

1 **CLASSIFIED SCHOOL EMPLOYEE AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Bradley G. Last**

5 Senate Sponsor: Stephen H. Urquhart

6

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

16 • who is hired on or after July 1, 2013, and does not receive benefits normally
17 provided by the participating employer; or

18 • who is hired before July 1, 2013, who did not qualify as a regular full-time
19 employee before July 1, 2013, who does not receive benefits normally provided
20 by the participating employer, and whose employment hours are increased on or
21 after July 1, 2013; and

22 ▶ makes technical changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill takes effect on July 1, 2013.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **49-12-102**, as last amended by Laws of Utah 2012, Chapter 298

30 **49-13-102**, as last amended by Laws of Utah 2012, Chapter 298

31 **49-22-102**, as last amended by Laws of Utah 2011, Chapter 439



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

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

35 **49-12-102. Definitions.**

36 As used in this chapter:

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

40 (i) bonuses;

41 (ii) cost-of-living adjustments;

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

45 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
46 or other benefits authorized by federal law; and

47 (v) member contributions.

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

50 (c) "Compensation" does not include:

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

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

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

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

58 (v) any allowances or payments to a member for costs or expenses paid by the

59 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
60 housing costs, insurance costs, equipment costs, and dependent care costs.

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

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

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

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

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

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

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

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

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

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

- 90 (i) a teacher whose term of employment for a participating employer contemplates
- 91 continued employment during a school year and who teaches half time or more;
- 92 (ii) a classified school employee;
- 93 (A) who is hired before July 1, 2013; and
- 94 (B) whose employment normally requires an average of 20 hours per week or more for
- 95 a participating employer, regardless of benefits provided;
- 96 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as
- 97 of January 1, 1990, as provided in Section 49-12-407;
- 98 (iv) a faculty member or employee of an institution of higher education who is
- 99 considered full time by that institution of higher education; and
- 100 (v) an individual who otherwise meets the definition of this Subsection (4) who
- 101 performs services for a participating employer through a professional employer organization or
- 102 similar arrangement.
- 103 (c) "Regular full-time employee" does not include a classified school employee:
- 104 (i) (A) who is hired on or after July 1, 2013; and
- 105 (B) who does not receive benefits normally provided by the participating employer
- 106 even if the employment normally requires an average of 20 hours per week or more for a
- 107 participating employer; or
- 108 (ii) (A) who is hired before July 1, 2013;
- 109 (B) who did not qualify as a regular full-time employee before July 1, 2013;
- 110 (C) who does not receive benefits normally provided by the participating employer;
- 111 and
- 112 (D) whose employment hours are increased on or after July 1, 2013, to require an
- 113 average of 20 hours per week or more for a participating employer.
- 114 (5) "System" means the Public Employees' Contributory Retirement System created
- 115 under this chapter.
- 116 (6) "Years of service credit" means:
- 117 (a) a period[;] consisting of 12 full months as determined by the board;
- 118 (b) a period determined by the board, whether consecutive or not, during which a
- 119 regular full-time employee performed services for a participating employer, including any time
- 120 the regular full-time employee was absent on a paid leave of absence granted by a participating

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

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

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

126 **49-13-102. Definitions.**

127 As used in this chapter:

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

131 (i) bonuses;

132 (ii) cost-of-living adjustments;

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

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

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

140 (c) "Compensation" does not include:

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

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

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

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

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

151 (d) The executive director may determine if a payment not listed under this Subsection

152 (1) falls within the definition of compensation.

153 (2) "Final average salary" means the amount computed by averaging the highest three
154 years of annual compensation preceding retirement subject to the following:

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

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

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

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

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

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

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

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

178 (ii) a classified school employee;

179 (A) who is hired before July 1, 2013; and

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

182 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as

183 of January 1, 1990, as provided in Section 49-13-407;

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

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

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

190 (i) (A) who is hired on or after July 1, 2013; and

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

194 (ii) (A) who is hired before July 1, 2013;

195 (B) who did not qualify as a regular full-time employee before July 1, 2013;

196 (C) who does not receive benefits normally provided by the participating employer;

197 and

198 (D) whose employment hours are increased on or after July 1, 2013, to require an
199 average of 20 hours per week or more for a participating employer.

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

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

202 (a) a period[;] consisting of 12 full months as determined by the board;

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

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

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

211 **49-22-102. Definitions.**

212 As used in this chapter:

213 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total

214 amount of payments made by a participating employer to a member of this system for services
215 rendered to the participating employer, including:

- 216 (i) bonuses;
- 217 (ii) cost-of-living adjustments;
- 218 (iii) other payments currently includable in gross income and that are subject to Social
219 Security deductions, including any payments in excess of the maximum amount subject to
220 deduction under Social Security law;
- 221 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
222 or other benefits authorized by federal law; and
- 223 (v) member contributions.

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

226 (c) "Compensation" does not include:

- 227 (i) the monetary value of remuneration paid in kind, including a residence or use of
228 equipment;
- 229 (ii) the cost of any employment benefits paid for by the participating employer;
- 230 (iii) compensation paid to a temporary employee or an employee otherwise ineligible
231 for service credit;
- 232 (iv) any payments upon termination, including accumulated vacation, sick leave
233 payments, severance payments, compensatory time payments, or any other special payments; or
- 234 (v) any allowances or payments to a member for costs or expenses paid by the
235 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
236 housing costs, insurance costs, equipment costs, and dependent care costs.

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

239 (2) "Corresponding Tier I system" means the system or plan that would have covered
240 the member if the member had initially entered employment before July 1, 2011.

241 (3) "Final average salary" means the amount computed by averaging the highest five
242 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
243 (d).

244 (a) Except as provided in Subsection (3)(b), the percentage increase in annual

245 compensation in any one of the years used may not exceed the previous year's compensation by
246 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
247 of the dollar during the previous year, as measured by a United States Bureau of Labor
248 Statistics Consumer Price Index average as determined by the board.

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

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

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

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

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

260 (4) "Participating employer" means an employer which meets the participation
261 requirements of:

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

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

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

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

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

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

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

274 (ii) a classified school employee;

275 (A) who is hired before July 1, 2013; and

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

278 (iii) an appointive officer whose appointed position is full time as certified by the
279 participating employer;

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

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

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

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

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

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

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

292 (iii) a classified school employee:

293 (A) who is hired on or after July 1, 2013; and

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

297 (iv) a classified school employee:

298 (A) who is hired before July 1, 2013;

299 (B) who did not qualify as a regular full-time employee before July 1, 2013;

300 (C) who does not receive benefits normally provided by the participating employer;

301 and

302 (D) whose employment hours are increased on or after July 1, 2013, to require an
303 average of 20 hours per week or more for a participating employer.

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

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

- 307 (a) a period[;] consisting of 12 full months as determined by the board;
- 308 (b) a period determined by the board, whether consecutive or not, during which a
- 309 regular full-time employee performed services for a participating employer, including any time
- 310 the regular full-time employee was absent on a paid leave of absence granted by a participating
- 311 employer or was absent in the service of the United States government on military duty as
- 312 provided by this chapter; or
- 313 (c) the regular school year consisting of not less than eight months of full-time service
- 314 for a regular full-time employee of an educational institution.

315 Section 4. **Effective date.**

316 This bill takes effect on July 1, 2013.

Legislative Review Note
as of 1-3-13 10:33 AM

Office of Legislative Research and General Counsel