

**RETIREMENT PARTICIPATION MODIFICATIONS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Don L. Ipson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by providing for the withdrawal of employees of a withdrawing entity.

**Highlighted Provisions:**

This bill:

- ▶ defines "withdrawing entity";
- ▶ allows a withdrawing entity to make an election of continued participation or withdrawal in a Utah retirement system or plan for future employees beginning on a date, no later than January 1, ~~H~~→ [2015] 2017 ←~~H~~, determined by the withdrawing entity;
- ▶ requires the withdrawing entity to pay any costs that arise out of the election of nonparticipation;
- ▶ provides for rulemaking by the Utah State Retirement Board;
- ▶ excludes new employees of a withdrawing entity from participation in the Public Employees' Contributory Retirement System, the Public Employees' Noncontributory Retirement System, and the New Public Employees' Tier II Contributory Retirement Act under certain circumstances; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 49-12-203, as last amended by Laws of Utah 2013, Chapters 310 and 316

32 49-13-203, as last amended by Laws of Utah 2013, Chapters 310 and 316

33 49-22-203, as last amended by Laws of Utah 2013, Chapter 316

34 ENACTS:

35 49-11-623, Utah Code Annotated 1953



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

38 Section 1. Section 49-11-623 is enacted to read:

39 **49-11-623. Withdrawing entity -- Participation election date -- Withdrawal costs**

40 **-- Rulemaking.**

41 (1) As used in this section, "withdrawing entity" means an entity that:

42 (a) participates in a system or plan under this title prior to July 1, 2014;

43 (b) provides mental health and substance abuse services for a county under Section

44 17-50-318; ~~H~~→ [and] ←~~H~~

45 (c) after beginning participation with a system or plan under this title, has modified its

46 federal tax status to a nonprofit organization that qualifies under Section 501(c)(3) of the

47 Internal Revenue Code ~~H~~→ [;] ; and

47a (d) is not a state institution of higher education as described in Section 53B-2-101. ←~~H~~

48 (2) Notwithstanding any other provision of this title, a withdrawing entity may provide

49 for the participation of its employees with that system or plan as follows:

50 (a) the withdrawing entity shall determine a date that is no later than January 1, ~~H~~→ [2015]

50a 2017 ←~~H~~ ,

51 on which the withdrawing entity shall make an election under Subsection (3); and

52 (b) the withdrawing entity shall pay to the office any ~~H~~→ reasonable ←~~H~~ actuarial and

52a administrative costs

53 determined by the office to have arisen out of an election made under this section.

54 (3) The withdrawing entity described under Subsection (2) may elect to:

55 (a) continue its participation for all current employees of the withdrawing entity, who

56 are covered by a system or plan as of the date set under Subsection (2)(a); and

57 (b) withdraw from participation in all systems or plans for all persons initially entering

58 employment with the withdrawing entity, beginning on the date set under Subsection (2)(a).

90 (f) an employee who is employed on or after July 1, 2009 with an employer that has  
91 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection  
92 49-12-202(2)(c)[-]; or

93 (g) an employee who is employed with a withdrawing entity that has elected, prior to  
94 January 1, ~~H~~→ [2015] 2017 ←~~H~~ , to exclude new employees from participation in this system under  
94a Subsection  
95 49-11-623(3).

96 (2) If an employee whose status is temporary in nature due to the nature of type of  
97 work to be performed:

98 (a) is employed for a term that exceeds six months and the employee otherwise  
99 qualifies for service credit in this system, the participating employer shall report and certify to  
100 the office that the employee is a regular full-time employee effective the beginning of the  
101 seventh month of employment; or

102 (b) was previously terminated prior to being eligible for service credit in this system  
103 and is reemployed within three months of termination by the same participating employer, the  
104 participating employer shall report and certify that the member is a regular full-time employee  
105 when the total of the periods of employment equals six months and the employee otherwise  
106 qualifies for service credits in this system.

107 (3) (a) Upon cessation of the participating employer contributions, an employee under  
108 Subsection (1)(b) is eligible for service credit in this system.

109 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service  
110 credit earned by an employee under this chapter before July 1, 2009 is not affected under  
111 Subsection (1)(f).

112 (4) Upon filing a written request for exemption with the office, the following  
113 employees shall be exempt from coverage under this system:

114 (a) a full-time student or the spouse of a full-time student and individuals employed in  
115 a trainee relationship;

116 (b) an elected official;

117 (c) an executive department head of the state, a member of the State Tax Commission,  
118 a member of the Public Service Commission, and a member of a full-time or part-time board or  
119 commission;

120 (d) an employee of the Governor's Office of Management and Budget;

152 education who participates in a retirement system with the Teachers' Insurance and Annuity  
 153 Association of America or with any other public or private retirement system, organization, or  
 154 company during any period in which required contributions based on compensation have been  
 155 paid on behalf of the employee by the employer;

156 (c) an employee serving as an exchange employee from outside the state;

157 (d) an executive department head of the state or a legislative director, senior executive  
 158 employed by the governor's office, a member of the State Tax Commission, a member of the  
 159 Public Service Commission, and a member of a full-time or part-time board or commission  
 160 who files a formal request for exemption;

161 (e) an employee of the Department of Workforce Services who is covered under  
 162 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; ~~or~~

163 (f) an employee who is employed with an employer that has elected to be excluded  
 164 from participation in this system under Subsection 49-13-202(5), effective on or after the date  
 165 of the employer's election under Subsection 49-13-202(5)~~[-]; or~~

166 (g) an employee who is employed with a withdrawing entity that has elected, prior to  
 167 January 1, ~~H~~→ [2015] 2017 ←~~H~~ , to exclude new employees from participation in this system  
 167a under Subsection  
 168 49-11-623(3).

169 (2) If an employee whose status is temporary in nature due to the nature of type of  
 170 work to be performed:

171 (a) is employed for a term that exceeds six months and the employee otherwise  
 172 qualifies for service credit in this system, the participating employer shall report and certify to  
 173 the office that the employee is a regular full-time employee effective the beginning of the  
 174 seventh month of employment; or

175 (b) was previously terminated prior to being eligible for service credit in this system  
 176 and is reemployed within three months of termination by the same participating employer, the  
 177 participating employer shall report and certify that the member is a regular full-time employee  
 178 when the total of the periods of employment equals six months and the employee otherwise  
 179 qualifies for service credits in this system.

180 (3) (a) Upon cessation of the participating employer contributions, an employee under  
 181 Subsection (1)(b) is eligible for service credit in this system.

182 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service

214 (b) A municipality, county, or political subdivision may exempt at least one regular  
215 full-time employee.

216 (7) Each participating employer shall:

217 (a) file employee exemptions annually with the office; and

218 (b) update the employee exemptions in the event of any change.

219 (8) The office may make rules to implement this section.

220 Section 4. Section **49-22-203** is amended to read:

221 **49-22-203. Exclusions from membership in system.**

222 (1) The following employees are not eligible for service credit in this system:

223 (a) subject to the requirements of Subsection (2), an employee whose employment  
224 status is temporary in nature due to the nature or the type of work to be performed;

225 (b) except as provided under Subsection (3), an employee of an institution of higher  
226 education who participates in a retirement system with the Teachers' Insurance and Annuity  
227 Association of America or with any other public or private retirement system, organization, or  
228 company during any period in which required contributions based on compensation have been  
229 paid on behalf of the employee by the employer;

230 (c) an employee serving as an exchange employee from outside the state; [or]

231 (d) an employee of the Department of Workforce Services who is covered under  
232 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act[;]; or

233 (e) an employee who is employed with a withdrawing entity that has elected, prior to  
234 January 1, ~~H~~→ [2015] 2017 ←~~H~~, to exclude new employees from participation in this system  
234a under Subsection

235 49-11-623(3).

236 (2) If an employee whose status is temporary in nature due to the nature of type of  
237 work to be performed:

238 (a) is employed for a term that exceeds six months and the employee otherwise  
239 qualifies for service credit in this system, the participating employer shall report and certify to  
240 the office that the employee is a regular full-time employee effective the beginning of the  
241 seventh month of employment; or

242 (b) was previously terminated prior to being eligible for service credit in this system  
243 and is reemployed within three months of termination by the same participating employer, the  
244 participating employer shall report and certify that the member is a regular full-time employee