

COUNTY HOSPITAL RETIREMENT

PROVISIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act to allow certain employers and employees to be excluded from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System.

Highlighted Provisions:

This bill:

- ▶ allows an employer that is a hospital created as a special service district to elect to be excluded from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System under certain circumstances;
- ▶ provides procedures for the exclusion;
- ▶ excludes new and existing employees of a special service district hospital from participation in the Public Employees' Contributory Retirement System and the Public Employees' Noncontributory Retirement System under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **49-12-202**, as last amended by Laws of Utah 2005, Chapter 71

33 **49-12-203**, as last amended by Laws of Utah 2008, Chapter 335

34 **49-13-202**, as last amended by Laws of Utah 2005, Chapter 71

35 **49-13-203**, as last amended by Laws of Utah 2008, Chapter 335



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

38 Section 1. Section **49-12-202** is amended to read:

39 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
40 **requirements -- Exceptions -- Nondiscrimination requirements.**

41 (1) (a) Unless excluded under Subsection (2) [~~or (3)~~], an employer is a participating
42 employer and may not withdraw from participation in this system.

43 (b) In addition to their participation in this system, participating employers may
44 provide or participate in public or private retirement, supplemental or defined contribution
45 plan, either directly or indirectly, for their employees.

46 (2) The following employers may be excluded from participation in this system:

47 [~~(2)~~] (a) [~~An~~] an employer not initially admitted or included as a participating
48 employer in this system prior to January 1, 1982[~~, may be excluded from participation in this~~
49 ~~system~~] if:

50 [~~(a)~~] (i) the employer elects not to provide or participate in any type of private or
51 public retirement, supplemental or defined contribution plan, either directly or indirectly, for
52 its employees, except for Social Security; or

53 [~~(b)~~] (ii) the employer offers another collectively bargained retirement benefit and has
54 continued to do so on an uninterrupted basis since that date[~~;~~];

55 [~~(3)~~] (b) [~~An~~] an employer that is a charter school sponsored by the State Board of
56 Education or a school district that makes an election of nonparticipation in accordance with
57 Section 53A-1a-512 [~~may be excluded as a participating employer.~~]; or

58 (c) an employer that is a hospital created as a special service district under Title 17D,
59 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
60 accordance with Subsection (4).

61 [~~4~~] (3) An employer who did not become a participating employer in this system
62 prior to July 1, 1986, may not participate in this system.

63 (4) (a) Until June 30, 2009, a employer that is a hospital created as a special service
64 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
65 nonparticipation as an employer for retirement programs under this chapter.

66 (b) An election provided under Subsection (4)(a):

67 (i) is a one-time election made no later than the time specified under Subsection
68 (4)(a);

69 (ii) shall be documented by a resolution adopted by the governing body of the special
70 service district;

71 (iii) is irrevocable; and

72 (iv) applies to the special service district as the employer and to all employees of the
73 special service district.

74 (c) The governing body of the special service district may offer employee benefit plans
75 for its employees:

76 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

77 or

78 (ii) under any other program.

79 (5) If a participating employer purchases service credit on behalf of regular full-time
80 employees for service rendered prior to the participating employer's admission to this system,
81 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current
82 and former regular full-time employees who were eligible for service credit at the time service
83 was rendered.

84 Section 2. Section **49-12-203** is amended to read:

85 **49-12-203. Exclusions from membership in system.**

86 (1) The following employees are not eligible for service credit in this system:

87 (a) An employee whose employment status is temporary in nature due to the nature or
88 the type of work to be performed, provided that:

89 (i) if the term of employment exceeds six months and the employee otherwise qualifies
90 for service credit in this system, the participating employer shall report and certify to the office
91 that the employee is a regular full-time employee effective the beginning of the seventh month
92 of employment; or

93 (ii) if an employee, previously terminated prior to being eligible for service credit in
94 this system is reemployed within three months of termination by the same participating
95 employer, the participating employer shall report and certify that the member is a regular
96 full-time employee when the total of the periods of employment equals six months and the
97 employee otherwise qualifies for service credit in this system.

98 (b) (i) A current or future employee of a two-year or four-year college or university
99 who holds, or is entitled to hold, under Section 49-12-204, a retirement annuity contract with
100 the Teachers' Insurance and Annuity Association of America or with any other public or
101 private system, organization, or company during any period in which required contributions
102 based on compensation have been paid on behalf of the employee by the employer.

103 (ii) The employee, upon cessation of the participating employer contributions, shall
104 immediately become eligible for service credit in this system.

105 (c) An employee serving as an exchange employee from outside the state.

106 (d) An executive department head of the state, a member of the State Tax
107 Commission, the Public Service Commission, and a member of a full-time or part-time board
108 or commission who files a formal request for exemption.

109 (e) An employee of the Department of Workforce Services who is covered under
110 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

111 (f) (i) An employee who is employed on or after July 1, 2009 with an employer that
112 has elected, prior to July 1, 2009, to be excluded from participation in this system under
113 Subsection 49-12-202(2)(c).

114 (ii) Notwithstanding the provisions of this Subsection (1)(f), any eligibility for service
115 credit earned by an employee under this chapter before July 1, 2009 is not affected under this
116 Subsection (1)(f).

117 (2) Upon filing a written request for exemption with the office, the following
118 employees shall be exempt from coverage under this system:

119 (a) a full-time student or the spouse of a full-time student and individuals employed in
120 a trainee relationship;

121 (b) an elected official;

122 (c) an executive department head of the state, a member of the State Tax Commission,
123 a member of the Public Service Commission, and a member of a full-time or part-time board
124 or commission;

125 (d) an employee of the Governor's Office of Planning and Budget;

126 (e) an employee of the Governor's Office of Economic Development;

127 (f) an employee of the Commission on Criminal and Juvenile Justice;

128 (g) an employee of the Governor's Office;

129 (h) an employee of the State Auditor's Office;

130 (i) an employee of the State Treasurer's Office;

131 (j) any other member who is permitted to make an election under Section 49-11-406;

132 (k) a person appointed as a city manager or chief city administrator or another person
133 employed by a municipality, county, or other political subdivision, who is an at-will employee;
134 and

135 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
136 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided
137 through membership in a labor organization that provides retirement benefits to its members.

138 (3) (a) Each participating employer shall prepare a list designating those positions
139 eligible for exemption under Subsection (2).

140 (b) An employee may not be exempted unless the employee is employed in a position
141 designated by the participating employer.

142 (4) (a) In accordance with this section, a municipality, county, or political subdivision
143 may not exempt more than 50 positions or a number equal to 10% of the employees of the
144 municipality, county, or political subdivision whichever is lesser.

145 (b) A municipality, county, or political subdivision may exempt at least one regular
146 full-time employee.

147 (5) Each participating employer shall:

148 (a) file employee exemptions annually with the office; and

149 (b) update the employee exemptions in the event of any change.

150 (6) The office may make rules to implement this section.

151 Section 3. Section **49-13-202** is amended to read:

152 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
153 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

154 (1) (a) Unless excluded under Subsection (2) [~~or (3)~~], an employer is a participating
155 employer and may not withdraw from participation in this system.

156 (b) In addition to their participation in this system, participating employers may
157 provide or participate in any additional public or private retirement, supplemental or defined
158 contribution plan, either directly or indirectly, for their employees.

159 (2) The following employers may be excluded from participation in this system:

160 [~~(2)~~] (a) [~~An~~] an employer not initially admitted or included as a participating
161 employer in this system prior to January 1, 1982[~~, may be excluded from participation in this~~
162 ~~system] if:~~

163 [~~(a)~~] (i) the employer elects not to provide or participate in any type of private or
164 public retirement, supplemental or defined contribution plan, either directly or indirectly, for
165 its employees, except for Social Security; or

166 [~~(b)~~] (ii) the employer offers another collectively bargained retirement benefit and has
167 continued to do so on an uninterrupted basis since that date[~~;~~];

168 [~~(3)~~] (b) [~~An~~] an employer that is a charter school sponsored by the State Board of
169 Education or a school district that makes an election of nonparticipation in accordance with

170 Section 53A-1a-512 [~~shall be excluded as a participating employer.]; or~~

171 (c) an employer that is a hospital created as a special service district under Title 17D,
172 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
173 accordance with Subsection (5).

174 [~~(4) If~~] (3) If an employer[~~, except an employer that maintains a collectively bargained~~
175 ~~plan under Subsection (2)(b);]~~ that may be excluded under Subsection (2)(a)(i) elects at any
176 time to provide or participate in any type of public or private retirement, supplemental or
177 defined contribution plan, either directly or indirectly, except for Social Security, the employer
178 shall be a participating employer in this system.

179 [~~(5)] (4) (a) [Any] An~~ employer may, by resolution of its governing body, apply for
180 admission to this system.

181 (b) Upon approval of the resolution by the board, the employer is a participating
182 employer in this system and is subject to this title.

183 (5) (a) Until June 30, 2009, a employer that is a hospital created as a special service
184 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
185 nonparticipation as an employer for retirement programs under this chapter.

186 (b) An election provided under Subsection (5)(a):

187 (i) is a one-time election made no later than the time specified under Subsection
188 (5)(a);

189 (ii) shall be documented by a resolution adopted by the governing body of the special
190 service district;

191 (iii) is irrevocable; and

192 (iv) applies to the special service district as the employer and to all employees of the
193 special service district.

194 (c) The governing body of the special service district may offer employee benefit plans
195 for its employees:

196 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

197 or

198 (ii) under any other program.

199 (6) If a participating employer purchases service credit on behalf of regular full-time
200 employees for service rendered prior to the participating employer's admission to this system,
201 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current
202 and former regular full-time employees who were eligible for service credit at the time service
203 was rendered.

204 Section 4. Section **49-13-203** is amended to read:

205 **49-13-203. Exclusions from membership in system.**

206 (1) The following employees are not eligible for service credit in this system:

207 (a) An employee whose employment status is temporary in nature due to the nature or
208 the type of work to be performed, provided that:

209 (i) if the term of employment exceeds six months and the employee otherwise qualifies
210 for service credit in this system, the participating employer shall report and certify to the office
211 that the employee is a regular full-time employee effective the beginning of the seventh month
212 of employment; and

213 (ii) if an employee, previously terminated prior to becoming eligible for service credit
214 in this system, is reemployed within three months of termination by the same participating
215 employer, the participating employer shall report and certify to the office that the member is a
216 regular full-time employee when the total of the periods of employment equals six months and
217 the employee otherwise qualifies for service credit in this system.

218 (b) (i) A current or future employee of a two-year or four-year college or university
219 who holds, or is entitled to hold, under Section 49-13-204, a retirement annuity contract with
220 the Teachers' Insurance and Annuity Association of America or with any other public or
221 private system, organization, or company during any period in which required contributions
222 based on compensation have been paid on behalf of the employee by the employer.

223 (ii) The employee, upon cessation of the participating employer contributions, shall
224 immediately become eligible for service credit in this system.

225 (c) An employee serving as an exchange employee from outside the state.

226 (d) An executive department head of the state or a legislative director, senior executive
227 employed by the governor's office, a member of the State Tax Commission, a member of the
228 Public Service Commission, and a member of a full-time or part-time board or commission
229 who files a formal request for exemption.

230 (e) An employee of the Department of Workforce Services who is covered under
231 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

232 (f) (i) An employee who is employed on or after July 1, 2009 with an employer that
233 has elected, prior to July 1, 2009, to be excluded from participation in this system under
234 Subsection 49-13-202(2)(c).

235 (ii) Notwithstanding the provisions of this Subsection (1)(f), any eligibility for service
236 credit earned by an employee under this chapter before July 1, 2009 is not affected under this
237 Subsection (1)(f).

238 (2) Upon filing a written request for exemption with the office, the following
239 employees shall be exempt from coverage under this system:

240 (a) a full-time student or the spouse of a full-time student and individuals employed in
241 a trainee relationship;

242 (b) an elected official;

243 (c) an executive department head of the state, a member of the State Tax Commission,
244 a member of the Public Service Commission, and a member of a full-time or part-time board
245 or commission;

246 (d) an employee of the Governor's Office of Planning and Budget;

247 (e) an employee of the Governor's Office of Economic Development;

248 (f) an employee of the Commission on Criminal and Juvenile Justice;

249 (g) an employee of the Governor's Office;

250 (h) an employee of the State Auditor's Office;

251 (i) an employee of the State Treasurer's Office;

252 (j) any other member who is permitted to make an election under Section 49-11-406;

253 (k) a person appointed as a city manager or chief city administrator or another person

254 employed by a municipality, county, or other political subdivision, who is an at-will employee;
255 and

256 (1) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
257 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided
258 through membership in a labor organization that provides retirement benefits to its members.

259 (3) (a) Each participating employer shall prepare a list designating those positions
260 eligible for exemption under Subsection (2).

261 (b) An employee may not be exempted unless the employee is employed in a position
262 designated by the participating employer.

263 (4) (a) In accordance with this section, a municipality, county, or political subdivision
264 may not exempt more than 50 positions or a number equal to 10% of the employees of the
265 municipality, county, or political subdivision, whichever is lesser.

266 (b) A municipality, county, or political subdivision may exempt at least one regular
267 full-time employee.

268 (5) Each participating employer shall:

269 (a) file employee exemptions annually with the office; and

270 (b) update the employee exemptions in the event of any change.

271 (6) The office may make rules to implement this section.