

PUBLIC SAFETY AND FIREFIGHTER RETIREMENT

AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Postretirement Reemployment Restrictions Act by amending provisions relating to public safety and firefighter postretirement reemployment.

Highlighted Provisions:

This bill:

- ▶ allows certain public safety and firefighter retirees to be reemployed with a participating employer after 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 participating employer than the participating employer that employed the retiree at the time of retirement except in limited circumstances;
- ▶ requires certain member certifications on the retirement application form;
- ▶ specifies penalties for violating the reemployment provisions; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **49-11-1205**, as last amended by Laws of Utah 2018, Chapter 328

32 **49-11-1206**, as enacted by Laws of Utah 2016, Chapter 310 and last amended by
33 Coordination Clause, Laws of Utah 2016, Chapter 310

34 **49-11-1207**, as last amended by Laws of Utah 2017, Chapter 141

35

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

37 Section 1. Section **49-11-1205** is amended to read:

38 **49-11-1205. Postretirement reemployment restriction exceptions.**

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

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

43 (ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree
44 does not receive any employer paid benefits, including:

45 (A) retirement service credit or retirement-related contributions;

46 (B) medical benefits;

47 (C) dental benefits;

48 (D) other insurance benefits except for workers' compensation as provided under Title
49 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
50 Act, and withholdings required by federal or state law for social security, Medicare, and
51 unemployment insurance; or

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

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

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

57 (b) Beginning January 1, 2013, the board shall adjust the amounts under Subsection
58 (1)(a)(iii) by the annual change in the Consumer Price Index during the previous calendar year

59 as measured by a United States Bureau of Labor Statistics Consumer Price Index average as
60 determined by the board.

61 (2) A retiree shall be considered as having completed the one-year separation from
62 employment with a participating employer required under Section 49-11-1204, if the retiree:

63 (a) before retiring:

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

66 (ii) and during the employment under Subsection (2)(a)(i), suffered a physical injury
67 resulting from external force or violence while performing the duties of the employment, and
68 for which injury the retiree would have been approved for total disability in accordance with
69 the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of
70 service are not considered;

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

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

77 (b) is reemployed by a different participating employer.

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

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

83 (ii) a length-of-service award;

84 (iii) insurance policy premiums paid by the participating employer in the event of death
85 of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

86 (iv) reimbursement of expenses incurred in the performance of duties.

87 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
88 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
89 \$500 per month.

90 (c) Beginning January 1, 2016, the board shall adjust the amount under Subsection
91 (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as
92 measured by a United States Bureau of Labor Statistics Consumer Price Index average as
93 determined by the board.

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

96 (i) the retiree:

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

99 (B) except as provided in Subsection (8), is reemployed by a participating employer
100 that is a different participating employer than the participating employer the reemployed retiree
101 was employed by at the time of retirement;

102 (C) is reemployed:

103 (I) as a public safety service employee as defined in Section [49-14-102](#), [49-15-102](#), or
104 [49-23-102](#); or

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

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

108 (ii) the participating employer that reemploys the retiree pays to the office on behalf of
109 the retiree the amortization rate.

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

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

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

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

120 (i) the retiree ceases actual work and is terminated from the current reemployed

121 position;

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

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

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

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

129 ~~[(4)]~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the
 130 termination date of the reemployment, as confirmed in writing by the participating employer, is
 131 considered the retiree's retirement date for the purpose of calculating the separation
 132 requirement under Section 49-11-1204.

133 (b) If a retiree changes reemployment to another position under the provisions of
 134 Subsection (1) or (4), the final termination date of all reemployment, as confirmed in writing
 135 by the last participating employer, is considered the retiree's retirement date for the purpose of
 136 calculating the separation requirement under Section 49-11-1204.

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

140 (8) Notwithstanding Subsections (4)(a)(i)(B) and (5)(b)(ii), a reemployed retiree that
 141 was employed by the state at the time of retirement may be reemployed by the state under
 142 Subsection (4) or (5) if the reemployment is with a different agency or office.

143 Section 2. Section 49-11-1206 is amended to read:

144 **49-11-1206. Notice of postretirement reemployment.**

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

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

147 (b) whether the reemployment is subject to Section 49-11-1204 or Subsection
 148 49-11-1205(1), (2), ~~[or]~~ (3), or (4); and

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

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

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

154 (4) The retirement application form submitted to the office shall contain the retiring
155 member's certification, under penalty of fraud, of whether there was a prearrangement of
156 reemployment before the retiree's retirement date with the participating employer.

157 Section 3. Section 49-11-1207 is amended to read:

158 **49-11-1207. Postretirement reemployment -- Violations -- Penalties.**

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

161 (i) immediately cancel the retiree's retirement allowance;

162 (ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar
163 year if the reemployment with a participating employer exceeded the limitation under
164 Subsection 49-11-1205(1)(a)(iii)(A) or (3)(b); and

165 (iii) recover any overpayment resulting from the violation in accordance with the
166 provisions of Section 49-11-607 before the allowance may be reinstated.

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

169 (2) If a retiree or participating employer failed to report reemployment in violation of
170 Section 49-11-1206, the retiree, participating employer, or both, who are found to be
171 responsible for the failure to report, are liable to the office for the amount of any overpayment
172 resulting from the violation.

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

175 (b) In addition to other penalties under this section, if the reemployment of a retiree is
176 in violation of Subsection 49-11-1205(4), the participating employer shall pay the office any
177 delinquent amortization rate contributions, plus interest, under Section 49-11-503.

178 (4) If a participating employer fails to notify the office in accordance with Section
179 49-11-1206, the participating employer is immediately subject to a compliance audit by the
180 office.

181 Section 4. **Effective date.**

182 This bill takes effect on July 1, 2019.