

1 **POST RETIREMENT EMPLOYMENT AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel R. Liljenquist**

5 House Sponsor: Don L. Ipson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
10 provisions related to a retiree who returns to work for a participating employer.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ allows a retiree who begins reemployment with a participating employer on or after
14 July 1, 2010, to be reemployed within one year if:

- 15 • the retiree does not receive any employer paid benefits; and
- 16 • the retiree does not earn more than a certain amount for any calendar year;

17 ▶ recalculates the one-year separation requirement if a retiree is reemployed within
18 one year; and

19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **49-11-505**, as enacted by Laws of Utah 2010, Chapter 264

27 **67-5-8**, as last amended by Laws of Utah 2007, Chapter 166



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

Section 1. Section **49-11-505** is amended to read:

49-11-505. Reemployment of a retiree -- Restrictions.

(1) For purposes of this section, "retiree":

(a) means a person who:

(i) retired from a participating employer; and

(ii) begins reemployment on or after July 1, 2010 with a participating employer; and

(b) does not include a retiree who is reemployed as an active senior judge appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

(2) A retiree may not for the same period of reemployment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(3) (a) ~~[The]~~ Except as provided under Subsection (3)(b), the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree does not receive any employer provided benefits, including:

(A) medical benefits;

(B) dental benefits;

(C) other insurance benefits. ~~§~~ → **[of any kind] except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act and withholdings required by federal or state law for Social Security, Medicare, and unemployment insurance** ← ~~§~~ ; or

(D) paid time off, including sick, annual, or other type of leave; and

(iii) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of:

(A) \$15,000; or

59 (B) one-half of the retiree's final average salary upon which the retiree's retirement
 60 allowance is based.

61 (c) Beginning January 1, 2013, the board shall adjust the amount under Subsection
 62 §→ ~~(3)(b)(ii)(A)~~ (3)(b)(iii)(A) ←§ by the annual change in the Consumer Price Index during the
 62a previous calendar
 63 year as measured by a United States Bureau of Labor Statistics Consumer Price Index average
 64 as determined by the board.

65 (d) The office shall cancel the retirement allowance of a retiree for the remainder of the
 66 calendar year if the reemployment with a participating employer exceeds the limitations under
 67 Subsection (3)(b)(iii).

68 (e) If a retiree is reemployed under the provisions of (3)(b), the termination date of the
 69 reemployment, as confirmed in writing by the participating employer, is considered the retiree's
 70 retirement date for the purpose of calculating the separation requirement under Subsection
 71 (3)(a).

72 (4) If a reemployed retiree is not subject to Subsection (3), the retiree may elect to:

73 (a) earn additional service credit in accordance with this title and cancel the retiree's
 74 retirement allowance; or

75 (b) continue to receive the retiree's retirement allowance and forfeit any retirement
 76 related contribution from the participating employer who reemployed the retiree.

77 (5) If [~~an employee~~] a retiree makes an election under Subsection (4)(b) to continue to
 78 receive a retirement allowance while reemployed, the participating employer shall contribute to
 79 the office the amortization rate, as defined in Section 49-11-102, to be applied to the system
 80 that would have covered the retiree.

81 (6) (a) A participating employer shall immediately notify the office:

82 (i) if the participating employer reemploys a retiree;

83 (ii) whether the reemployment is subject to Subsection (3) or (4) of this section; and

84 (iii) any election by the retiree under Subsection (4).

85 (b) A participating employer is liable to the office for a payment or failure to make a
 86 payment in violation of this section.

87 (c) If a participating employer fails to notify the office in accordance with this section,
 88 the participating employer is immediately subject to a compliance audit by the office.

89 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in

90 accordance with Subsection (7)(b) if the office receives notice or learns of:

91 (i) the reemployment of a retiree [~~subject to~~] in violation of Subsection (3); or

92 (ii) the election of a reemployed retiree under Subsection (4)(a).

93 (b) The office shall cancel the allowance of a retiree subject to Subsection (7)(a), and
94 reinstate the retiree to active member status on the first day of the month following the date of:

95 (i) reemployment if the retiree is subject to Subsection (3); or

96 (ii) an election by an employee under Subsection (4)(a).

97 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date
98 of reemployment:

99 (i) is not entitled to a recalculated retirement benefit; and

100 (ii) will resume the allowance that was being paid at the time of cancellation.

101 (b) Subject to Subsection (2), a retiree who is re-instated to active membership under
102 Subsection (7) and who retires two or more years after the date of re-instatement to active
103 membership shall:

104 (i) resume receiving the allowance that was being paid at the time of cancellation; and

105 (ii) receive an additional allowance based on the formula in effect at the date of the
106 subsequent retirement for all service credit accrued between the first and subsequent retirement
107 dates.

108 (9) (a) A retiree subject to this section shall report to the office the status of the
109 reemployment under Subsection (3) or (4).

110 (b) If the retiree fails to inform the office of an election under Subsection (9)(a), the
111 office shall withhold one month's benefit for each month the retiree fails to inform the office
112 under Subsection (9)(a).

113 (10) The board may make rules to implement this section.

114 Section 2. Section **67-5-8** is amended to read:

115 **67-5-8. Eligibility for career service status.**

116 (1) (a) The attorney general has sole authority to determine who may be employed with
117 the Office of the Attorney General.

118 (b) An employee of the state or any of its departments or agencies has no claim or right
119 to a position in the attorney general's office by virtue of that employment.

120 (2) (a) An employee of the Office of the Attorney General shall be placed in a career

121 service status if:

122 (i) for an employee who is an attorney, the attorney is a member in good standing of
123 the Utah State Bar Association; and

124 (ii) except as provided in Subsection (3), the employee has been employed by the
125 Office of the Attorney General as a probationary employee for a period of:

126 (A) at least one year but no more than 18 months; or

127 (B) in the case of investigators, at least 18 months, but no more than two years.

128 (b) An employee now employed by the attorney general's office in career service may
129 not be terminated under this chapter except for cause.

130 (3) (a) The attorney general shall determine whether an employee should be granted
131 career service status.

132 (b) If, at the end of the probationary period established under Subsection (2), the
133 attorney general determines that an employee should be granted career service status, the
134 attorney general shall notify the employee in writing of that decision and place a copy of the
135 notification in the employee's personnel file.

136 (c) If the attorney general determines that career service status should not be granted,
137 the attorney general may either terminate the employee or extend the probationary period for a
138 period not to exceed one year.

139 (d) The attorney general shall notify the employee in writing of that decision and place
140 a copy of the notification in the employee's personnel file.

141 (e) An employee terminated under this section has no appeal rights under this chapter.

142 (4) (a) An attorney in career service status under this chapter shall retire upon attaining
143 the age of 70 years.

144 (b) Subject to the provisions of ~~[Section]~~ Sections 49-11-504 and 49-11-505, an
145 attorney required to retire under this section may be employed by the attorney general, after
146 retirement, as a special assistant attorney general.

147 (c) An attorney employed in the capacity of a special assistant under Subsection (4)(b)
148 is not in career service status and is subject to termination in accordance with Section 67-5-12.

Legislative Review Note
as of 12-13-10 3:46 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 127

SHORT TITLE: **Post Retirement Employment Amendments**

SPONSOR: **Liljenquist, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

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

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.