

EDUCATOR RETIREMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the postretirement reemployment restrictions for individuals who teach after retirement.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ provides the circumstances under which a Utah Retirement Systems retiree may be reemployed as a teacher with a participating employer within the one-year separation requirement without cancellation of the retiree's retirement allowance;
- 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:

AMENDS:

49-11-1202, as last amended by Laws of Utah 2020, Chapter 449

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

49-11-1206, as enacted by Laws of Utah 2016, Chapter 310 and last amended by



28 Coordination Clause, Laws of Utah 2016, Chapter 310

29

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

31 Section 1. Section **49-11-1202** is amended to read:

32 **49-11-1202. Definitions.**

33 As used in this part:

34 (1) (a) "Affiliated emergency services worker" means a person who:

35 (i) is employed by a participating employer;

36 (ii) performs emergency services for another participating employer that is a different
37 agency;

38 (iii) is trained in techniques and skills required for the emergency service;

39 (iv) continues to receive regular training required for the service;

40 (v) is on the rolls as a trained affiliated emergency services worker of the participating
41 employer; and

42 (vi) provides ongoing service for a participating employer, which service may include
43 service as a volunteer firefighter, reserve law enforcement officer, search and rescue worker,
44 emergency medical technician, ambulance worker, park ranger, or public utilities worker.

45 (b) "Affiliated emergency services worker" does not include a person who performs
46 work or service but does not meet the requirements of Subsection (1)(a).

47 (2) "Amortization rate" means the amortization rate, as defined in Section [49-11-102](#),
48 to be applied to the system that would have covered the retiree if the retiree's reemployed
49 position were deemed to be an eligible, full-time position within that system.

50 (3) "Part-time appointed or elected board member" means an individual who:

51 (a) serves in a position:

52 (i) as a member of a board, commission, council, committee, panel, or other body of a
53 participating employer; and

54 (ii) that is designated in the participating employer's governing statute, charter, creation
55 document, or similar document;

56 (b) is appointed or elected to the position for a definite and fixed term of office by
57 official and duly recorded action of the participating employer;

58 (c) except for the service in the position, does not perform other work or service for

59 compensation for the participating employer, whether as an employee or under a contract; and

60 (d) retires from a participating employer that is different than the participating
61 employer with the position in which the person serves.

62 (4) "Qualifying retiree" means a retiree who:

63 (a) is reemployed with a local education agency to provide educational services; and

64 (b) holds a license issued in accordance with Subsection 53E-6-201(1)(b) or (c).

65 ~~[(4)]~~ (5) (a) "Reemployed," "reemploy," or "reemployment" means work or service
66 performed for a participating employer after retirement, in exchange for compensation.

67 (b) Reemployment includes work or service performed on a contract for a participating
68 employer if the retiree is:

69 (i) listed as the contractor; or

70 (ii) an owner, partner, or principal of the contractor.

71 ~~[(5)]~~ (6) "Retiree":

72 (a) means a person who:

73 (i) retired from a participating employer; and

74 (ii) begins reemployment on or after July 1, 2010, with a participating employer; and

75 (b) does not include a person:

76 (i) (A) who was reemployed by a participating employer before July 1, 2010; and

77 (B) whose participating employer that reemployed the person under Subsection ~~[(5)]~~

78 (6)(b)(i)(A) was dissolved, consolidated, merged, or structurally changed in accordance with

79 Section 49-11-621 on or after July 1, 2010; or

80 (ii) who is working under a phased retirement agreement in accordance with ~~[Title 49;~~

81 ~~Chapter 11,]~~ Part 13, Phased Retirement.

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

83 **49-11-1205. Postretirement reemployment restriction exceptions.**

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

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

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

- 90 (A) retirement service credit or retirement-related contributions;
- 91 (B) medical benefits;
- 92 (C) dental benefits;
- 93 (D) other insurance benefits except for workers' compensation as provided under Title
- 94 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
- 95 Act, and withholdings required by federal or state law for social security, Medicare, and
- 96 unemployment insurance; or
- 97 (E) paid time off, including sick, annual, or other type of leave; and
- 98 (iii) (A) the retiree does not earn in any calendar year of reemployment an amount in
- 99 excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the
- 100 retiree's retirement allowance is based; or
- 101 (B) the retiree is reemployed as a judge as defined under Section [78A-11-102](#).
- 102 (b) The board shall adjust the amounts under Subsection (1)(a)(iii) by the annual change
- 103 in the Consumer Price Index during the previous calendar year as measured by a United States
- 104 Bureau of Labor Statistics Consumer Price Index average as determined by the board.
- 105 (2) A retiree shall be considered as having completed the one-year separation from
- 106 employment with a participating employer required under Section [49-11-1204](#), if the retiree:
- 107 (a) before retiring:
- 108 (i) was employed with a participating employer as a public safety service employee as
- 109 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);
- 110 (ii) during the employment under Subsection (2)(a)(i), suffered a physical injury
- 111 resulting from external force or violence while performing the duties of the employment, for
- 112 which injury the retiree would have been approved for total disability in accordance with the
- 113 provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service
- 114 are not considered;
- 115 (iii) had less than 30 years of service credit but had sufficient service credit to retire,
- 116 with an unreduced allowance making the public safety service employee ineligible for
- 117 long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act,
- 118 or a substantially similar long-term disability program;
- 119 (iv) does not receive any long-term disability benefits from any participating employer;
- 120 and

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

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

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

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

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

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

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

132 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
133 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
134 \$500 per month.

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

138 (d) A retiree is eligible for an exemption from the requirement to cease service without
139 cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time
140 of retirement, is at least:

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

143 (ii) 55 years old.

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

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

150 (i) may receive an aggregate amount of compensation, remuneration, a stipend, or other
151 benefit for service on a single or multiple boards, commissions, councils, committees, panels,

152 or other bodies of no more than \$5,000 per year; and

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

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

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

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

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

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

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

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

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

173 (5) The office may not cancel the retirement allowance of a qualifying retiree who is
174 reemployed with a participating employer within one year of the qualifying retiree's retirement
175 date if:

176 (a) the qualifying retiree is not reemployed by a participating employer for a period of
177 at least 60 days from the qualifying retiree's retirement date; and

178 (b) upon reemployment after the break in service under Subsection (5)(a), the
179 qualifying retiree does not receive retirement service credit or retirement-related contributions.

180 ~~[(5)]~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) [or], (4),
181 or (5), the termination date of the reemployment, as confirmed in writing by the participating
182 employer, is considered the retiree's retirement date for the purpose of calculating the

183 separation requirement under Section 49-11-1204.

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

187 Section 3. Section 49-11-1206 is amended to read:

188 **49-11-1206. Notice of postretirement reemployment.**

189 (1) A participating employer shall immediately notify the office:

190 (a) if the participating employer reemploys a retiree;

191 (b) whether the reemployment is subject to Section 49-11-1204 or Subsection
192 49-11-1205(1), (2), ~~(3)~~, or (5); and

193 (c) of any election by the retiree under Section 49-11-1204.

194 (2) A participating employer shall certify to the office whether the position of an
195 elected official is or is not full time.

196 (3) A retiree subject to this part shall report to the office the status of the reemployment
197 under Section 49-11-1204 or 49-11-1205.

198 Section 4. **Effective date.**

199 This bill takes effect on January 1, 2023.