

CLASSIFIED SCHOOL EMPLOYEE AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: Casey O. Anderson

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Benefit Insurance Act by amending provisions relating to classified school employees.

Highlighted Provisions:

This bill:

► provides that, for purposes of determining retirement benefits provided under the Utah State Retirement and Benefit Insurance Act, a regular full-time employee does not include a classified school employee:

- who is hired on or after July 1, 2012, and does not receive benefits normally provided by the participating employer; or

- who is hired before July 1, 2012, who does not receive benefits normally provided by the participating employer, and whose employment hours are increased on or after July 1, 2012; and

► makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **49-12-102**, as last amended by Laws of Utah 2008, Chapter 318
29 **49-13-102**, as last amended by Laws of Utah 2008, Chapter 318
30 **49-22-102**, as last amended by Laws of Utah 2011, Chapter 439



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

33 Section 1. Section **49-12-102** is amended to read:

34 **49-12-102. Definitions.**

35 As used in this chapter:

36 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total
37 amount of payments made by a participating employer to a member of this system for services
38 rendered to the participating employer, including:

- 39 (i) bonuses;
- 40 (ii) cost-of-living adjustments;
- 41 (iii) other payments currently includable in gross income and that are subject to Social
42 Security deductions, including any payments in excess of the maximum amount subject to
43 deduction under Social Security law;
- 44 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
45 or other benefits authorized by federal law; and
- 46 (v) member contributions.

47 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
48 under Internal Revenue Code, Section 401(a)(17).

49 (c) "Compensation" does not include:

- 50 (i) the monetary value of remuneration paid in kind, including a residence or use of
51 equipment;
- 52 (ii) the cost of any employment benefits paid for by the participating employer;
- 53 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
54 otherwise ineligible for service credit;
- 55 (iv) any payments upon termination, including accumulated vacation, sick leave
56 payments, severance payments, compensatory time payments, or any other special payments; or
- 57 (v) any allowances or payments to a member for costs or expenses paid by the
58 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,

59 housing costs, insurance costs, equipment costs, and dependent care costs.

60 (d) The executive director may determine if a payment not listed under this Subsection
61 (1) falls within the definition of compensation.

62 (2) "Final average salary" means the amount computed by averaging the highest five
63 years of annual compensation preceding retirement subject to Subsections (2)(a), (b), (c), and
64 (d).

65 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
66 compensation in any one of the years used may not exceed the previous year's compensation by
67 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
68 of the dollar during the previous year, as measured by a United States Bureau of Labor
69 Statistics Consumer Price Index average as determined by the board.

70 (b) In cases where the participating employer provides acceptable documentation to the
71 office, the limitation in Subsection (2)(a) may be exceeded if:

72 (i) the member has transferred from another agency; or

73 (ii) the member has been promoted to a new position.

74 (c) If the member retires more than six months from the date of termination of
75 employment, the member is considered to have been in service at the member's last rate of pay
76 from the date of the termination of employment to the effective date of retirement for purposes
77 of computing the member's final average salary only.

78 (d) If the member has less than five years of service credit in this system, final average
79 salary means the average annual compensation paid to the member during the full period of
80 service credit.

81 (3) "Participating employer" means an employer which meets the participation
82 requirements of Sections 49-12-201 and 49-12-202.

83 (4) (a) "Regular full-time employee" means an employee whose term of employment
84 for a participating employer contemplates continued employment during a fiscal or calendar
85 year and whose employment normally requires an average of 20 hours or more per week,
86 except as modified by the board, and who receives benefits normally provided by the
87 participating employer.

88 (b) "Regular full-time employee" includes:

89 (i) a teacher whose term of employment for a participating employer contemplates

90 continued employment during a school year and who teaches half-time or more;

91 (ii) a classified school employee;

92 (A) who is hired before July 1, 2012; and

93 (B) whose employment normally requires an average of 20 hours per week or more for
94 a participating employer, regardless of benefits provided;

95 (iii) an officer, elective or appointive, who earns during the first full month of the term
96 of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-12-407;

97 (iv) a faculty member or employee of an institution of higher education who is
98 considered full-time by that institution of higher education; and

99 (v) an individual who otherwise meets the definition of this Subsection (4) who
100 performs services for a participating employer through a professional employer organization or
101 similar arrangement.

102 (c) "Regular full-time employee" does not include a classified school employee:

103 (i) (A) who is hired on or after July 1, 2012; and

104 (B) who does not receive benefits normally provided by the participating employer
105 even if the employment normally requires an average of 20 hours per week or more for a
106 participating employer; or

107 (ii) (A) who is hired before July 1, 2012;

108 (B) who does not receive benefits normally provided by the participating employer;

109 and

110 (C) whose employment hours are increased on or after July 1, 2012, to require an
111 average of 20 hours per week or more for a participating employer.

112 (5) "System" means the Public Employees' Contributory Retirement System created
113 under this chapter.

114 (6) "Years of service credit" means:

115 (a) a period, consisting of 12 full months as determined by the board;

116 (b) a period determined by the board, whether consecutive or not, during which a
117 regular full-time employee performed services for a participating employer, including any time
118 the regular full-time employee was absent on a paid leave of absence granted by a participating
119 employer or was absent in the service of the United States government on military duty as
120 provided by this chapter; or

121 (c) the regular school year consisting of not less than eight months of full-time service
122 for a regular full-time employee of an educational institution.

123 Section 2. Section **49-13-102** is amended to read:

124 **49-13-102. Definitions.**

125 As used in this chapter:

126 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total
127 amount of payments made by a participating employer to a member of this system for services
128 rendered to the participating employer, including:

129 (i) bonuses;

130 (ii) cost-of-living adjustments;

131 (iii) other payments currently includable in gross income and that are subject to Social
132 Security deductions, including any payments in excess of the maximum amount subject to
133 deduction under Social Security law; and

134 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
135 or other benefits authorized by federal law.

136 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
137 under Internal Revenue Code, Section 401(a)(17).

138 (c) "Compensation" does not include:

139 (i) the monetary value of remuneration paid in kind, including a residence or use of
140 equipment;

141 (ii) the cost of any employment benefits paid for by the participating employer;

142 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
143 otherwise ineligible for service credit;

144 (iv) any payments upon termination, including accumulated vacation, sick leave
145 payments, severance payments, compensatory time payments, or any other special payments; or

146 (v) any allowances or payments to a member for costs or expenses paid by the
147 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
148 housing costs, insurance costs, equipment costs, and dependent care costs.

149 (d) The executive director may determine if a payment not listed under this Subsection
150 (1) falls within the definition of compensation.

151 (2) "Final average salary" means the amount computed by averaging the highest three

152 years of annual compensation preceding retirement subject to the following:

153 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
154 compensation in any one of the years used may not exceed the previous year's compensation by
155 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
156 of the dollar during the previous year, as measured by a United States Bureau of Labor
157 Statistics Consumer Price Index average as determined by the board.

158 (b) In cases where the participating employer provides acceptable documentation to the
159 office, the limitation in Subsection (2)(a) may be exceeded if:

- 160 (i) the member has transferred from another agency; or
- 161 (ii) the member has been promoted to a new position.

162 (c) If the member retires more than six months from the date of termination of
163 employment and for purposes of computing the member's final average salary only, the
164 member is considered to have been in service at his last rate of pay from the date of the
165 termination of employment to the effective date of retirement.

166 (3) "Participating employer" means an employer which meets the participation
167 requirements of Sections 49-13-201 and 49-13-202.

168 (4) (a) "Regular full-time employee" means an employee whose term of employment
169 for a participating employer contemplates continued employment during a fiscal or calendar
170 year and whose employment normally requires an average of 20 hours or more per week,
171 except as modified by the board, and who receives benefits normally provided by the
172 participating employer.

173 (b) "Regular full-time employee" includes:

174 (i) a teacher whose term of employment for a participating employer contemplates
175 continued employment during a school year and who teaches half-time or more;

176 (ii) a classified school employee;

177 (A) who is hired before July 1, 2012; and

178 (B) whose employment normally requires an average of 20 hours per week or more for
179 a participating employer, regardless of benefits provided;

180 (iii) an officer, elective or appointive, who earns during the first full month of the term
181 of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-13-407;

182 (iv) a faculty member or employee of an institution of higher education who is

183 considered full-time by that institution of higher education; and

184 (v) an individual who otherwise meets the definition of this Subsection (4) who
185 performs services for a participating employer through a professional employer organization or
186 similar arrangement.

187 (c) "Regular full-time employee" does not include a classified school employee:

188 (i) (A) who is hired on or after July 1, 2012; and

189 (B) who does not receive benefits normally provided by the participating employer

190 even if the employment normally requires an average of 20 hours per week or more for a

191 participating employer; or

192 (ii) (A) who is hired before July 1, 2012;

193 (B) who does not receive benefits normally provided by the participating employer;

194 and

195 (C) whose employment hours are increased on or after July 1, 2012, to require an

196 average of 20 hours per week or more for a participating employer.

197 (5) "System" means the Public Employees' Noncontributory Retirement System.

198 (6) "Years of service credit" means:

199 (a) a period, consisting of 12 full months as determined by the board;

200 (b) a period determined by the board, whether consecutive or not, during which a
201 regular full-time employee performed services for a participating employer, including any time
202 the regular full-time employee was absent on a paid leave of absence granted by a participating
203 employer or was absent in the service of the United States government on military duty as
204 provided by this chapter; or

205 (c) the regular school year consisting of not less than eight months of full-time service
206 for a regular full-time employee of an educational institution.

207 Section 3. Section **49-22-102** is amended to read:

208 **49-22-102. Definitions.**

209 As used in this chapter:

210 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total
211 amount of payments made by a participating employer to a member of this system for services
212 rendered to the participating employer, including:

213 (i) bonuses;

214 (ii) cost-of-living adjustments;
215 (iii) other payments currently includable in gross income and that are subject to Social
216 Security deductions, including any payments in excess of the maximum amount subject to
217 deduction under Social Security law;
218 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
219 or other benefits authorized by federal law; and
220 (v) member contributions.
221 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
222 under Internal Revenue Code, Section 401(a)(17).
223 (c) "Compensation" does not include:
224 (i) the monetary value of remuneration paid in kind, including a residence or use of
225 equipment;
226 (ii) the cost of any employment benefits paid for by the participating employer;
227 (iii) compensation paid to a temporary employee or an employee otherwise ineligible
228 for service credit;
229 (iv) any payments upon termination, including accumulated vacation, sick leave
230 payments, severance payments, compensatory time payments, or any other special payments; or
231 (v) any allowances or payments to a member for costs or expenses paid by the
232 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
233 housing costs, insurance costs, equipment costs, and dependent care costs.
234 (d) The executive director may determine if a payment not listed under this Subsection
235 (1) falls within the definition of compensation.
236 (2) "Corresponding Tier I system" means the system or plan that would have covered
237 the member if the member had initially entered employment before July 1, 2011.
238 (3) "Final average salary" means the amount computed by averaging the highest five
239 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
240 (d).
241 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
242 compensation in any one of the years used may not exceed the previous year's compensation by
243 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
244 of the dollar during the previous year, as measured by a United States Bureau of Labor

245 Statistics Consumer Price Index average as determined by the board.

246 (b) In cases where the participating employer provides acceptable documentation to the
247 office, the limitation in Subsection (3)(a) may be exceeded if:

248 (i) the member has transferred from another agency; or

249 (ii) the member has been promoted to a new position.

250 (c) If the member retires more than six months from the date of termination of
251 employment, the member is considered to have been in service at the member's last rate of pay
252 from the date of the termination of employment to the effective date of retirement for purposes
253 of computing the member's final average salary only.

254 (d) If the member has less than five years of service credit in this system, final average
255 salary means the average annual compensation paid to the member during the full period of
256 service credit.

257 (4) "Participating employer" means an employer which meets the participation
258 requirements of:

259 (a) Sections 49-12-201 and 49-12-202;

260 (b) Sections 49-13-201 and 49-13-202;

261 (c) Section 49-19-201; or

262 (d) Section 49-22-201 or 49-22-202.

263 (5) (a) "Regular full-time employee" means an employee whose term of employment
264 for a participating employer contemplates continued employment during a fiscal or calendar
265 year and whose employment normally requires an average of 20 hours or more per week,
266 except as modified by the board, and who receives benefits normally provided by the
267 participating employer.

268 (b) "Regular full-time employee" includes:

269 (i) a teacher whose term of employment for a participating employer contemplates
270 continued employment during a school year and who teaches half-time or more;

271 (ii) a classified school employee;

272 (A) who is hired before July 1, 2012; and

273 (B) whose employment normally requires an average of 20 hours per week or more for
274 a participating employer, regardless of benefits provided;

275 (iii) an appointive officer whose appointed position is full-time as certified by the

276 participating employer;

277 (iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the
278 attorney general, and a state legislator;

279 (v) an elected official not included under Subsection (5)(b)(iv) whose elected position
280 is full-time as certified by the participating employer;

281 (vi) a faculty member or employee of an institution of higher education who is
282 considered full-time by that institution of higher education; and

283 (vii) an individual who otherwise meets the definition of this Subsection (5) who
284 performs services for a participating employer through a professional employer organization or
285 similar arrangement.

286 (c) "Regular full-time employee" does not include:

287 (i) a firefighter service employee as defined in Section 49-23-102; [~~or~~]

288 (ii) a public safety service employee as defined in Section 49-23-102[~~;~~];

289 (iii) a classified school employee:

290 (A) who is hired on or after July 1, 2012; and

291 (B) who does not receive benefits normally provided by the participating employer
292 even if the employment normally requires an average of 20 hours per week or more for a
293 participating employer; or

294 (iv) a classified school employee:

295 (A) who is hired before July 1, 2012;

296 (B) who does not receive benefits normally provided by the participating employer;

297 and

298 (C) whose employment hours are increased on or after July 1, 2012, to require an
299 average of 20 hours per week or more for a participating employer.

300 (6) "System" means the New Public Employees' Tier II Contributory Retirement
301 System created under this chapter.

302 (7) "Years of service credit" means:

303 (a) a period, consisting of 12 full months as determined by the board;

304 (b) a period determined by the board, whether consecutive or not, during which a
305 regular full-time employee performed services for a participating employer, including any time
306 the regular full-time employee was absent on a paid leave of absence granted by a participating

307 employer or was absent in the service of the United States government on military duty as
308 provided by this chapter; or

309 (c) the regular school year consisting of not less than eight months of full-time service
310 for a regular full-time employee of an educational institution.

Legislative Review Note

as of 2-13-12 11:04 AM

Office of Legislative Research and General Counsel