

HB0077S01 compared with HB0077

~~{deleted text}~~ shows text that was in HB0077 but was deleted in HB0077S01.

inserted text shows text that was not in HB0077 but was inserted into HB0077S01.

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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 ~~{60 days}~~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;
- ▶ ~~{repeals earning limitation provisions for a retiree who is reemployed with}~~requires a participating employer ~~{after 60 days from the retiree's retirement date}~~to pay the

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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:

AMENDS:

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

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

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

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

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

(i) means a person who:

(A) retired from a participating employer; and

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

(ii) does not include a person:

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

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

(1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 after July 1, 2010; and

(iii) does not include a person who is reemployed as an active senior judge or an active senior justice court judge as described by Utah State Court Rules, appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

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

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

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

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appointed board member's service.

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

(A) Section 63A-3-106;

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

(C) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

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

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

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

(b) receive a retirement allowance.

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

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer ~~{}~~ within one year ~~{}~~ after 60 days of the retiree's retirement date if: ~~{}~~

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

~~{}~~(ii) upon reemployment after the break in service under Subsection (3)(b)(i), ~~{}~~ ~~(i)~~ the retiree does not receive any ~~{of the following}~~ employer provided benefits ~~{}~~, including ~~{}~~ for the reemployment:

(A) retirement benefits ~~{including any}~~ or retirement related contributions ~~{from a participating employer}~~; ~~{or}~~

~~{(A)}~~ (B) medical benefits; ~~{}~~

~~{(B)}~~ (C) dental benefits; ~~{}~~

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

~~{(D)}~~ ~~{(B)}~~ (E) paid time off, including sick, annual, or other type of leave; and

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

~~(f)~~(B) the retiree is reemployed as a judge as defined under Section 78A-11-102. ~~(f)~~

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

~~(ii) the retiree}~~

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

(i) the retiree:

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

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

(C) is reemployed by a different agency; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) if the participating employer reemploys a retiree;

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

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

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

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

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

(7) (a) The office shall immediately cancel the retirement allowance of a retiree in

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accordance with Subsection (7)(b) if the office receives notice or learns of:

- (i) the reemployment of a retiree in violation of Subsection (3); or
- (ii) the election of a reemployed retiree under Subsection (4)(a).

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

- (i) reemployment if the retiree is subject to Subsection (3); or
- (ii) an election by an employee under Subsection (4)(a).

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

- (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and
- (ii) the participating employer shall pay the amortization rate to the office on behalf of the retiree.

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

- (i) is not entitled to a recalculated retirement benefit; and
- (ii) will resume the allowance that was being paid at the time of cancellation.

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

- (i) resume receiving the allowance that was being paid at the time of cancellation; and
- (ii) receive an additional allowance based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

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

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

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

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(a) before retiring:

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

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

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

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

(b) is reemployed by a different participating employer.

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

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Legislative Review Note

~~as of 12-22-14 6:12 PM~~

~~Office of Legislative Research and General Counsel~~