

Representative Kera Birkeland proposes the following substitute bill:

LAW ENFORCEMENT RETIREMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ prohibits that the Utah State Retirement Office from canceling the retirement allowance of a law enforcement officer who is reemployed within one year of the law enforcement officer's retirement date if the law enforcement officer is reemployed by a participating employer at least 60 days after retirement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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



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

27 **49-11-1205. Postretirement reemployment restriction exceptions.**

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

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

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

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

35 (B) medical benefits;

36 (C) dental benefits;

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

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

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

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

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

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

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

54 (a) before retiring:

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

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

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

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

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

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

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

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

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

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

78 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
79 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
80 \$500 per month.

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

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

88 exceeding the amount described in this Subsection (4).

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

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

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

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

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

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

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

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

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

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

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

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

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