

HB0151S01 compared with HB0151

~~{deleted text}~~ shows text that was in HB0151 but was deleted in HB0151S01.

inserted text shows text that was not in HB0151 but was inserted into HB0151S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{VOLUNTEER FIREFIGHTER POSTRETIREMENT~~

~~}~~ Senator Todd Weiler proposes the following substitute bill:

AFFILIATED EMERGENCY SERVICE WORKER
POSTRETIREMENT EMPLOYMENT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: ~~{~~ David P. Hinkins

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:

- ▶ provides that reemployment as ~~{a volunteer firefighter}~~ an affiliated emergency service worker is not subject to postretirement reemployment provisions under certain circumstances;
- ▶ provides that a member is not required to cease employment as ~~{a volunteer~~

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~~firefighter~~ an affiliated emergency service worker of a participating employer to be eligible to retire; 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

49-12-401, as last amended by Laws of Utah 2014, Chapter 15

49-13-401, as last amended by Laws of Utah 2014, Chapter 15

49-14-401, as last amended by Laws of Utah 2014, Chapter 15

49-15-401, as last amended by Laws of Utah 2014, Chapter 15

49-16-401, as last amended by Laws of Utah 2014, Chapter 15

49-22-304, as last amended by Laws of Utah 2014, Chapter 15

49-23-303, as last amended by Laws of Utah 2014, Chapter 15

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

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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 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.

(d) (i) ~~This section does not apply to employment.~~ For purposes of this Subsection (1)(d), "affiliated emergency services worker" means a person who is employed by a participating employer and who performs emergency services for another participating employer that is a different agency in which the person:

(A) has been trained in techniques and skills required for the service the person provides to the participating employer;

(B) continues to receive regular training required for the service;

(C) is on the rolls as a trained affiliated emergency services worker of the participating employer; and

(D) provides ongoing service for a participating employer, which service may include service as a volunteer firefighter ~~as defined in Section 49-16-102 or 49-23-102 if the volunteer firefighter~~, reserve law enforcement officer, search and rescue personnel, emergency medical technician, ambulance personnel, park ranger, or public utilities worker.

(ii) A person who performs work or service but does not meet the requirements of Subsection (1)(d)(i) is not an affiliated emergency services worker for purposes of this

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Subsection (1)(d).

(iii) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(A) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(B) a length-of-service award;

(C) insurance policy premiums paid by the participating employer in the event of death of an ~~active volunteer firefighter~~ affiliated emergency services worker or a line-of-duty accidental death or disability; or

(D) reimbursement of expenses incurred in the performance of duties.

~~(iii)~~iv For purposes of Subsections (1)(d)(~~iii~~)(A) and (B), the total amount of any discounts, tax credits, vouchers, and payments to a volunteer ~~firefighter~~ may not exceed \$500 per month.

~~(iii)~~v Beginning January 1, 2016, the board shall adjust the amount under Subsection (1)(d)(~~iii~~iv) 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.

(vi) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if employment as an affiliated emergency services worker with a participating employer exceeds the limitation under Subsection (1)(d)(iii).

(vii) If a retiree is employed as an affiliated emergency services worker under the provisions of Subsection (1)(d), the termination date of the employment as an affiliated emergency services worker, 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).

(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) or (10), the office shall cancel the

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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 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), the retiree does not receive any employer provided benefits, including:

(A) medical benefits;

(B) dental benefits;

(C) 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) paid time off, including sick, annual, or other type of leave; and

(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

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

(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.

(d) 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).

(e) If a retiree is reemployed under the provisions of Subsection (3)(b), 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).

(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:

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

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

(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) 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 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

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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:

(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,

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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.

Section 2. Section **49-12-401** is amended to read:

49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 30 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

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(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also ~~fa volunteer firefighter~~an affiliated emergency services worker as defined in ~~{Section 49-16-102 or 49-23-102}~~Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as ~~fa volunteer firefighter~~an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 3. Section **49-13-401** is amended to read:

49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years;

(iv) the member has accrued at least 30 years of service credit; or

(v) the member has accrued at least 25 years of service credit, in which case the member shall be subject to the reduction under Subsection 49-13-402(2)(b).

(2) (a) The member's retirement date:

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- (i) shall be the 1st or the 16th day of the month, as selected by the member;
- (ii) shall be on or after the date of termination; and
- (iii) may not be more than 90 days before or after the date the application is received by

the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also ~~a volunteer firefighter~~ an affiliated emergency services worker as defined in ~~Section 49-16-102 or 49-23-102~~ Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as ~~a volunteer firefighter~~ an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 4. Section **49-14-401** is amended to read:

49-14-401. Eligibility for service retirement -- Date of retirement --

Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age

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of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also ~~a volunteer firefighter~~ an affiliated emergency services worker as defined in ~~Section 49-16-102 or 49-23-102~~ Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as ~~a volunteer firefighter~~ an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 5. Section **49-15-401** is amended to read:

49-15-401. Eligibility for service retirement -- Date of retirement --

Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the

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member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also ~~fa volunteer firefighter~~an affiliated emergency services worker as defined in ~~{Section 49-16-102 or 49-23-102}~~Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as ~~fa volunteer firefighter~~an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 6. Section **49-16-401** is amended to read:

49-16-401. Eligibility for service retirement -- Date of retirement --

Qualifications.

(1) A member is qualified to receive an allowance from this system when:

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(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the firefighter service employee;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also ~~a volunteer firefighter~~ an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as ~~a volunteer firefighter~~ an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

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Section 7. Section **49-22-304** is amended to read:

49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --

Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 35 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board

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member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also ~~fa volunteer firefighter~~an affiliated emergency services worker as defined in ~~Section 49-16-102 or 49-23-102~~Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as ~~fa volunteer firefighter~~an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 8. Section **49-23-303** is amended to read:

49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --

Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 25 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

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(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also ~~fa volunteer firefighter~~an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as ~~fa volunteer firefighter~~an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

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Legislative Review Note

~~as of 1-15-15 8:31 AM~~

~~Office of Legislative Research and General Counsel~~