

1                                   **POSTRETIREMENT REEMPLOYMENT REVISIONS**

2   2018 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Jani Iwamoto**

5                                   House Sponsor: \_\_\_\_\_

---

7   **LONG TITLE**

8   **General Description:**

9                   This bill modifies the Postretirement Reemployment Restrictions Act by amending  
10 provisions relating to postretirement reemployment for public safety service employees  
11 and firefighter service employees.

12 **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ defines terms;
- 15                   ▶ allows certain public safety service and firefighter service retirees to be reemployed

16 with a participating employer after a certain period from the retiree's retirement date  
17 if the retiree:

- 18                   • does not receive certain employer provided retirement benefits for the
- 19 reemployment; and
- 20                   • is reemployed by a different participating employer than the participating
- 21 employer that employed the retiree at the time of retirement **§→ except in limited**

21a **circumstances ←§ ;**

22                   ▶ requires a participating employer to pay certain amounts for a reemployed retiree in  
23 certain circumstances;

23a **§→ ▶ requires certain member certifications on the retirement application form; ←§**

24                   ▶ requires the Utah State Retirement Office to report certain information to an interim  
25 committee of the Legislature;

- 26                   ▶ specifies penalties for violating the reemployment provisions; and
- 27                   ▶ makes technical changes.



152 (C) is reemployed by a participating employer as a:

153 (I) public safety service employee as defined in Section [49-14-102](#), [49-15-102](#), or  
154 [49-23-102](#); or

155 (II) firefighter service employee as defined in Section [49-16-102](#) or [49-23-102](#); and

156 (D) does not receive any employer paid retirement service credit or retirement related  
157 contributions from the participating employer; and

158 (ii) the participating employer that reemploys the retiree pays to the office on behalf of  
159 the retiree:

160 (A) the amortization rate; and

161 (B) the retiree surcharge.

162 (b) Any contribution paid to the office under Subsection (4)(a)(ii) shall be applied to  
163 the system that would have covered the retiree if the retiree's reemployed position were  
164 considered to be an eligible, full-time position within that system.

165 (c) The office shall, on or before November 30, 2024, study, evaluate, and report on the  
166 actuarial costs and effectiveness of implementing the ~~§~~ **→ [educator] public safety service and**  
166a **firefighter service ←~~§~~** retiree reemployment exception  
167 authorized under this Subsection (4) to the Retirement and Independent Entities Committee of  
168 the Legislature.

169 (5) (a) (i) A retiree receiving a retirement allowance may be reemployed under the  
170 provisions of Subsections (1), (3), and (4) in only one position for only one participating  
171 employer at a time following the retiree's retirement date.

172 (ii) The participating employer shall notify the office which postretirement  
173 reemployment exception under this section will govern the retiree's reemployment.

174 (b) A retiree reemployed under the provisions of Subsection (1), (3), or (4) may change  
175 reemployment to a new position under the provisions of Subsection (1), (3), or (4) only if:

176 (i) the retiree ceases actual work and is terminated from the current reemployed  
177 position;

178 (ii) except as provided in Subsection (8), begins the subsequent reemployment with a  
179 participating employer that is a different participating employer than:

180 (A) the participating employer for the retiree's current reemployment; and

181 (B) the participating employer that employed the retiree at the retiree's original time of  
182 retirement; and

183 (iii) the participating employer or retiree notifies the office of the change in  
 184 reemployment and provides evidence of the termination and change to the office.

185 ~~[(4)]~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) ~~[or]~~, (3),  
 186 or (4), the termination date of the reemployment, as confirmed in writing by the participating  
 187 employer, is considered the retiree's retirement date for the purpose of calculating the  
 188 separation requirement under Section 49-11-1204.

189 (b) If a retiree changes reemployment to another position under the provisions of  
 190 Subsection (1), (3), or (4), the final termination date of all reemployment, as confirmed in  
 191 writing by the last participating employer, is considered the retiree's retirement date for the  
 192 purpose of calculating the separation requirement under Subsection 49-11-505(3)(a).

193 ~~[(b)]~~ (7) The office shall cancel the retirement allowance of a retiree for the remainder  
 194 of the calendar year if the reemployment with a participating employer exceeds the limitation  
 195 under Subsection (1)(a)(iii) or (3)(b).

196 (8) Notwithstanding Subsections (4)(a)(i)(B) and (5)(b)(ii), a reemployed retiree that  
 197 was employed by ~~§~~ :

197a (a) ~~←~~§ the state of Utah at the time of retirement may be reemployed by the state ~~§~~ [of  
 198 Utah] ~~←~~§ under Subsection (4) or (5) if the reemployment is with a different agency or  
 198a office ~~§~~ [;] ; or

198b (b) a participating employer located within a county of the fourth, fifth, or sixth class,  
 198c as classified under Section 17-50-501, may be reemployed by that participating employer  
 198d under Subsection (4) or (5) if before the retiree is reemployed:

198e (i) the participating employer certifies to the office, under penalty of fraud, the facts  
 198f and circumstances of rehire, including any prearrangement for reemployment before the  
 198g member's retirement date; and

198h (ii) the office performs a facts and circumstances review and determines there was a  
 198i bona fide termination of employment with that participating employer, including the specific  
 198j finding that there was not a prearrangement for reemployment before the member's  
 198k retirement date. ~~←~~§

199 Section 3. Section 49-11-1206 is amended to read:

200 **49-11-1206. Notice of postretirement reemployment.**

201 (1) A participating employer shall immediately notify the office:

202 (a) if the participating employer reemploys a retiree;

203 (b) whether the reemployment is subject to Section 49-11-1204 or Subsection

204 49-11-1205(1), (2), ~~[or]~~ (3), (4), or (5); and

205 (c) of any election by the retiree under Section 49-11-1204.

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

208 (3) A retiree subject to this part shall report to the office the status of the reemployment  
209 under Section 49-11-1204 or 49-11-1205.

209a **§→ (4) The retirement application form submitted to the office shall contain the retiring**  
209b **member's certification, under penalty of fraud, of whether there was a prearrangement of**  
209c **reemployment before the retiree's retirement date with the participating employer. ←§**

210 Section 4. Section 49-11-1207 is amended to read:

211 **49-11-1207. Postretirement reemployment -- Violations -- Penalties.**

212 (1) (a) If the office receives notice or learns of the reemployment of a retiree in  
213 violation of Section 49-11-1204 or 49-11-1205, the office shall:

214 (i) immediately cancel the retiree's retirement allowance;  
 215 (ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar  
 216 year if the reemployment with a participating employer exceeded the limitation under  
 217 Subsection [49-11-1205](#)(1)(a)(iii)(A) or (3)(b); and

218 (iii) recover any overpayment resulting from the violation in accordance with the  
 219 provisions of Section [49-11-607](#) before the allowance may be reinstated.

220 (b) Reinstatement of an allowance following cancellation for a violation under this  
 221 section is subject to the procedures and provisions under Section [49-11-1204](#).

222 (2) If a retiree or participating employer failed to report reemployment in violation of  
 223 Section [49-11-1206](#), the retiree, participating employer, or both, who are found to be  
 224 responsible for the failure to report, are liable to the office for the amount of any overpayment  
 225 resulting from the violation.

226 (3) (a) A participating employer is liable to the office for a payment or failure to make  
 227 a payment in violation of this part.

228 (b) In addition to other penalties under this section, if the reemployment of a retiree is  
 229 in violation of Subsection [49-11-1205](#)(4), the participating employer shall pay the office any  
 230 delinquent retiree surcharge and amortization rate contributions, plus interest ~~\$\$\$~~, ~~\$\$\$~~ under  
 230a Section  
 231 [49-11-503](#).

232 (4) If a participating employer fails to notify the office in accordance with Section  
 233 [49-11-1206](#), the participating employer is immediately subject to a compliance audit by the  
 234 office.

235 Section 5. **Effective date.**

236 This bill takes effect on January 1, 2019.