

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

28
29 *Be it enacted by the Legislature of the state of Utah:*

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

31 **49-11-505. Reemployment of a retiree -- Restrictions.**

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

33 (a) means a person who:

34 (i) retired from a participating employer; and

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

36 (b) does not include a retiree who is reemployed as an active senior judge appointed to

37 hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah

38 Constitution.

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

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

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

42 (b) receive a retirement allowance.

43 (3) (a) [~~The~~] Except as provided under Subsection (3)(b), the office shall cancel the

44 retirement allowance of a retiree if the reemployment with a participating employer begins

45 within one year of the retiree's retirement date.

46 (b) The office may not cancel the retirement allowance of a retiree who is reemployed

47 with a participating employer within one year of the retiree's retirement date if:

48 (i) the retiree is not reemployed by a participating employer for a period of at least 60

49 days from the retiree's retirement date;

50 (ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree

51 does not receive any employer provided benefits, including:

52 (A) medical benefits;

53 (B) dental benefits;

54 (C) other insurance benefits except for workers' compensation as provided under Title

55 34A, Chapter 2, Workers' Compensation Act and withholdings required by federal or state law

56 for Social Security, Medicare, and unemployment insurance; or

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

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

60 (A) \$15,000; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in
92 accordance with Subsection (7)(b) if the office receives notice or learns of:

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

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

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

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

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

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

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

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

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

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

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

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

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

114 under Subsection (9)(a).

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

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

117 **67-5-8. Eligibility for career service status.**

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

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

122 (2) (a) An employee of the Office of the Attorney General shall be placed in a career
123 service status if:

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

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

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

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

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

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

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

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

141 (d) The attorney general shall notify the employee in writing of that decision and place

142 a copy of the notification in the employee's personnel file.

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

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

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

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