

1 **LAW ENFORCEMENT RETIREMENT AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kera Birkeland**

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill makes amendments to provisions related to law enforcement officers'
10 retirement allowance.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ permits a law enforcement officer who retires from a public employer to continue
14 collecting a retirement allowance if the law enforcement officer is reemployed by a
15 public employer at least 60 days after retirement.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **49-11-1205**, as last amended by Laws of Utah 2020, Chapter 449

23

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

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

26 **49-11-1205. Postretirement reemployment restriction exceptions.**

27 (1) (a) The office may not cancel the retirement allowance of a retiree who is



28 reemployed with a participating employer within one year of the retiree's retirement date if:

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

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

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

34 (B) medical benefits;

35 (C) dental benefits;

36 (D) other insurance benefits except for workers' compensation as provided under Title
37 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
38 Act, and withholdings required by federal or state law for social security, Medicare, and
39 unemployment insurance; or

40 (E) paid time off, including sick, annual, or other type of leave; [~~and~~]

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

44 (B) the retiree is reemployed as a judge as defined under Section [78A-11-102](#)[~~;~~]; and

45 (iv) the retiree is a law enforcement officer in accordance with Section [53-13-103](#) and
46 is reemployed at least 60 days after the retiree's retirement date.

47 (b) Beginning January 1, 2013, the board shall adjust the amounts under Subsection
48 (1)(a)(iii) by the annual change in the Consumer Price Index during the previous calendar year
49 as measured by a United States Bureau of Labor Statistics Consumer Price Index average as
50 determined by the board.

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

53 (a) before retiring:

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

56 (ii) and during the employment under Subsection (2)(a)(i), suffered a physical injury
57 resulting from external force or violence while performing the duties of the employment, and
58 for which injury the retiree would have been approved for total disability in accordance with

59 the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of
60 service are not considered;

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

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

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

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

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

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

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

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

77 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
78 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
79 \$500 per month.

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

84 (4) (a) The office may not cancel the retirement allowance of a retiree employed as a
85 part-time appointed or elected board member within one year after the retiree's retirement date
86 if the part-time appointed or elected board member does not receive any compensation
87 exceeding the amount described in this Subsection (4).

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

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

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

95 (c) For purposes of Subsection (4)(b)(i):

96 (i) a part-time appointed or elected board member's compensation includes:

97 (A) an amount paid for the part-time appointed or elected board member's coverage in
98 a group insurance plan provided by the participating employer; and

99 (B) the part-time appointed or elected board member's receipt of any other benefit
100 provided by the participating employer; and

101 (ii) the part-time appointed or elected board member's compensation does not include:

102 (A) an amount the participating employer pays for employer-matching employment
103 taxes, if the participating employer treats the part-time appointed or elected board member as
104 an employee for federal tax purposes; or

105 (B) an amount that the part-time appointed or elected board member receives for per
106 diem and travel expenses for up to 12 approved meetings or activities of the government board
107 per year, if the per diem and travel expenses do not exceed the amounts established by the
108 Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#) or by rules made by the
109 Division of Finance according to Sections [63A-3-106](#) and [63A-3-107](#).

110 (d) Beginning January 1, 2021, the board shall adjust the amount under Subsection
111 (4)(b)(i) by the annual change in the Consumer Price Index during the previous calendar year
112 as measured by a United States Bureau of Labor Statistics Consumer Price Index average, as
113 determined by the board.

114 (5) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the
115 termination date of the reemployment, as confirmed in writing by the participating employer, is
116 considered the retiree's retirement date for the purpose of calculating the separation
117 requirement under Section [49-11-1204](#).

118 (b) The office shall cancel the retirement allowance of a retiree for the remainder of the
119 calendar year if the reemployment with a participating employer exceeds the limitation under
120 Subsection (1)(a)(iii), (3)(b), or (4)(b).