is paid by
101 the participating employer.

102 [~~4~~] (5) (a) All member contributions are credited by the office to the account of the
103 individual member.

104 (b) This amount, plus refund interest, is held in trust for the payment of benefits to the
105 member or the member's beneficiaries.

106 (c) All member contributions are vested and nonforfeitable.

107 [~~5~~] (6) (a) Each member is considered to consent to payroll deductions of member
108 contributions.

109 (b) The payment of compensation less these payroll deductions is considered full
110 payment for services rendered by the member.

111 [~~6~~] (7) Contribution rates for a participating employer may be different than for other
112 participating employers based on the participating employer's current funding status and
113 actuarial experience.

114 Section 3. Section **49-14-403** is amended to read:

115 **49-14-403. Annual cost-of-living adjustment.**

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

117 (a) an original allowance paid under Section 49-14-402 and Part 5, Death Benefit, of
118 this chapter if the allowance has been paid for at least one year; and

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

121 (2) (a) ~~[The]~~ Unless Subsection (2)(b) applies, the original allowance shall be increased
122 by the annual increase in the Consumer Price Index up to a maximum of 2.5%.

123 (b) If the participating employer has made an election under Subsection (5), and in lieu
124 of the annual increase under Subsection (2)(a), the original allowance shall be increased by the
125 annual increase in the Consumer Price Index up to a maximum of 4%.

126 ~~[(b)]~~ (c) Annual increases in the Consumer Price Index in excess of ~~[2.5%~~ the
127 applicable maximum annual increase under this Subsection (2), shall be accumulated and used in
128 subsequent adjustments when the annual increase in the Consumer Price Index is less than
129 ~~[2.5%~~ the applicable maximum annual increase under this Subsection (2).

130 (3) The Consumer Price Index used in calculating adjustments shall be a United States
131 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

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

134 (5) (a) A participating employer may make a one-time election to provide the annual
135 cost-of-living adjustment under Subsection (2)(b), in lieu of the annual cost-of-living adjustment
136 under Subsection (2)(a), for the participating employer's current and future retirees.

137 (b) A participating employer shall make the election under this Subsection (5) prior to
138 December 1, 2009.

139 (c) The participating employer shall indicate whether or not it elects to participate in
140 this benefit by enacting a resolution or ordinance to that effect and making an application to the
141 office.

142 (d) The effective date for the annual cost-of-living adjustment under Subsection (2)(b)
143 is January 1 of the year following an election under Subsection (5)(a).

144 (e) Notwithstanding the election provided under this section, the state, as a participating
145 employer, shall provide the annual cost-of-living adjustment under Subsection (2)(b) to its
146 eligible employees and retirees effective on January 1, 2009.

147 (6) (a) To be eligible for the annual cost-of-living adjustment under Subsection (2)(b), a
148 retiring employee shall earn the final 72 months of service credit prior to initial retirement:

149 (i) as an employee of a participating employer who:

150 (A) has made the election under Subsection (5)(a); or

151 (B) is included under Subsection (5)(e); and

152 (ii) in a covered position under Title 49, Chapter 14, Public Safety Contributory
153 Retirement System Act or under Title 49, Chapter 15, Public Safety Noncontributory
154 Retirement System Act.

155 (b) The eligibility requirements under Subsection (6)(a)(i) do not apply to a person who
156 retires prior to July 1, 2008.

157 (c) The annual cost-of-living adjustment under Subsection (2)(b) may not be paid to a
158 retiree who is not eligible under this Subsection (6).

159 (7) An allowance adjustment made under Subsections (2)(b) and (5) may not be paid
160 prior to the effective date of the enhanced cost-of-living adjustment for the participating
161 employer.

162 (8) The board may adopt rules for:

163 (a) the administration of the election provided under Subsection (5); and

164 (b) the effective date of the enhanced cost-of-living adjustment for participating
165 employers.

166 Section 4. Section **49-15-301** is amended to read:

167 **49-15-301. Contributions -- Two divisions.**

168 (1) Participating employers shall pay the certified contribution rates to the office to
169 maintain this system on a financially and actuarially sound basis.

170 (2) For purposes of determining contribution rates, this system is divided into two
171 divisions according to Social Security coverage[-:];

172 (a) members of this system with on-the-job Social Security coverage are Division A[-:];
173 and

174 (b) members of this system without on-the-job Social Security coverage are in Division
175 B.

176 (3) In addition to the divisions under Subsection (2) and for the purposes of
177 determining contribution rates, each division under Subsection (2) is further divided as follows:

178 (a) members of this system with an annual cost-of-living adjustment under Subsection
179 49-15-403(2)(b) are in Divisions A1 and B1; and

180 (b) members of this system with an annual cost-of-living adjustment under Subsection
181 49-15-403(2)(a) are in Divisions A2 and B2.

182 [~~3~~] (4) Contribution rates for a participating employer may be different than for other
183 participating employers based on the participating employer's current funding status and
184 actuarial experience.

185 Section 5. Section **49-15-403** is amended to read:

186 **49-15-403. Annual cost-of-living adjustment.**

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

188 (a) an original allowance paid under Section 49-15-402 and Part 5, Death Benefit, of
189 this chapter if the allowance has been paid for at least one year; and

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

192 (2) (a) [~~The~~] Unless Subsection (2)(b) applies, the original allowance shall be increased
193 by the annual increase in the Consumer Price Index up to a maximum of 2.5%.

194 (b) If the participating employer has made an election under Subsection (5), and in lieu
195 of the annual increase under Subsection (2)(a), the original allowance shall be increased by the
196 annual increase in the Consumer Price Index up to a maximum of 4%.

197 [~~(b)~~] (c) Annual increases in the Consumer Price Index in excess of [~~2.5%~~] the

198 applicable maximum annual increase under this Subsection (2), shall be accumulated and used in
199 subsequent adjustments when the annual increase in the Consumer Price Index is less than
200 [2.5%] the applicable maximum annual increase under this Subsection (2).

201 (3) The Consumer Price Index used in calculating adjustments shall be a United States
202 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

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

205 (5) (a) A participating employer may make a one-time election to provide the annual
206 cost-of-living adjustment under Subsection (2)(b), in lieu of the annual cost-of-living adjustment
207 under Subsection (2)(a), for the participating employer's current and future retirees.

208 (b) A participating employer shall make the election under this Subsection (5) prior to
209 December 1, 2009.

210 (c) The participating employer shall indicate whether or not it elects to participate in
211 this benefit by enacting a resolution or ordinance to that effect and making an application to the
212 office.

213 (d) The effective date for the annual cost-of-living adjustment under Subsection (2)(b)
214 is January 1 of the year following an election under Subsection (5)(a).

215 (e) Notwithstanding the election provided under this section, the state, as a participating
216 employer, shall provide the annual cost-of-living adjustment under Subsection (2)(b) to its
217 eligible employees and retirees effective on January 1, 2009.

218 (6) (a) To be eligible for the annual cost-of-living adjustment under Subsection (2)(b), a
219 retiring employee shall earn the final 72 months of service credit prior to initial retirement
220 effective on January 1, 2009:

221 (i) as an employee of a participating employer who:

222 (A) has made the election under Subsection (5)(a); or

223 (B) is included under Subsection (5)(e); and

224 (ii) in a covered position under Title 49, Chapter 14, Public Safety Contributory
225 Retirement System Act or under Title 49, Chapter 15, Public Safety Noncontributory

226 Retirement System Act.

227 (b) The eligibility requirements under Subsection (6)(a)(i) do not apply to a person who
228 retires prior to July 1, 2008.

229 (c) The annual cost-of-living adjustment under Subsection (2)(b) may not be paid to a
230 retiree who is not eligible under this Subsection (6).

231 (7) An allowance adjustment made under Subsections (2)(b) and (5) may not be paid
232 prior to the effective date of the enhanced cost-of-living adjustment for the participating
233 employer.

234 (8) The board may adopt rules for:

235 (a) the administration of the election provided under Subsection (5); and

236 (b) the effective date of the enhanced cost-of-living adjustment for participating
237 employers.

238 **Section 6. Deposit of remaining account balance.**

239 Any balance remaining in the Public Safety Retirees' Cost-of-Living Increase Restricted
240 Account created under the former Section 49-11-901 on June 30, 2008, shall be deposited as
241 provided under Section 49-11-902 on July 1, 2008.

242 **Section 7. Repealer.**

243 This bill repeals:

244 **Section 49-11-901, Public Safety Retirees' Cost-of-Living Increase Restricted**
245 **Account.**

246 **Section 8. Effective date.**

247 This bill takes effect on July 1, 2008.