

PUBLIC SAFETY RETIREMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Don L. Ipson

LONG TITLE

Committee Note:

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

Legislative Vote: 13 voting for 0 voting against 3 absent

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;

▶ modifies the years of service and age requirements for a member's retirement from the New Public Safety and Firefighter Tier II Contributory Retirement Act;

▶ modifies the multiplier percentage for the calculation of the retirement allowance of a member in the New Public Safety and Firefighter Tier II Contributory Retirement Act; and

▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **49-11-1204**, as last amended by Laws of Utah 2020, Chapter 24

31 **49-11-1205**, as last amended by Laws of Utah 2021, Chapter 193

32 **49-11-1302**, as enacted by Laws of Utah 2016, Chapter 280 and last amended by
33 Coordination Clause, Laws of Utah 2016, Chapter 310

34 **49-23-303**, as last amended by Laws of Utah 2020, Chapter 449

35 **49-23-304**, as last amended by Laws of Utah 2019, Chapters 31, 31, and 484



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

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

39 **49-11-1204. General restrictions -- Election following period of separation --**

40 **Amortization rate.**

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

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

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

44 (b) receive a retirement allowance.

45 (2) (a) Except as provided under Section **49-11-1205**, the office shall cancel the
46 retirement allowance of a retiree if the reemployment with a participating employer begins
47 within [~~one year of the retiree's retirement date.~~];

48 (i) 60 days of the retiree's retirement date, if the retiree is retiring from one of the
49 following retirement systems:

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

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

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

53 (D) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement
54 Act; or

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

57 (b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the
58 retiree may be eligible to earn additional service credit in the reemployed position and receive

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

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 49-23-303 is amended to read:

209 **49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**
210 **Qualifications.**

211 (1) A member is qualified to receive an allowance from this system when:

212 (a) except as provided under Subsection (3), the member ceases actual work for every
213 participating employer that employs the member before the member's retirement date and

214 provides evidence of the termination;

215 (b) the member has submitted to the office a retirement application form that states the
216 member's proposed retirement date; and

217 (c) one of the following conditions is met as of the member's retirement date:

218 (i) the member has accrued at least four years of service credit and has attained an age
219 of 65 years;

220 (ii) the member has accrued at least 10 years of service credit and has attained an age
221 of [62] 60 years; or

222 [~~(iii) the member has accrued at least 20 years of service credit and has attained an age~~
223 ~~of 60 years; or]~~

224 [(~~iv~~)] (iii) the member has accrued at least [25] 20 years of service credit.

225 (2) (a) The member's retirement date:

226 (i) shall be the 1st or the 16th day of the month, as selected by the member;

227 (ii) shall be on or after the date of termination; and

228 (iii) may not be more than 90 days before or after the date the application is received by
229 the office.

230 (b) Except as provided under Subsection (3), a member may not be employed by a
231 participating employer in the system established by this chapter on the retirement date selected
232 under Subsection (2)(a)(i).

233 (3) (a) A member who is employed by a participating employer and who is also an
234 elected official is not required to cease service as an elected official to be qualified to receive
235 an allowance under Subsection (1), unless the member is retiring from service as an elected
236 official.

237 (b) A member who is employed by a participating employer and who is also a part-time
238 appointed board member, as described in Subsection 49-11-1203(2), is not required to cease
239 service as a part-time appointed board member to be qualified to receive an allowance under
240 Subsection (1).

241 (c) A member who is employed by a participating employer, who is also an affiliated
242 emergency services worker as defined in Section 49-11-1202 for a different agency, is not
243 required to cease service as an affiliated emergency services worker to be qualified to receive
244 an allowance under Subsection (1).

245 (d) A member who is employed by a participating employer and who is also a part-time
246 appointed or elected board member, as defined in Section 49-11-1202, for a different agency is
247 not required to cease service as a part-time appointed or elected board member to be qualified
248 to receive an allowance under Subsection (1).

249 (4) An exemption from the requirement to cease service and remain qualified to
250 receive an allowance as provided in Subsection (3) is available only for a member who, at the
251 time of retirement, is at least:

252 (a) 50 years old, if the member is retiring from a public safety system or firefighter
253 system; or

254 (b) 55 years old.

255 Section 5. Section 49-23-304 is amended to read:

256 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**
257 **allowance.**

258 (1) (a) Except as provided under Subsection (6), the retirees of this system may choose
259 from the six retirement options described in this section.

260 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
261 calculation.

262 (2) The Option One benefit is an annual allowance calculated as follows:

263 (a) If the retiree is at least 65 years ~~[of age]~~ old or has accrued at least ~~[25]~~ 20 years of
264 service credit, the allowance is an amount equal to:

265 ~~[(i) 1.5% of the retiree's final average salary multiplied by the number of years of~~
266 ~~service credit accrued on and after July 1, 2011, but before July 1, 2020; plus]~~

267 ~~[(ii) 2% of the retiree's final average salary multiplied by the number of years of service~~
268 ~~credit accrued on and after July 1, 2020;]~~

269 (i) 2.5% of the retiree's final average salary multiplied by the number of years of
270 service credit, limited to 20 years; plus

271 (ii) 2% of the retiree's final average salary multiplied by the number of years of service
272 credit in excess of 20 years.

273 (b) If the retiree is less than 65 years ~~[of age]~~ old, the allowance shall be reduced by the
274 full actuarial amount for each year of retirement from age 60 to age 65, unless the member has
275 ~~[25]~~ 20 or more years of accrued credit in which event no reduction is made to the allowance.

276 (c) (i) Years of service includes any fractions of years of service to which the retiree
277 may be entitled.

278 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
279 service credit is within 1/10 of one year of the total years of service credit required for
280 retirement, the retiree shall be considered to have the total years of service credit required for
281 retirement.

282 (d) An Option One allowance is only payable to the member during the member's
283 lifetime.

284 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
285 by reducing an Option One benefit based on actuarial computations to provide the following:

286 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
287 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
288 member contributions, the remaining balance of the retiree's member contributions shall be
289 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).

290 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
291 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout
292 the lifetime of the retiree's lawful spouse at the time of retirement.

293 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
294 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is
295 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

296 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
297 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
298 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
299 retiree's life, beginning on the first day of the month following the month in which the:

300 (i) spouse died, if notification and supporting documentation for the death are received
301 by the office within 90 days of the spouse's death; or

302 (ii) notification and supporting documentation for the death are received by the office,
303 if the notification and supporting documentation are received by the office more than 90 days
304 after the spouse's death.

305 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
306 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time

307 of initial retirement under Option One shall be paid to the retiree for the remainder of the
308 retiree's life, beginning on the first day of the month following the month in which the:

309 (i) spouse died, if notification and supporting documentation for the death are received
310 by the office within 90 days of the spouse's death; or

311 (ii) notification and supporting documentation for the death are received by the office,
312 if the notification and supporting documentation are received by the office more than 90 days
313 after the spouse's death.

314 (4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement
315 date, the retirement is canceled and the death shall be considered as that of a member before
316 retirement.

317 (b) Any payments made to the retiree shall be deducted from the amounts due to the
318 beneficiary.

319 (5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the
320 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
321 is no court order filed in the matter.

322 (b) A conversion to an Option One benefit under this Subsection (5) begins on the first
323 day of the month following the month in which the notification and supporting documentation
324 for the divorce are received by the office.

325 (6) A retiree may not choose payment of an allowance under a retirement option
326 described in this section that is not applicable to that retiree, including because the retiree did
327 not make member contributions or does not have a lawful spouse at the time of retirement.

328 **Section 6. Effective date.**

329 This bill takes effect on January 1, 2023.