

**Representative Matthew H. Gwynn** proposes the following substitute bill:

**PUBLIC SAFETY DISABILITY BENEFITS AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Matthew H. Gwynn**

Senate Sponsor: John D. Johnson

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**LONG TITLE**

**General Description:**

This bill modifies disability coverage provisions of the Utah State Retirement and Insurance Benefit Act.

**Highlighted Provisions:**

This bill:

- ▶ requires a participating employer to provide a benefit protection contract for a public safety service employee or a firefighter service employee if the employee is injured or becomes ill as the result of external force or violence while performing employment duties;
- ▶ authorizes a participating employer to provide a benefit protection contract for a public safety service employee or a firefighter service employee for other injuries or illness; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**



26 AMENDS:

27 **49-11-404**, as last amended by Laws of Utah 2011, Chapter 366

28 ENACTS:

29 **49-14-602**, Utah Code Annotated 1953

30 **49-15-602**, Utah Code Annotated 1953

31 **49-23-602**, Utah Code Annotated 1953

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

34 Section 1. Section **49-11-404** is amended to read:

35 **49-11-404. Benefit protection contract authorized -- Annual report required.**

36 (1) (a) A participating employer may establish a salary protection program under which  
37 [its] the participating employer's employees are paid during periods of disability.

38 (b) If a salary protection program is established, a participating employer may enter  
39 into benefit protection contracts with the office.

40 (c) A salary protection program shall:

41 (i) pay benefits based on the rate of compensation of the member with a disability at  
42 the time of disability;

43 (ii) pay benefits over the period of the disability;

44 (iii) not include settlement or lump sum payments of any type;

45 (iv) be based upon the member being awarded and receiving ongoing monthly  
46 disability benefits that are:

47 (A) substantially equivalent to the long-term disability programs offered under Chapter  
48 21, Public Employees' Long-Term Disability Act; [~~and~~] or

49 (B) workers' compensation indemnity benefits provided in accordance with Title 31A,  
50 Insurance Code; and

51 (v) comply with requirements adopted by the board.

52 (2) A benefit protection contract shall allow:

53 (a) the member with a disability to be considered an active member in a system and  
54 continue to accrue service credit and salary credit based on the member's rate of pay in effect at  
55 the time disability commences;

56 (b) the office to require participating employer contributions to be paid before granting

57 service credit and salary credit to the member;

58 (c) the member with a disability to remain eligible during the contract period for any  
59 benefits provided by the system that covers the member; and

60 (d) the benefit for the member with a disability to be improved by the annual  
61 cost-of-living increase factor applied to retired members of the system that covered the member  
62 on the date the member is eligible to receive benefits under a benefit protection contract.

63 (3) (a) The office shall establish the manner and times when employer contributions  
64 are paid.

65 (b) A failure to make the required payments is cause for the office to cancel a contract.

66 (c) Service credit and salary credit granted and accrued up to the time of cancellation  
67 may not be forfeited.

68 (4) For an employee covered under Chapter 22, New Public Employees' Tier II  
69 Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II  
70 Contributory Retirement Act, a benefit protection contract shall allow:

71 (a) for the defined benefit portion for a member covered under Chapter 22, Part 3, Tier  
72 II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System:

73 (i) the member with a disability to be considered an active member in a system and  
74 continue to accrue service credit and salary credit based on the member's rate of pay in effect at  
75 the time disability commences;

76 (ii) the office to require participating employer contributions to be paid before granting  
77 service credit and salary credit to the member;

78 (iii) the member with a disability to remain eligible during the contract period for any  
79 benefits provided by the system that covers the member; and

80 (iv) the benefit for the member with a disability to be improved by the annual  
81 cost-of-living increase factor applied to retired members of the system that covered the member  
82 on the date the member is eligible to receive benefits under a benefit protection contract; and

83 (b) for the defined contribution portion for a member covered under Chapter 22, Part 3,  
84 Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System, or  
85 for a participant covered under Chapter 22, Part 4, Tier II Defined Contribution Plan, or  
86 Chapter 23, Part 4, Tier II Defined Contribution Plan, the office to require participating  
87 employers to continue making the nonelective contributions on behalf of the member with a

88 disability or participant in the amounts specified in Subsection [49-22-303\(1\)\(a\)](#), [49-22-401\(1\)](#),  
89 [49-23-302\(1\)\(a\)](#), or [49-23-401\(1\)](#).

90 (5) A participating employer that has entered into a benefit protection contract under  
91 this section shall submit an annual report to the office, which identifies:

92 (a) the employees receiving long-term disability benefits under policies initiated by the  
93 participating employer and approved under the benefit protection contract;

94 (b) the employees that have applied for long-term disability benefits and who are  
95 waiting approval; and

96 (c) the insurance carriers that are actively providing long-term disability benefits.

97 (6) If an employer fails to provide the annual report required under Subsection (5), the  
98 benefits that would have accrued under the benefit protection contract shall be forfeited.

99 (7) The board may adopt rules to implement and administer this section.

100 Section 2. Section **49-14-602** is enacted to read:

101 **49-14-602. Benefit protection contract.**

102 (1) As used in this section:

103 (a) "Objective medical impairment" means the same as that term is defined in Section  
104 [49-21-102](#).

105 (b) "Qualifying injury or illness" means a physical or mental objective medical  
106 impairment resulting from external force or violence as a result of the performance of an  
107 employment duty.

108 (2) (a) A participating employer shall provide a benefit protection contract described in  
109 Section [49-11-404](#) for any public safety service employee who suffers a qualifying injury or  
110 illness as determined in accordance with this section.

111 (b) A participating employer may elect to provide a benefit protection contract for any  
112 other injury or illness of a public safety service employee in accordance with the requirements  
113 for providing a benefit protection contract, including the provisions of Section [49-11-404](#).

114 (3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or  
115 workers' compensation indemnity benefits shall determine if a public safety service employee  
116 has suffered a qualifying injury or illness, including completing any appeals relating to that  
117 determination in accordance with the applicable appeals procedures.

118 (b) In addition to the annual report requirements under Section [49-11-404](#):

119 (i) if there is final determination that a public safety service employee has suffered a  
120 qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that  
121 qualifying injury or illness, the participating employer shall immediately notify the office of the  
122 employee's award of that ongoing monthly disability benefit; and

123 (ii) if the public safety service employee's monthly disability benefit is terminated for  
124 any reason, the participating employer shall immediately notify the office of the termination of  
125 the monthly disability benefit.

126 Section 3. Section **49-15-602** is enacted to read:

127 **49-15-602. Benefit protection contract.**

128 (1) As used in this section:

129 (a) "Objective medical impairment" means the same as that term is defined in Section  
130 49-21-102.

131 (b) "Qualifying injury or illness" means a physical or mental objective medical  
132 impairment resulting from external force or violence as a result of the performance of an  
133 employment duty.

134 (2) (a) A participating employer shall provide a benefit protection contract described in  
135 Section 49-11-404 for any public safety service employee who suffers a qualifying injury or  
136 illness as determined in accordance with this section.

137 (b) A participating employer may elect to provide a benefit protection contract for any  
138 other injury or illness of a public safety service employee in accordance with the requirements  
139 for providing a benefit protection contract, including the provisions of Section 49-11-404.

140 (3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or  
141 workers' compensation indemnity benefits shall determine if a public safety service employee  
142 has suffered a qualifying injury or illness, including completing any appeals relating to that  
143 determination in accordance with the applicable appeals procedures.

144 (b) In addition to the annual report requirements under Section 49-11-404:

145 (i) if there is final determination that a public safety service employee has suffered a  
146 qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that  
147 qualifying injury or illness, the participating employer shall immediately notify the office of the  
148 employee's award of that ongoing monthly disability benefit; and

149 (ii) if the public safety service employee's monthly disability benefit is terminated for

150 any reason, the participating employer shall immediately notify the office of the termination of  
151 the monthly disability benefit.

152 Section 4. Section **49-23-602** is enacted to read:

153 **49-23-602. Benefit protection contract.**

154 (1) As used in this section:

155 (a) "Objective medical impairment" means the same as that term is defined in Section  
156 49-21-102.

157 (b) "Qualifying injury or illness" means a physical or mental objective medical  
158 impairment resulting from external force or violence as a result of the performance of an  
159 employment duty.

160 (2) (a) A participating employer shall provide a benefit protection contract described in  
161 Section 49-11-404 for any public safety service employee or firefighter service employee who  
162 suffers a qualifying injury or illness as determined in accordance with this section.

163 (b) A participating employer may elect to provide a benefit protection contract for any  
164 other injury or illness of a public safety service employee or firefighter service employee in  
165 accordance with the requirements for providing a benefit protection contract, including the  
166 provisions of Section 49-11-404.

167 (3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or  
168 workers' compensation indemnity benefits shall determine if a public safety service employee  
169 or firefighter service employee has suffered a qualifying injury or illness, including completing  
170 any appeals relating to that determination in accordance with the applicable appeals  
171 procedures.

172 (b) In addition to the annual report requirements under Section 49-11-404:

173 (i) if there is final determination that a public safety service employee or firefighter  
174 service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly  
175 disability benefit based on that qualifying injury or illness, the participating employer shall  
176 immediately notify the office of the employee's award of that ongoing monthly disability  
177 benefit; and

178 (ii) if the public safety service employee's or firefighter service employee's monthly  
179 disability benefit is terminated for any reason, the participating employer shall immediately  
180 notify the office of the termination of the monthly disability benefit.

181 Section 5. **Effective date.**  
182 This bill takes effect on July 1, 2022.