

1                   **RETIREMENT AND INSURANCE BENEFIT CLAIMS**

2                                   **LIMITS**

3   2016 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Kraig Powell**

6                                   Senate Sponsor: Todd Weiler

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies the Utah State Retirement and Insurance Benefit Act by amending  
11 provisions relating to limitations of retirement systems claims and actions.

12   **Highlighted Provisions:**

13           This bill:

14           ▶ provides that a request for a ruling to the executive director by a person who  
15 disputes a benefit, right, obligation, or employment right under the Utah State  
16 Retirement and Insurance Benefit Act shall constitute the initiation of an action for  
17 purposes of the limitations periods;

18           ▶ specifies the time period a person has to request a review of a claim by a hearing  
19 officer for a person who is dissatisfied by a ruling of the executive director with  
20 respect to any benefit, right, obligation, or employment right;

21           ▶ requires that certain actions regarding a benefit, right, obligation, or employment  
22 right brought under the Utah State Retirement and Insurance Benefit Act be  
23 commenced only within a certain time frame;

24           ▶ provides that a cause of action accrues under the Utah State Retirement and  
25 Insurance Benefit Act and the limitation period runs from the date when the  
26 aggrieved party became aware, or through the exercise of reasonable diligence  
27 should have become aware, of the facts giving rise to the cause of action;

28           ▶ provides that if a claim involves a retirement service credit issue:

- 29           • a cause of action specifically accrues at the time the requisite retirement

30 contributions relating to that retirement service credit are paid or should have been paid to the  
31 office; and

32 • the person is deemed to be on notice of the payment or nonpayment of those  
33 retirement contributions;

34 ▶ provides exceptions to the limitations period for certain actions; and

35 ▶ makes technical and conforming changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **49-11-613**, as last amended by Laws of Utah 2011, Chapter 439

43 ENACTS:

44 **49-11-613.5**, Utah Code Annotated 1953



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

47 Section 1. Section **49-11-613** is amended to read:

48 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**  
49 **reconsideration -- Judicial review.**

50 (1) (a) A member, retiree, participant, alternative payee, covered individual, employer,  
51 participating employer, and covered employer shall inform themselves of their rights and  
52 obligations under this title.

53 (b) Subject to the provisions in Subsection (8), any dispute regarding a benefit, right,  
54 obligation, or employment right under this title is subject to the procedures provided under this  
55 section.

56 (c) (i) A person who disputes a benefit, right, obligation, or employment right under  
57 this title shall request a ruling by the executive director who may delegate the decision to the

58 deputy director.

59 (ii) A request for a ruling to the executive director under this section shall constitute  
60 the initiation of an action for purposes of the limitations periods prescribed in Section  
61 [49-11-613.5](#).

62 (d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any  
63 benefit, right, obligation, or employment right under this title shall have 30 days from the date  
64 of the ruling to request a review of that claim by a hearing officer.

65 (e) The executive director, on behalf of the board, may request that the hearing officer  
66 review a dispute regarding any benefit, right, obligation, or employment right under this title by  
67 filing a notice of board action and providing notice to all affected parties in accordance with  
68 rules adopted by the board.

69 (2) The hearing officer shall:

70 (a) be hired by the executive director after consultation with the board;

71 (b) follow the procedures and requirements of Title 63G, Chapter 4, Administrative  
72 Procedures Act, except as specifically modified under this title;

73 (c) hear and determine all facts relevant to a decision, including facts pertaining to  
74 applications for benefits under any system, plan, or program under this title and all matters  
75 pertaining to the administration of the office; and

76 (d) make conclusions of law in determining the person's rights under any system, plan,  
77 or program under this title and matters pertaining to the administration of the office.

78 (3) The board shall review and approve or deny all decisions of the hearing officer in  
79 accordance with rules adopted by the board.

80 (4) The moving party in any proceeding brought under this section shall bear the  
81 burden of proof.

82 (5) A party may file an application for reconsideration by the board upon any of the  
83 following grounds:

84 (a) that the board acted in excess of its powers;

85 (b) that the order or award was procured by fraud;

86 (c) that the evidence does not justify the determination of the hearing officer; or

87 (d) that the party has discovered new material evidence that could not, with reasonable  
88 diligence, have been discovered or procured prior to the hearing.

89 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or  
90 remand the application to the hearing officer for further consideration.

91 (7) A party aggrieved by the board's decision may obtain judicial review by complying  
92 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

93 (8) The program shall provide an appeals process for medical claims that complies  
94 with federal law.

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

96 Section 2. Section 49-11-613.5 is enacted to read:

97 **49-11-613.5. Limitation of actions -- Cause of action.**

98 (1) Subject to the procedures provided in Section 49-11-613 and except as provided in  
99 Subsection (3), an action regarding a benefit, right, obligation, or employment right brought  
100 under this title may be commenced only within four years of the date that the cause of action  
101 accrues.

102 (2) (a) A cause of action accrues under this title and the limitation period in this section  
103 runs from the date when the aggrieved party became aware, or through the exercise of  
104 reasonable diligence should have become aware, of the facts giving rise to the cause of action,  
105 including when:

106 (i) a benefit, right, or employment right is or should have been granted;

107 (ii) a payment is or should have been made; or

108 (iii) an obligation is or should have been performed.

109 (b) If a claim involves a retirement service credit issue under this title:

110 (i) a cause of action specifically accrues at the time the requisite retirement  
111 contributions relating to that retirement service credit are paid or should have been paid to the  
112 office; and

113 (ii) the person is deemed to be on notice of the payment or nonpayment of those

114 retirement contributions.

115 (3) If an aggrieved party fails to discover the facts giving rise to the cause of action due  
116 to misrepresentation, fraud, intentional nondisclosure, or other affirmative steps to conceal the  
117 cause of action, a limitation period prescribed in this section does not begin to run until the  
118 aggrieved party actually discovers the existence of the cause of action.

119 (4) The person claiming a benefit, right, obligation, or employment right arising under  
120 this title has the burden of bringing the action within the period prescribed in this section.

121 (5) Nothing in this section relieves a member, retiree, participant, alternative payee,  
122 covered individual, employer, participating employer, or covered employer of the obligations  
123 under this title.

124 (6) The office is not required to bring a claim on behalf of a member, retiree,  
125 participant, alternative payee, covered individual, employer, participating employer, or covered  
126 employer.

127 (7) (a) A limitation period provided in this section does not apply to actions for which  
128 a specific limit is otherwise specified in this title or by contract, including master policies or  
129 other insurance contracts.

130 (b) For actions arising under this title, this section supersedes any applicable limitation  
131 period provided in Title 78B, Chapter 2, Statutes of Limitations.