

RETIREMENT OFFICE AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

Senate Sponsor: Daniel R. Liljenquist

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions related to appointment of board members, purchase of service credit, disability benefits, and termination of employment on the retirement date.

Highlighted Provisions:

This bill:

- ▶ provides that only two of the four appointed Utah State Retirement Board members, with experience in investments or banking, can be appointed every two years;
- ▶ provides that any retirement benefit not just service credit must be forfeited when service credit is purchased;
- ▶ provides that purchase of service credit made on or after July 1, 2010, shall be made in accordance with rules in effect at the time the purchase is completed, and the cost of the purchase will not be recalculated at the time of retirement;
- ▶ provides that payments made for a salary protection program for a disabled employee shall be paid over the period of the disability and shall not include settlement or lump sum payments;
- ▶ clarifies that a member may not be employed on the retirement date by any other participating employer in the same system from which the member is retiring;
- ▶ allows an attorney or a person appointed as a conservator or guardian of the eligible employee who is unable to apply for long-term disability benefits to make an



- 28 application and prohibits an application for a deceased employee;
- 29 ▶ provides that after the date of disability, cost-of-living increases to any offsetting
- 30 benefits may not be considered in calculating monthly disability benefits;
- 31 ▶ provides that monthly disability benefits shall cease when the eligible employee
- 32 dies; and
- 33 ▶ makes technical changes.

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40 **49-11-202**, as last amended by Laws of Utah 2003, Chapter 240
- 41 **49-11-403**, as last amended by Laws of Utah 2006, Chapter 260
- 42 **49-11-404**, as last amended by Laws of Utah 2008, Chapter 252
- 43 **49-12-401**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 44 **49-13-401**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 45 **49-14-401**, as last amended by Laws of Utah 2003, Chapter 240
- 46 **49-15-401**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 47 **49-16-401**, as last amended by Laws of Utah 2003, Chapter 240
- 48 **49-17-401**, as last amended by Laws of Utah 2003, Chapter 240
- 49 **49-18-401**, as last amended by Laws of Utah 2003, Chapter 240
- 50 **49-21-401**, as last amended by Laws of Utah 2008, Chapter 252
- 51 **49-21-402**, as last amended by Laws of Utah 2007, Chapter 93
- 52 **49-21-403**, as last amended by Laws of Utah 2008, Chapter 252

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

55 Section 1. Section **49-11-202** is amended to read:

56 **49-11-202. Establishment of Utah State Retirement Board -- Quorum -- Terms --**
57 **Officers -- Expenses and per diem -- Membership Council established.**

58 (1) There is established the Utah State Retirement Board composed of seven board

59 members determined as follows:

60 (a) Four board members, with experience in investments or banking, shall be appointed
61 by the governor from the general public.

62 (b) One board member shall be a school employee appointed by the governor from at
63 least three nominations submitted by the governing board of the school employees' association
64 that is representative of a majority of the school employees who are members of a system
65 administered by the board.

66 (c) One board member shall be a public employee appointed by the governor from at
67 least three nominations submitted by the governing board of the public employee association
68 that is representative of a majority of the public employees who are members of a system
69 administered by the board.

70 (d) One board member shall be the state treasurer.

71 (2) Four board members constitute a quorum for the transaction of business.

72 (3) (a) All appointments to the board shall be made on a nonpartisan basis, with the
73 consent of the Senate.

74 (b) Board members shall serve until their successors are appointed and take the
75 constitutional oath of office.

76 (c) When a vacancy occurs on the board for any reason, the replacement shall be
77 appointed for the unexpired term.

78 (4) (a) Except as required by Subsection (4)(b), all appointed board members shall
79 serve for four-year terms.

80 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
81 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
82 board members are staggered so that:

83 (i) approximately half of the board is appointed every two years[-]; and

84 (ii) no more than two of the board members appointed under Subsection (1)(a) are
85 appointed every two years.

86 (c) A board member who is appointed as a school employee or as a public employee
87 who retires or who is no longer employed with a participating employer shall immediately
88 resign from the board.

89 (5) (a) Each year the board shall elect a president and vice president from its

90 membership.

91 (b) Each board member shall receive a per diem plus expenses for attending regularly
92 constituted meetings and conferences as provided by board action.

93 (6) (a) There is established a Membership Council to perform the duties under
94 Subsection (10).

95 (b) The board may pay the travel expenses of council members who attend council
96 meetings.

97 (7) The Membership Council shall be composed of 13 council members selected as
98 follows:

99 (a) Three council members shall be school employees selected by the governing board
100 of an association representative of a majority of school employees who are members of a
101 system administered by the board.

102 (b) One council member shall be a classified school employee selected by the
103 governing board of the association representative of a majority of classified school employees
104 who are members of a system administered by the board.

105 (c) Two council members shall be public employees selected by the governing board of
106 the association representative of a majority of the public employees who are members of a
107 system administered by the board.

108 (d) One council member shall be a municipal officer or employee selected by the
109 governing board of the association representative of a majority of the municipalities who
110 participate in a system administered by the board.

111 (e) One council member shall be a county officer or employee selected by the
112 governing board of the association representative of a majority of counties who participate in a
113 system administered by the board.

114 (f) One council member shall be a representative of members of the Judges'
115 Noncontributory Retirement System selected by the Judicial Council.

116 (g) One council member shall be a representative of members of the Public Safety
117 Retirement Systems selected by the governing board of the association representative of the
118 majority of peace officers who are members of the Public Safety Retirement Systems.

119 (h) One council member shall be a representative of members of the Firefighters'
120 Retirement System selected by the governing board of the association representative of the

121 majority of paid professional firefighters who are members of the Firefighters' Retirement
122 System.

123 (i) One council member shall be a retiree selected by the governing board of the
124 association representing the largest number of retirees, who are not public education retirees,
125 from the Public Employees' Contributory and Public Employees' Noncontributory Retirement
126 Systems.

127 (j) One council member shall be a retiree selected by the governing board of the
128 association representing the largest number of public education retirees.

129 (8) (a) Each entity granted authority to select council members under Subsection (7)
130 may also revoke the selection at any time.

131 (b) Each term on the council shall be for a period of four years, subject to Subsection
132 (8)(a).

133 (c) Each term begins on July 1 and expires on June 30.

134 (d) When a vacancy occurs on the council for any reason, the replacement shall be
135 selected for the remainder of the unexpired term.

136 (9) The council shall annually designate one council member as chair.

137 (10) The council shall:

138 (a) recommend to the board and to the Legislature benefits and policies for members of
139 any system or plan administered by the board;

140 (b) recommend procedures and practices to improve the administration of the systems
141 and plans and the public employee relations responsibilities of the board and office;

142 (c) examine the record of all decisions affecting retirement benefits made by a hearing
143 officer under Section 49-11-613;

144 (d) submit nominations to the board for the position of executive director if that
145 position is vacant;

146 (e) advise and counsel with the board and the director on policies affecting members of
147 the various systems administered by the office; and

148 (f) perform other duties assigned to it by the board.

149 Section 2. Section **49-11-403** is amended to read:

150 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

151 (1) A member, a participating employer, or a member and a participating employer

152 jointly may purchase service credit equal to the period of the member's employment in the
153 following:

154 (a) United States federal employment;
155 (b) employment in a private school based in the United States, if the member received
156 an employer paid retirement benefit for the employment;

157 (c) public employment in another state or territory of the United States which qualifies
158 the member for membership in the public plan or system covering the employment, but only if
159 the member does not qualify for any retirement benefits based on the employment;

160 (d) forfeited service credit in this state if the member does not qualify for an allowance
161 based on the service credit;

162 (e) full-time public service while on an approved leave of absence;

163 (f) the period of time for which disability benefits were paid if:

164 (i) the member was receiving:

165 (A) long-term disability benefits;

166 (B) short-term disability benefits; or

167 (C) worker's compensation disability benefits; and

168 (ii) the member's employer had not entered into a benefit protection contract under
169 Section 49-11-404 during the period the member was disabled due to sickness or accident; or

170 (g) employment covered by a Teachers Insurance and Annuity Association of America
171 retirement plan if the member forfeits any retirement benefit from that retirement plan for the
172 period of employment to be purchased under this Subsection (1)(g).

173 (2) A member shall ~~have~~:

174 (a) have at least four years of service credit before a purchase can be made under this
175 section; and

176 (b) ~~forfeited~~ forfeit service credit and other retirement benefits under any other
177 retirement system or plan based on the period of employment for which service credit is being
178 purchased.

179 (3) (a) To purchase credit under this section, the member, a participating employer, or a
180 member and a participating employer jointly shall make payment to the system under which the
181 member is currently covered.

182 (b) The amount of the payment shall be determined by the office based on a formula

183 that is:

184 (i) recommended by the actuary; and

185 (ii) adopted by the board.

186 (4) The purchase may be made through payroll deductions or through a lump sum

187 deposit based upon the present value of future payments.

188 (5) Total payment must be completed prior to the member's effective date of retirement

189 or service credit will be prorated in accordance with the amount paid.

190 (6) (a) [Hf] For a purchase made before July 1, 2010, if any of the factors used to
191 determine the cost of a service credit purchase change at or before the member's retirement
192 date, the cost of the purchase shall be recalculated at the time of retirement.

193 (b) [Hf] For a purchase made before July 1, 2010, if the recalculated cost exceeds the
194 amount paid for the purchase, the member, a participating employer, or a member and a
195 participating employer jointly may:

196 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or

197 (ii) not pay the increased cost and have the purchased service credit prorated.

198 (c) For a purchase made on or after July 1, 2010:

199 (i) the purchase shall be made in accordance with rules:

200 (A) adopted by the board based on recommendations by the board's actuary; and

201 (B) in effect at the time the purchase is completed; and

202 (ii) the cost of the service credit purchase shall not be recalculated at the time of
203 retirement.

204 (7) If the recalculated cost under Subsection (6)(a) is less than the amount paid for the
205 purchase, the office shall refund the excess payment to the member or participating employer
206 who paid for the purchase.

207 (8) (a) The board may adopt rules under which a member may make the necessary
208 payments to the office for purchases under this title as permitted by federal law.

209 (b) The office may reject any payments if the office determines the tax status of the
210 system, plans, or programs would be jeopardized by allowing the payment.

211 Section 3. Section **49-11-404** is amended to read:

212 **49-11-404. Benefit protection contract authorized -- Annual report required.**

213 (1) (a) A participating employer may establish a salary protection program under which

214 its employees are paid during periods of disability.

215 (b) If a salary protection program is established, a participating employer may enter
216 into benefit protection contracts with the office.

217 (c) A salary protection program shall:

218 (i) pay benefits based on the disabled member's rate of compensation at the time of
219 disability;

220 (ii) pay benefits over the period of the disability;

221 (iii) not include settlement or lump sum payments of any type;

222 [~~(ii)~~] (iv) be substantially equivalent to the long-term disability programs offered under
223 Chapter 21, Public Employees' Long-Term Disability Act; and

224 [~~(iii)~~] (v) comply with requirements adopted by the board.

225 (2) A benefit protection contract shall allow:

226 (a) the disabled member to be considered an active member in a system and continue to
227 accrue service credit and salary credit based on the member's rate of pay in effect at the time
228 disability commences;

229 (b) the office to require participating employer contributions to be paid before granting
230 service credit and salary credit to the member;

231 (c) the disabled member to remain eligible during the contract period for any benefits
232 provided by the system that covers the member; and

233 (d) the benefit for the disabled member to be improved by the annual cost-of-living
234 increase factor applied to retired members of the system that covered the member on the date
235 the member is eligible to receive benefits under a benefit protection contract.

236 (3) (a) The office shall establish the manner and times when employer contributions
237 are paid.

238 (b) A failure to make the required payments is cause for the office to cancel a contract.

239 (c) Service credit and salary credit granted and accrued up to the time of cancellation
240 may not be forfeited.

241 (4) A participating employer that has entered into a benefit protection contract under
242 this section shall submit an annual report to the office which identifies:

243 (a) the employees receiving long-term disability benefits under policies initiated by the
244 participating employer and approved under the benefit protection contract;

245 (b) the employees that have applied for long-term disability benefits and who are
246 waiting approval; and

247 (c) the insurance carriers that are actively providing long-term disability benefits.

248 (5) If an employer fails to provide the annual report required under Subsection (4), the
249 benefits that would have accrued under the benefit protection contract shall be forfeited.

250 (6) The board may adopt rules to implement and administer this section.

251 Section 4. Section **49-12-401** is amended to read:

252 **49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

253 (1) A member is qualified to receive an allowance from this system when:

254 (a) the member ceases actual work for a participating employer in this system before
255 the member's retirement date and provides evidence of the termination;

256 (b) the member has submitted to the office a notarized retirement application form that
257 states the member's proposed retirement date; and

258 (c) one of the following conditions is met as of the member's retirement date:

259 (i) the member has accrued at least four years of service credit and has attained an age
260 of 65 years;

261 (ii) the member has accrued at least 10 years of service credit and has attained an age
262 of 62 years;

263 (iii) the member has accrued at least 20 years of service credit and has attained an age
264 of 60 years; or

265 (iv) the member has accrued at least 30 years of service credit.

266 (2) (a) The member's retirement date ~~[shall]~~:

267 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~
268 ~~retirement date must]~~;

269 (ii) shall be on or after the date of termination~~[-(b) The retirement date may not]~~; and

270 (iii) may not be more than 90 days before or after the date the application is received by
271 the office.

272 (b) A member may not be employed by a participating employer in the system
273 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

274 Section 5. Section **49-13-401** is amended to read:

275 **49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

- 276 (1) A member is qualified to receive an allowance from this system when:
- 277 (a) the member ceases actual work for a participating employer in this system before
- 278 the member's retirement date and provides evidence of the termination;
- 279 (b) the member has submitted to the office a notarized retirement application form that
- 280 states the member's proposed retirement date; and
- 281 (c) one of the following conditions is met as of the member's retirement date:
- 282 (i) the member has accrued at least four years of service credit and has attained an age
- 283 of 65 years;
- 284 (ii) the member has accrued at least 10 years of service credit and has attained an age
- 285 of 62 years;
- 286 (iii) the member has accrued at least 20 years of service credit and has attained an age
- 287 of 60 years;
- 288 (iv) the member has accrued at least 30 years of service credit; or
- 289 (v) the member has accrued at least 25 years of service credit, in which case the
- 290 member shall be subject to the reduction under Subsection 49-13-402(2)(b).

- 291 (2) (a) The member's retirement date ~~[shall]~~:
- 292 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-, but the~~
- 293 ~~retirement date must]~~;
- 294 (ii) shall be on or after the date of termination~~[-(b) The retirement date may not]~~; and
- 295 (iii) may not be more than 90 days before or after the date the application is received by
- 296 the office.

297 (b) A member may not be employed by a participating employer in the system

298 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

299 Section 6. Section **49-14-401** is amended to read:

300 **49-14-401. Eligibility for service retirement -- Date of retirement --**

301 **Qualifications.**

- 302 (1) A member is qualified to receive an allowance from this system when:
- 303 (a) the member ceases actual work for a participating employer in this system before
- 304 the member's retirement date and provides evidence of the termination;
- 305 (b) the member has submitted to the office a notarized retirement application form that
- 306 states the member's proposed retirement date; and

307 (c) one of the following conditions is met as of the member's retirement date:
 308 (i) the member has accrued at least 20 years of service credit;
 309 (ii) the member has accrued at least 10 years of service credit and has attained an age
 310 of 60 years; or
 311 (iii) the member has accrued at least four years of service credit and has attained an age
 312 of 65 years.

313 (2) (a) The member's retirement date ~~[shall]~~:
 314 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~
 315 ~~retirement date must]~~;
 316 (ii) shall be on or after the date of termination~~[-(b) The retirement date may not]~~; and
 317 (iii) may not be more than 90 days before or after the date the application is received by
 318 the office.

319 (b) A member may not be employed by a participating employer in the system
 320 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

321 Section 7. Section **49-15-401** is amended to read:

322 **49-15-401. Eligibility for service retirement -- Date of retirement --**

323 **Qualifications.**

324 (1) A member is qualified to receive an allowance from this system when:
 325 (a) the member ceases actual work for a participating employer in this system before
 326 the member's retirement date and provides evidence of the termination;
 327 (b) the member has submitted to the office a notarized retirement application form that
 328 states the member's proposed retirement date; and
 329 (c) one of the following conditions is met as of the member's retirement date:
 330 (i) the member has accrued at least 20 years of service credit;
 331 (ii) the member has accrued at least 10 years of service credit and has attained an age
 332 of 60 years; or
 333 (iii) the member has accrued at least four years of service and has attained an age of 65
 334 years.

335 (2) (a) The member's retirement date ~~[shall]~~:
 336 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~
 337 ~~retirement date must]~~;

338 (ii) shall be on or after the date of termination~~[-(b) The retirement date may not]; and~~
 339 (iii) may not be more than 90 days before or after the date the application is received by
 340 the office.

341 (b) A member may not be employed by a participating employer in the system
 342 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

343 Section 8. Section **49-16-401** is amended to read:

344 **49-16-401. Eligibility for service retirement -- Date of retirement --**
 345 **Qualifications.**

346 (1) A member is qualified to receive an allowance from this system when:

347 (a) the member ceases actual work for a participating employer in this system before
 348 the member's retirement date and provides evidence of the termination;

349 (b) the member has submitted to the office a notarized retirement application form that
 350 states the member's proposed retirement date; and

351 (c) one of the following conditions is met as of the member's retirement date:

352 (i) the member has accrued at least 20 years of service credit;

353 (ii) the member has accrued at least 10 years of service credit and has attained an age
 354 of 60 years; or

355 (iii) the member has accrued at least four years of service credit and has attained an age
 356 of 65 years.

357 (2) (a) The member's retirement date ~~[shall]~~:

358 (i) shall be the 1st or the 16th day of the month, as selected by the firefighter service
 359 employee~~[-but the retirement date must];~~

360 (ii) shall be on or after the date of termination~~[-(b) The retirement date may]; and~~

361 (iii) may not be more than 90 days before or after the date the application is received by
 362 the office.

363 (b) A member may not be employed by a participating employer in the system
 364 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

365 Section 9. Section **49-17-401** is amended to read:

366 **49-17-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

367 (1) A member is qualified to receive an allowance when:

368 (a) the member ceases actual work for a participating employer in this system before

369 the member's retirement date and provides evidence of the termination;

370 (b) the member has submitted to the office a notarized retirement application form that
371 states the member's proposed retirement date; and

372 (c) one of the following conditions is met as of the member's retirement date:

373 (i) the member has accrued at least six years of service credit and has attained an age of
374 70 years;

375 (ii) the member has accrued at least 10 years of service credit and has attained an age
376 of 62 years;

377 (iii) the member has accrued at least 20 years of service credit and has attained an age
378 of 55 years; or

379 (iv) the member has accrued at least 25 years of service credit.

380 (2) (a) The member's retirement date [~~shall~~]:

381 (i) shall be the 1st or the 16th day of the month, as selected by the member[~~, but the~~
382 ~~retirement date must~~];

383 (ii) shall be on or after the date of termination[~~-(b) The retirement date may~~]; and

384 (iii) may not be more than 90 days before or after the date the application is received by
385 the office.

386 (b) A member may not be employed by a participating employer in the system
387 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

388 Section 10. Section **49-18-401** is amended to read:

389 **49-18-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

390 (1) A member is qualified to receive an allowance when:

391 (a) the member ceases actual work for a participating employer in this system before
392 the member's retirement date and provides evidence of the termination;

393 (b) the member has submitted to the office a notarized retirement application form that
394 states the member's proposed retirement date; and

395 (c) one of the following conditions is met as of the member's retirement date:

396 (i) the member has accrued at least six years of service credit and has attained an age of
397 70 years;

398 (ii) the member has accrued at least 10 years of service credit and has attained an age
399 of 62 years;

400 (iii) the member has accrued at least 20 years of service credit and has attained an age
401 of 55 years; or

402 (iv) the member has accrued at least 25 years of service credit.

403 (2) (a) The member's retirement date ~~[shall]~~:

404 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~
405 ~~retirement date must]~~;

406 (ii) shall be on or after the date of termination~~[-(b) The retirement date may]~~; and

407 (iii) may not be more than 90 days before or after the date the application is received by
408 the office.

409 (b) A member may not be employed by a participating employer in the system
410 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

411 Section 11. Section ~~49-21-401~~ is amended to read:

412 **49-21-401. Disability benefits -- Application -- Eligibility.**

413 (1) An eligible employee shall apply for long-term disability benefits under this chapter
414 by:

415 (a) completing an application form prepared by the office;

416 (b) signing a consent form allowing the office access to the eligible employee's medical
417 records; and

418 (c) providing any documentation or information reasonably requested by the office.

419 (2) (a) If an eligible employee is unable to apply on the employee's own behalf, the
420 application may be made by a person who is:

421 (i) the attorney for an eligible employee; or

422 (ii) appointed as a conservator or guardian of the eligible employee.

423 (b) A person described in Subsection (2)(a), may not make an application for a
424 deceased employee.

425 ~~[(2)]~~ (3) Upon request by the office, the participating employer of the eligible
426 employee shall provide to the office documentation and information concerning the eligible
427 employee.

428 ~~[(3)]~~ (4) The office shall review all relevant information and determine whether or not
429 the eligible employee is totally disabled.

430 ~~[(4)]~~ (5) If the office determines that the eligible employee is totally disabled due to

431 accidental bodily injury or physical illness which is not the result of the performance of an
432 employment duty, the eligible employee shall receive a monthly disability benefit equal to ~~[2/3]~~
433 two-thirds of the eligible employee's regular monthly salary, for each month the total disability
434 continues beyond the elimination period, not to exceed the maximum benefit period.

435 ~~[(5)]~~ (6) If the office determines that the eligible employee is totally disabled due to
436 psychiatric illness, the eligible employee shall receive:

437 (a) a maximum of two years of monthly disability benefits equal to ~~[2/3]~~ two-thirds of
438 the eligible employee's regular monthly salary for each month the total disability continues
439 beyond the elimination period;

440 (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses
441 preauthorized by the office's consultants, paid during the period of monthly disability benefits;
442 and

443 (c) payment of monthly disability benefits according to contractual provisions for a
444 period not to exceed five years if the eligible employee is institutionalized due to psychiatric
445 illness.

446 ~~[(6)]~~ (7) If the office determines that the eligible employee is totally disabled due to a
447 physical injury resulting from external force or violence as a result of the performance of an
448 employment duty, the eligible employee shall receive a monthly disability benefit equal to
449 100% of the eligible employee's regular monthly salary, for each month the total disability
450 continues beyond the elimination period, not to exceed the maximum benefit period.

451 ~~[(7)]~~ (8) (a) Successive periods of disability are considered as a continuous period of
452 disability if the period of disability:

453 (i) results from the same or related causes;

454 (ii) is separated by less than six months of continuous full-time work at the individual's
455 usual place of employment; and

456 (iii) commences while the individual is an eligible employee covered by this chapter.

457 (b) The inability to work for a period of less than 15 consecutive calendar days is not
458 considered as a period of disability.

459 (c) If Subsection ~~[(7)]~~ (8)(a) or (b) does not apply, successive periods of disability are
460 considered as separate periods of disability.

461 ~~[(8)]~~ (9) The office may, at any time, have any eligible employee claiming disability

462 examined by a physician chosen by the office to determine if the eligible employee is totally
463 disabled.

464 ~~[(9)]~~ (10) A claim brought by an eligible employee for long-term disability benefits
465 under the Public Employee's Long-Term Disability Program is barred if it is not commenced
466 within one year from the eligible employee's date of disability, unless the office determines that
467 under the surrounding facts and circumstances, the eligible employee's failure to comply with
468 the time limitations was reasonable.

469 ~~[(10)]~~ (11) Medical or psychiatric conditions which existed prior to eligibility may not
470 be a basis for disability benefits until the eligible employee has had one year of continuous
471 eligibility in the Public Employees Long-Term Disability Program.

472 ~~[(11)]~~ (12) If there is a valid benefit protection contract, service credit shall accrue
473 during the period of total disability, unless the disabled eligible employee is exempted from a
474 system, or is otherwise ineligible for service credit.

475 ~~[(12)]~~ (13) Regardless of any medical evidence provided by the employee to support
476 the application for disability, an employee is not eligible for long-term disability benefits
477 during any period in which the employee:

478 (a) makes a claim that the employee is able to work; or

479 (b) has a pending action in a court or before any state or local administrative body in
480 which the employee has made a claim that the employee is able to work.

481 ~~[(13)]~~ (14) Notwithstanding the provisions of Section 49-11-618, upon written request
482 by an employer, information obtained under this part may, upon an order of a court or an
483 administrative law judge, be released to an employer who is a party in an action under
484 Subsection ~~[(12)]~~ (13).

485 Section 12. Section **49-21-402** is amended to read:

486 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**
487 **Application for other benefits required.**

488 (1) A monthly disability benefit may not be paid for any period of total disability unless
489 the eligible employee is under the ongoing care and treatment of a physician other than the
490 eligible employee.

491 (2) The monthly disability benefit shall be reduced or reimbursed by any amount
492 received by, or payable to, the eligible employee from the following sources for the same

493 period of time during which the eligible employee is entitled to receive a monthly disability
494 benefit:

495 (a) Social Security disability benefits, including all benefits received by the eligible
496 employee, the eligible employee's spouse, and the eligible employee's children as determined
497 by the Social Security Administration;

498 (b) workers' compensation indemnity benefits;

499 (c) any monies received by judgment, legal action, or settlement from a third party
500 liable to the employee for the disability;

501 (d) unemployment compensation benefits;

502 (e) automobile no-fault, medical payments, or similar insurance payments; and

503 (f) any monies received by a judgment, settlement, or other payment as a result of a
504 claim against an employer.

505 (3) The monthly disability benefit shall be reduced by any amount in excess of [~~1/3~~]
506 one-third of the eligible employee's regular monthly salary received by, or payable to, the
507 eligible employee from the following sources for the same period of time during which the
508 eligible employee is entitled to receive a monthly disability benefit:

509 (a) any employer-sponsored retirement programs; and

510 (b) any disability benefit resulting from the disability for which benefits are being
511 received under this chapter.

512 (4) [~~Cost-of-living~~] After the date of disability, cost-of-living increases to any of the
513 benefits listed in Subsection (2) or (3) may not be considered in calculating a reduction to the
514 monthly disability benefit.

515 (5) Any amounts payable to the eligible employee from one or more of the sources
516 under Subsection (2) are considered as amounts received whether or not the amounts were
517 actually received by the eligible employee.

518 (6) (a) An eligible employee shall first apply for all disability benefits from
519 governmental entities under Subsection (2) to which the eligible employee is or may be
520 entitled, and provide to the office evidence of the applications.

521 (b) The eligible employee shall also first apply at the earliest eligible age for all
522 unreduced retirement benefits to which the eligible employee is or may be entitled, and provide
523 to the office evidence of the application.

524 (c) If the eligible employee fails to make application under Subsection (6)(a) or (b), the
525 monthly disability benefit shall be suspended.

526 Section 13. Section **49-21-403** is amended to read:

527 **49-21-403. Termination of disability benefits -- Calculation of retirement benefit.**

528 (1) An eligible employee covered by this chapter and eligible for service credit under a
529 system, including an eligible employee who relinquishes rights to retirement benefits under
530 Section 49-11-619, who applies and is qualified for a monthly disability benefit shall receive a
531 monthly disability benefit until the earlier of:

532 (a) the date of the eligible employee's death;

533 [~~(a)~~] (b) the date the eligible employee is no longer disabled;

534 [~~(b)~~] (c) the date the eligible employee has accumulated:

535 (i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public
536 Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement
537 Act;

538 (ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges'
539 Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act; or

540 (iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public
541 Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory
542 Retirement Act; or

543 [~~(c)~~] (d) the date the eligible employee has received a monthly disability benefit for the
544 following applicable time periods:

545 (i) if the eligible employee is under age 60, the monthly disability benefit is payable
546 until age 65;

547 (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the
548 monthly disability benefit is payable for five years;

549 (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the
550 monthly disability benefit is payable for four years;

551 (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the
552 monthly disability benefit is payable for three years;

553 (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the
554 monthly disability benefit is payable for two years; and

555 (vi) if the eligible employee is 69 years of age or older on the date of disability, the
556 monthly disability benefit is payable for one year.

557 (2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible
558 for service credit under a system may retire under the requirements of the system which
559 covered the eligible employee on the date of disability.

560 (b) The final average salary used in the calculation of the allowance shall be based on
561 the annual rate of pay on the date of disability, improved by the annual cost-of-living increase
562 factor applied to retirees of the system which covered the eligible employee on the date of
563 disability.

564 (3) An eligible employee who is eligible for service credit in a system, but has
565 relinquished rights to an allowance under Section 49-11-619, may receive the benefits the
566 eligible employee would have received by being eligible for service credit in the system
567 covering the eligible employee on the date of disability, except for the accrual of service credit,
568 in accordance with this title.

569 (4) An eligible employee receiving a monthly disability benefit who has service credit
570 from two or more systems may not combine service credits under Section 49-11-405 in
571 qualifying for retirement, unless the eligible employee would receive a greater allowance by
572 combining the service credits.

573 (5) A monthly disability benefit payable to an eligible employee who is not eligible for
574 service credit under a system shall terminate at the earliest of:

575 (a) the date the eligible employee would be eligible for an unreduced allowance;

576 (b) the date the eligible employee has received a monthly disability benefit for the
577 applicable time period as set forth in Subsection (1)(~~(b)~~)(c); or

578 (c) the date the eligible employee receives a reduced allowance.

Legislative Review Note
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Office of Legislative Research and General Counsel

H.B. 233 - Retirement Office Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
