

PUBLIC SAFETY POST-RETIREMENT REEMPLOYMENT

AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the postretirement reemployment restrictions for public safety workers and firefighters.

Highlighted Provisions:

This bill:

► reduces the period of separation for postretirement reemployment for retirees from a public safety system or firefighter retirement system from one year to 60 days.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-1204, as last amended by Laws of Utah 2020, Chapter 24

49-11-1205, as last amended by Laws of Utah 2020, Chapter 449

49-11-1302, as enacted by Laws of Utah 2016, Chapter 280 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 310

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



28 Section 1. Section **49-11-1204** is amended to read:

29 **49-11-1204. General restrictions -- Election following period of separation --**

30 **Amortization rate.**

31 (1) A retiree may not for the same period of reemployment:

32 (a) (i) earn additional service credit; or

33 (ii) receive any retirement related contribution from a participating employer; and

34 (b) receive a retirement allowance.

35 (2) (a) Except as provided under Section **49-11-1205**, the office shall cancel the

36 retirement allowance of a retiree if the reemployment with a participating employer begins

37 within:

38 (i) 60 days of the retiree's retirement date, if the retiree is retiring from one of the

39 following retirement systems:

40 (A) Chapter 14, Public Safety Contributory Retirement Act;

41 (B) Chapter 15, Public Safety Noncontributory Retirement Act;

42 (C) Chapter 16, Firefighters' Retirement Act; or

43 (D) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement

44 Act; or

45 (ii) one year of the retiree's retirement date, if the retiree retires from a system other

46 than a system described in Subsection (2)(a)(i).

47 (b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the

48 retiree may be eligible to earn additional service credit in the reemployed position and receive

49 an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

50 (3) If a reemployed retiree, in accordance with Subsection (2)(a), is exempt from

51 having the allowance cancelled, including for completing the [~~one-year~~] period of separation

52 from employment with a participating employer, the retiree may elect to:

53 (a) cancel the retiree's retirement allowance and instead earn additional service credit in

54 the reemployed position and receive an allowance in accordance with Subsections (4)(a) and

55 (5) and other provisions of this title; or

56 (b) continue to receive the retiree's retirement allowance, forfeit earning additional

57 service credit, and forfeit any retirement-related contribution from the participating employer

58 that reemployed the retiree.

59 (4) (a) If a retiree's retirement allowance is cancelled and the retiree is eligible for
60 retirement coverage in a reemployed position, the office shall reinstate the retiree to active
61 member status on the first day of the month following the date of the employee's eligible
62 reemployment.

63 (b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible
64 for retirement coverage in the reemployed position, the participating employer that reemploys
65 the retiree shall contribute the amortization rate to the office on behalf of the retiree.

66 (c) A participating employer that reemploys a retiree in accordance with Subsection
67 [49-11-1205](#)(1) is not required to contribute the amortization rate to the office.

68 (5) (a) For a retiree reinstated to active member status under Subsection (4)(a) who
69 retires within two years from the date of reemployment, the office:

70 (i) may not recalculate a retirement benefit for the retiree; and

71 (ii) shall resume the allowance that was being paid to the retiree at the time of the
72 cancellation.

73 (b) Subject to Subsection (1), for a retiree who is reinstated to active membership
74 under Subsection (4)(a) and retires two or more years after the date of reinstatement to active
75 membership, the office shall:

76 (i) resume the allowance that was being paid at the time of cancellation; and

77 (ii) calculate an additional allowance for the retiree based on the formula in effect at
78 the date of the subsequent retirement for all service credit accrued between the first and
79 subsequent retirement dates.

80 Section 2. Section [49-11-1205](#) is amended to read:

81 **[49-11-1205. Postretirement reemployment restriction exceptions.](#)**

82 (1) (a) The office may not cancel the retirement allowance of a retiree who is
83 reemployed with a participating employer within [~~one year of the retiree's retirement date~~] the
84 period of separation required under Subsection [49-11-1204](#)(2)(a) if:

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

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

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

90 (B) medical benefits;

91 (C) dental benefits;

92 (D) other insurance benefits except for workers' compensation as provided under Title
93 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
94 Act, and withholdings required by federal or state law for social security, Medicare, and
95 unemployment insurance; or

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

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

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

101 (b) [~~Beginning January 1, 2013, the~~] The board shall adjust the amounts under
102 Subsection (1)(a)(iii) by the annual change in the Consumer Price Index during the previous
103 calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index
104 average as determined by the board.

105 (2) A retiree shall be considered as having completed the [~~one-year~~] period of
106 separation from employment with a participating employer required under [~~Section~~
107 [49-11-1204](#)] Subsection [49-11-1204\(2\)\(a\)](#), if the retiree:

108 (a) before retiring:

109 (i) was employed with a participating employer as a public safety service employee as
110 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);

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

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

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

121 and

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

123 (3) (a) The office may not cancel the retirement allowance of a retiree who is employed
124 as an affiliated emergency services worker within [~~one year of the retiree's retirement date~~] the
125 period of separation required under Subsection 49-11-1204(2)(a) if the affiliated emergency
126 services worker does not receive any compensation, except for:

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

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

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

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

133 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
134 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
135 \$500 per month.

136 (c) [~~Beginning January 1, 2016, the~~] The board shall adjust the amount under
137 Subsection (3)(b) by the annual change in the Consumer Price Index during the previous
138 calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index
139 average as determined by the board.

140 (4) (a) The office may not cancel the retirement allowance of a retiree employed as a
141 part-time appointed or elected board member within [~~one year after the retiree's retirement~~
142 ~~date~~] the period of separation required under Subsection 49-11-1204(2)(a) if the part-time
143 appointed or elected board member does not receive any compensation exceeding the amount
144 described in this Subsection (4).

145 (b) A retiree who is a part-time appointed or elected board member for one or more
146 boards, commissions, councils, committees, panels, or other bodies of participating employers:

147 (i) may receive an aggregate amount of compensation, remuneration, a stipend, or other
148 benefit for service on a single or multiple boards, commissions, councils, committees, panels,
149 or other bodies of no more than \$5,000 per year; and

150 (ii) may not receive an employer paid retirement service credit or retirement-related
151 contribution.

- 152 (c) For purposes of Subsection (4)(b)(i):
- 153 (i) a part-time appointed or elected board member's compensation includes:
- 154 (A) an amount paid for the part-time appointed or elected board member's coverage in
- 155 a group insurance plan provided by the participating employer; and
- 156 (B) the part-time appointed or elected board member's receipt of any other benefit
- 157 provided by the participating employer; and
- 158 (ii) the part-time appointed or elected board member's compensation does not include:
- 159 (A) an amount the participating employer pays for employer-matching employment
- 160 taxes, if the participating employer treats the part-time appointed or elected board member as
- 161 an employee for federal tax purposes; or
- 162 (B) an amount that the part-time appointed or elected board member receives for per
- 163 diem and travel expenses for up to 12 approved meetings or activities of the government board
- 164 per year, if the per diem and travel expenses do not exceed the amounts established by the
- 165 Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the
- 166 Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- 167 (d) [~~Beginning January 1, 2021, the~~] The board shall adjust the amount under
- 168 Subsection (4)(b)(i) by the annual change in the Consumer Price Index during the previous
- 169 calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index
- 170 average, as determined by the board.
- 171 (5) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the
- 172 termination date of the reemployment, as confirmed in writing by the participating employer, is
- 173 considered the retiree's retirement date for the purpose of calculating the separation
- 174 requirement under Section 49-11-1204.
- 175 (b) The office shall cancel the retirement allowance of a retiree for the remainder of the
- 176 calendar year if the reemployment with a participating employer exceeds the limitation under
- 177 Subsection (1)(a)(iii), (3)(b), or (4)(b).
- 178 Section 3. Section 49-11-1302 is amended to read:
- 179 **49-11-1302. Phased retirement -- Voluntary participation -- Employer duties.**
- 180 A participating employer may elect to participate in phased retirement for a retiree who
- 181 has not completed the [~~one-year~~] employment separation requirement under Section
- 182 49-11-1204 under the conditions established under this part, if the participating employer:

183 (1) establishes written policies and procedures for phased retirement that shall include
184 provisions for:

185 (a) granting and denying a request for phased retirement;

186 (b) needed approvals within the participating employer;

187 (c) time limits or other restrictions;

188 (d) identifying positions that may be included or excluded; and

189 (e) the elements of a written agreement described under Section 49-11-1304;

190 (2) enters into an agreement described under Section 49-11-1304;

191 (3) submits an application to the office for phased retirement on behalf of the parties of
192 the agreement described under Section 49-11-1304; and

193 (4) complies with this part.

194 Section 4. **Effective date.**

195 This bill takes effect on January 1, 2022.