

SB0239S01 compared with SB0239

~~text~~ shows text that was in SB0239 but was deleted in SB0239S01.

inserted text shows text that was not in SB0239 but was inserted into SB0239S01.

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Senator Todd Weiler proposes the following substitute bill:

RETIREMENT WITHDRAWAL MODIFICATIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

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:

- ▶ allows certain withdrawing entities to make an election to withdraw from participation in a Utah retirement system or plan for current and future employees in certain circumstances;
- ▶ requires the withdrawing entity to pay certain costs that arise out of the election of the withdrawal;
- ▶ excludes all employees of a withdrawing entity from participation in the Public Employees' Contributory Retirement System, the Public Employees'

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Noncontributory Retirement System, and the New Public Employees' Tier II
Contributory Retirement Act under certain circumstances;

- ▶ requires certain reporting from a withdrawing entity; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

~~{This bill appropriates in fiscal year 2016:~~

~~→ to the Department of Administrative Services - Division of Finance - Mandated - as
a one-time appropriation:~~

~~• from the General Fund, One-time, \$3,000,000.}~~ None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-623, as enacted by Laws of Utah 2014, Chapter 365

49-12-203, as last amended by Laws of Utah 2014, Chapters 15, 201, and 365

49-13-203, as last amended by Laws of Utah 2014, Chapters 15 and 365

49-22-203, as last amended by Laws of Utah 2014, Chapters 15 and 365

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

Section 1. Section **49-11-623** is amended to read:

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

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

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

(b) provides mental health and substance abuse services for a county under Section
17-50-318;

(c) after beginning participation with a system or plan under this title, has modified its
federal tax status to a nonprofit organization that qualifies under Section 501(c)(3) of the
Internal Revenue Code; and

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

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

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

(a) the withdrawing entity shall determine a date that is no later than January 1, 2017, on which the withdrawing entity shall make an election under Subsection (3); and

(b) subject to the provisions of Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section.

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

(a) (i) continue its participation for all current employees of the withdrawing entity, who are covered by a system or plan as of the date set under Subsection (2)(a); and

~~(b)~~ (ii) withdraw from participation in all systems or plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a)~~[-]; or~~

(b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election provided under Subsection (3):

(i) is a one-time election made no later than the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) is irrevocable; and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(5) If a withdrawing entity elects to continue participation under Subsection (3), the withdrawing entity shall continue to be subject to the laws and the rules governing the system or plan in which an employee participates, including the accrual of service credit and payment of contributions.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(b); and

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(b) arrangements for the payment of the costs described under Subsection (2)(b).

(7) (a) A withdrawing entity that withdraws under Subsection (3)(a) or (b), shall prepare and submit to the governor and the Retirement and Independent Entities Committee, by October 1 of each year, an annual written report of its finances, operations, and services for the preceding fiscal year.

(b) The report shall include:

(i) budget data showing personnel and employee benefit expenditures, financial status, and any outstanding loan information; and

(ii) historical data from previous years for comparison with data reported under Subsections (7)(a) and (b)(i).

~~[(6)]~~ ~~(7)~~ (8) The board shall make rules to implement this section.

Section 2. Section **49-12-203** is amended to read:

49-12-203. Exclusions from membership in system.

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

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

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

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

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

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

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

(g) an employee who is employed on or after July 1, 2014, with an employer that has

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elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d); or

(h) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)~~[-](a)~~; or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b).

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

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

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

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

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

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

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

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

(b) an elected official;

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

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

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision whichever is lesser.

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

(7) Each participating employer shall:

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

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

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

Section 3. Section **49-13-203** is amended to read:

49-13-203. Exclusions from membership in system.

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

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

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

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

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

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

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

(g) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude;

(i) new employees from participation in this system under Subsection 49-11-623(3)~~[(a)]~~; or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b).

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

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

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the

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participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

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

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

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

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

(b) an elected official;

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

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

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(5) (a) Each participating employer shall prepare a list designating those positions

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eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is lesser.

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

(7) Each participating employer shall:

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

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

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

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

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

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

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

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

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

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

(e) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)[-(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of

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work to be performed:

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

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

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

Section 5. ~~Appropriation:~~

~~Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.~~

~~To the Department of Administrative Services — Division of Finance — Mandated~~

From the General Fund, One-time	\$3,000,000
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~~Schedule of Programs:~~

Retirement Withdrawal	\$3,000,000
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~~Under Section 63J-1-603 the Legislature intends that appropriations provided in this section not lapse at the end of fiscal year 2016. The use of any nonlapsing funds is limited to paying a portion of actuarial and administrative costs for a withdrawing entity to withdraw from participation in a Utah retirement system or plan under Subsection 49-11-623(3)(a) or (b):~~

~~(1) The Division of Finance may release the appropriation upon receipt of a request and certification from the Utah State Retirement Office that the conditions under Subsection (2) are met.~~

~~(2) The Utah State Retirement Office's expenditure of the appropriation is contingent on:~~

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~~_____ (a) the withdrawing entity complying with the provisions of Section 49-11-623 to withdraw;~~

~~_____ (b) the withdrawing entity and the Utah State Retirement Office entering into an agreement on the cost as required under Subsection 49-11-623(6); and~~

~~_____ (c) the withdrawing entity paying \$3,000,000 to the Utah State Retirement Office for actuarial and administrative costs of the withdrawal under Subsection 49-11-623(2)(b).~~

~~_____ Section 6.} **Effective date.**~~

~~_____ {This} If approved by two-thirds of all the members elected to each house, this bill takes effect on July 1, 2015.~~

Legislative Review Note

~~_____ as of 2-19-15 1:05 PM~~

~~_____ Office of Legislative Research and General Counsel upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.~~