

Representative Matthew H. Gwynn proposes the following substitute bill:

PUBLIC SAFETY RETIREMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies requirements related to retirement from a public safety or firefighter retirement system.

Highlighted Provisions:

This bill:

- ▶ reduces the length of the period of separation for postretirement reemployment of a retiree from a public safety system or a firefighter retirement system;
- ▶ schedules the termination of the reduced period of separation but requires legislative review before termination;
- ▶ provides the circumstances that constitute a separation from employment for purposes of being eligible for postretirement employment; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



26 [49-11-1204](#), as last amended by Laws of Utah 2020, Chapter 24
 27 [49-11-1205](#), as last amended by Laws of Utah 2021, Chapter 193
 28 [49-11-1302](#), as enacted by Laws of Utah 2016, Chapter 280 and last amended by
 29 Coordination Clause, Laws of Utah 2016, Chapter 310
 30 [63I-1-249](#), as last amended by Laws of Utah 2021, Chapter 195

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

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

34 **49-11-1204. General restrictions -- Election following period of separation --**
 35 **Amortization rate.**

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

- 37 (a) (i) earn additional service credit; or
- 38 (ii) receive any retirement related contribution from a participating employer; and
- 39 (b) receive a retirement allowance.

40 (2) (a) Except as provided under Section [49-11-1205](#), the office shall cancel the
 41 retirement allowance of a retiree if the reemployment with a participating employer begins
 42 within [~~one year of the retiree's retirement date.~~]:

43 (i) ~~Ĥ~~ → ~~[60]~~ 90 ← ~~Ĥ~~ days of the retiree's retirement date, if the retiree is retiring from one of

43a the
 44 following retirement systems:

- 45 (A) Chapter 14, Public Safety Contributory Retirement Act;
- 46 (B) Chapter 15, Public Safety Noncontributory Retirement Act;
- 47 (C) Chapter 16, Firefighters' Retirement Act; or
- 48 (D) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement
 49 Act; or

50 (ii) one year of the retiree's retirement date, if the retiree retires from a system other
 51 than a system described in Subsection (2)(a)(i).

52 (b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the
 53 retiree may be eligible to earn additional service credit in the reemployed position and receive
 54 an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

55 (c) For purposes of determining whether the separation period described in Subsection
 56 (2)(a) has been met, a retiree:

57 (i) shall have a bona fide termination from all participating employers; and
58 (ii) may not have, before the retiree retires, a prearrangement that anticipates
59 postretirement reemployment with a participating employer.

60 (3) If a reemployed retiree, in accordance with Subsection (2)(a), is exempt from
61 having the allowance cancelled, including for completing the [~~one-year~~] period of separation
62 from employment with a participating employer, the retiree may elect to:

63 (a) cancel the retiree's retirement allowance and instead earn additional service credit in
64 the reemployed position and receive an allowance in accordance with Subsections (4)(a) and
65 (5) and other provisions of this title; or

66 (b) continue to receive the retiree's retirement allowance, forfeit earning additional
67 service credit, and forfeit any retirement-related contribution from the participating employer
68 that reemployed the retiree.

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

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

76 (c) A participating employer that reemploys a retiree in accordance with Subsection
77 [49-11-1205\(1\)](#) is not required to contribute the amortization rate to the office.

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

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

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

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

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

87 (ii) calculate an additional allowance for the retiree based on the formula in effect at

88 the date of the subsequent retirement for all service credit accrued between the first and
89 subsequent retirement dates.

90 Section 2. Section **49-11-1205** is amended to read:

91 **49-11-1205. Postretirement reemployment restriction exceptions.**

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

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

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

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

100 (B) medical benefits;

101 (C) dental benefits;

102 (D) other insurance benefits except for workers' compensation as provided under Title
103 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
104 Act, and withholdings required by federal or state law for social security, Medicare, and
105 unemployment insurance; or

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

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

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

111 (b) The board shall adjust the amounts under Subsection (1)(a)(iii) by the annual change
112 in the Consumer Price Index during the previous calendar year as measured by a United States
113 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

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

117 (a) before retiring:

118 (i) was employed with a participating employer as a public safety service employee as

119 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);

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

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

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

131 (v) is at least 50 years old; and

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

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

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

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

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

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

143 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
144 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
145 \$500 per month.

146 (c) The board shall adjust the amount under Subsection (3)(b) by the annual change in
147 the Consumer Price Index during the previous calendar year as measured by a United States
148 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

149 (d) A retiree is eligible for an exemption from the requirement to cease service without

150 cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time
151 of retirement, is at least:

152 (i) 50 years old, if the retiree is retiring from a public safety system or a firefighter
153 system; or

154 (ii) 55 years old.

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

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

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

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

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

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

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

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

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

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

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

181 Division of Finance according to Sections [63A-3-106](#) and [63A-3-107](#).

182 (d) The board shall adjust the amount under Subsection (4)(b)(i) by the annual change
183 in the Consumer Price Index during the previous calendar year as measured by a United States
184 Bureau of Labor Statistics Consumer Price Index average, as determined by the board.

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

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

192 Section 3. Section **49-11-1302** is amended to read:

193 **49-11-1302. Phased retirement -- Voluntary participation -- Employer duties.**

194 A participating employer may elect to participate in phased retirement for a retiree who
195 has not completed the [~~one-year~~] employment separation requirement under Section
196 [49-11-1204](#) under the conditions established under this part, if the participating employer:

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

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

200 (b) needed approvals within the participating employer;

201 (c) time limits or other restrictions;

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

203 (e) the elements of a written agreement described under Section [49-11-1304](#);

204 (2) enters into an agreement described under Section [49-11-1304](#);

205 (3) submits an application to the office for phased retirement on behalf of the parties of
206 the agreement described under Section [49-11-1304](#); and

207 (4) complies with this part.

208 Section 4. Section **63I-1-249** is amended to read:

209 **63I-1-249. Repeal dates, Title 49.**

210 (1) Subsection [49-11-1204](#)(2)(a)(i), relating to a ~~60-day~~ **90-day** ~~←~~ separation for
210a public safety and
211 firefighter retirees, is repealed July 1, 2026.

212 (2) The language in Subsection [49-11-1204\(2\)\(a\)\(ii\)](#), ", if the retiree retires from a
213 system other than a system described in Subsection (2)(a)(i)," is repealed July 1, 2026.

214 [~~(1)~~] (3) Title 49, Chapter 11, Part 13, Phased Retirement, is repealed January 1, 2025.

215 [~~(2)~~] (4) Section [49-20-418](#) is repealed January 1, 2025.

216 Section 5. **Effective date.**

217 This bill takes effect on January 1, 2023.