

Representative Rich Cunningham proposes the following substitute bill:

POSTRETIREMENT EMPLOYMENT

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rich Cunningham

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions for postretirement reemployment.

Highlighted Provisions:

This bill:

- ▶ allows a retiree to be reemployed with a participating employer after a certain period from the retiree's retirement date if the retiree:
 - does not receive certain employer provided retirement benefits for the reemployment; and
 - is reemployed by a different agency;
- ▶ requires a participating employer to pay the contribution rate for a reemployed retiree in certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **49-11-505**, as last amended by Laws of Utah 2014, Chapters 15, 175, and 311



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

33 (i) means a person who:

34 (A) retired from a participating employer; and

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

36 (ii) does not include a person:

37 (A) who was reemployed by a participating employer before July 1, 2010; and

38 (B) whose participating employer that reemployed the person under Subsection

39 (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with

40 Section **49-11-621** after July 1, 2010; and

41 (iii) does not include a person who is reemployed as an active senior judge or an active

42 senior justice court judge as described by Utah State Court Rules, appointed to hear cases by

43 the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

44 (b) (i) This section does not apply to employment as an elected official if the elected
45 official's position is not full time as certified by the participating employer.

46 (ii) The provisions of this section apply to an elected official whose elected position is
47 full time as certified by the participating employer.

48 (c) (i) This section does not apply to employment as a part-time appointed board
49 member who does not receive any remuneration, stipend, or other benefit for the part-time
50 appointed board member's service.

51 (ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does
52 not include receipt of per diem and travel expenses up to the amounts established by the
53 Division of Finance in:

54 (A) Section **63A-3-106**;

55 (B) Section **63A-3-107**; and

56 (C) rules made by the Division of Finance according to Sections **63A-3-106** and

57 [63A-3-107](#).

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

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

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

61 (b) receive a retirement allowance.

62 (3) (a) Except as provided under Subsection (3)(b), ~~(3)(d)~~, or (10), the office shall
63 cancel the retirement allowance of a retiree if the reemployment with a participating employer
64 begins within one year of the retiree's retirement date.

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

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

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

71 (A) retirement benefits or retirement related contributions;

72 [~~(A)~~] (B) medical benefits;

73 [~~(B)~~] (C) dental benefits;

74 [~~(C)~~] (D) other insurance benefits except for workers' compensation as provided under
75 Title 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or
76 state law for Social Security, Medicare, and unemployment insurance; or

77 [~~(D)~~] (E) paid time off, including sick, annual, or other type of leave; and

78 (iii) (A) the retiree does not earn in any calendar year of reemployment an amount in
79 excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the
80 retiree's retirement allowance is based; or

81 (B) the retiree is reemployed as a judge as defined under Section [78A-11-102](#).

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

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

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

91 (B) does not receive any employer provided retirement benefits or retirement related
92 contributions from the participating employer; and

93 (C) is reemployed by a different agency; and

94 (ii) the participating employer pays the contribution rate to the office as if the retiree's
95 reemployed position were deemed to be an eligible, full-time position within that system but
96 the retiree does not earn additional service credit.

97 (e) Any contribution paid to the office under Subsection (3)(d)(ii) shall be applied to
98 the system that would have covered the retiree if the retiree's reemployed position were deemed
99 to be an eligible, full-time position within that system.

100 ~~[(d)]~~ (f) The office shall cancel the retirement allowance of a retiree for the remainder
101 of the calendar year if the reemployment with a participating employer ~~[exceeds the limitation~~
102 ~~under Subsection (3)(b)(iii)(A)]~~ is in violation of the provisions of this Subsection (3).

103 ~~[(e)]~~ (g) If a retiree is reemployed under the provisions of Subsection (3)(b) or (3)(d),
104 the termination date of the reemployment, as confirmed in writing by the participating
105 employer, is considered the retiree's retirement date for the purpose of calculating the
106 separation requirement under Subsection (3)(a).

107 (4) If a reemployed retiree has completed the one-year separation from employment
108 with a participating employer required under Subsection (3)(a), the retiree may elect to:

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

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

113 (5) (a) As used in this Subsection (5), "amortization rate" means the amortization rate,
114 as defined in Section [49-11-102](#), to be applied to the system that would have covered the retiree
115 if the retiree's reemployed position were deemed to be an eligible, full-time position within that
116 system.

117 ~~[(5)]~~ (b) A participating employer who reemploys a retiree shall contribute to the office
118 the amortization rate~~[- as defined in Section [49-11-102](#), to be applied to the system that would~~

119 ~~have covered the retiree,]~~ if the reemployed retiree:

120 ~~[(a)]~~ (i) has completed the one-year separation from employment with a participating
121 employer required under Subsection (3)(a); and

122 ~~[(b)]~~ (ii) makes an election under Subsection (4)(b) to continue to receive a retirement
123 allowance while reemployed.

124 (c) A participating employer who reemploys a retiree in accordance with Subsection
125 (3)(b) is not required to contribute the amortization rate to the office.

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

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

128 (ii) whether the reemployment is subject to Subsection (3)(b), (3)(d), or (4) of this
129 section; and

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

131 (b) A participating employer shall certify to the office whether the position of an
132 elected official is or is not full time.

133 (c) A participating employer is liable to the office for a payment or failure to make a
134 payment in violation of this section.

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

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

139 (i) the reemployment of a retiree in violation of Subsection (3); or

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

141 (b) If the retiree is eligible for retirement coverage in the reemployed position, the
142 office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the
143 retiree to active member status on the first day of the month following the date of:

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

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

146 (c) If the retiree is not otherwise eligible for retirement coverage in the reemployed
147 position:

148 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

149 (ii) the participating employer shall pay the amortization rate to the office on behalf of

150 the retiree.

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

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

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

155 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under
156 Subsection (7) and who retires two or more years after the date of reinstatement to active
157 membership shall:

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

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

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

164 (b) If the retiree fails to inform the office of an election under Subsection (4), the office
165 shall withhold one month's benefit for each month the retiree fails to inform the office under
166 Subsection (9)(a).

167 (10) A retiree shall be considered as having completed the one-year separation from
168 employment with a participating employer required under Subsection (3)(a), if the retiree:

169 (a) before retiring:

170 (i) was employed with a participating employer as a public safety service employee as
171 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);

172 (ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury
173 resulting from external force or violence while performing the duties of the employment, and
174 for which injury the retiree would have been approved for total disability in accordance with
175 the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if
176 years of service are not considered;

177 (iii) had less than 30 years of service credit but had sufficient service credit to retire,
178 with an unreduced allowance making the public safety service employee ineligible for
179 long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term
180 Disability Act, or a substantially similar long-term disability program; and

181 (iv) does not receive any long-term disability benefits from any participating employer;

182 and

183 (b) is reemployed by a different participating employer.

184 (11) The board may make rules to implement this section.