

HB0348S01 compared with HB0348

~~{deleted text}~~ shows text that was in HB0348 but was deleted in HB0348S01.

inserted text shows text that was not in HB0348 but was inserted into HB0348S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{EDUCATOR}~~ Representative Mike Winder proposes the following substitute bill:

PUBLIC EMPLOYEES 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}~~ public employees.

Highlighted Provisions:

This bill:

▶ ~~{defines terms;~~

→ ~~provides the circumstances under which a Utah Retirement Systems retiree may be reemployed as a teacher}~~ creates an exception (the exception) to the separation period for retirees from a public employee system to be reemployed with a participating employer within the ~~{one-year}~~ separation period without cancellation of the retirement allowance if the participating employer pays the amortization rate and a surcharge;

HB0348S01 compared with HB0348

- ▶ requires the Utah State Retirement Office to report information regarding costs of the exception to the Retirement and Independent Entities Interim Committee; and
- ▶ creates a time-limited period for a current retiree from a public employee retirement system to be reemployed with a participating employer within the 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

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

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 Coordination Clause, Laws of Utah 2016, Chapter 310

ENACTS:

49-11-1205.5, Utah Code Annotated 1953

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

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

49-11-1202. Definitions.

As used in this part:

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

(i) is employed by a participating employer;

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

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

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

(v) is on the rolls as a trained affiliated emergency services worker of the participating

HB0348S01 compared with HB0348

employer; and

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

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

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

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

(a) serves in a position:

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

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

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

(c) except for the service in the position, does not perform other work or service for compensation for the participating employer, whether as an employee or under a contract; and

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

~~{ (4) "Qualifying retiree" means a retiree who:~~

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

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

‡ ~~{(4)}(5)} (a) "Reemployed," "reemploy," or "reemployment" means work or service performed for a participating employer after retirement, in exchange for compensation.~~

(b) ~~[Reemployment]~~ "Reemployed," "reemploy," or "reemployment" includes work or service performed on a contract for a participating employer if the retiree is:

(i) listed as the contractor; or

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

~~{(5)}(6)} "Retiree":~~

HB0348S01 compared with HB0348

(a) means a person who:

(i) retired from a participating employer; and

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

(b) does not include a person:

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

(B) whose participating employer that reemployed the person under Subsection ~~§(5)~~ ~~§(6)~~ (b)(i)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 on or after July 1, 2010; or

(ii) who is working under a phased retirement agreement in accordance with ~~§~~ Title 49, Chapter 11, ~~§~~ Part 13, Phased Retirement.

(6) "Retiree surcharge" means the board certified percentage of a reemployed retiree's salary:

(a) paid on behalf of a reemployed retiree;

(b) that is required to amortize the actuarial loss that would occur due to the reemployed retiree being authorized to:

(i) commence receipt of a retirement allowance earlier than actuarially assumed without using the exception in Subsection 49-11-1205(5); and

(ii) return to the workforce with a participating employer; and

(c) set in accordance with policies established by the board upon the advice of the actuary.

Section 2. Section 49-11-1204 is amended to read:

49-11-1204. General restrictions -- Election following one-year separation -- Amortization rate.

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

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

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

(b) receive a retirement allowance.

(2) (a) Except as provided under Section 49-11-1205~~;~~ or 49-11-1205.5, the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the

HB0348S01 compared with HB0348

retiree may be eligible to earn additional service credit in the reemployed position and receive an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

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

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

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

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

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

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

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

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

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

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

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

(ii) calculate an additional allowance for the retiree based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and

HB0348S01 compared with HB0348

subsequent retirement dates.

Section ~~(2)~~3. Section **49-11-1205** is amended to read:

49-11-1205. Postretirement reemployment restriction exceptions.

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

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

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

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

(B) medical benefits;

(C) dental benefits;

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

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

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

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

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

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

(a) before retiring:

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

(ii) during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, for

HB0348S01 compared with HB0348

which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

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

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

(v) is at least 50 years old; and

(b) is reemployed by a different participating employer.

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

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

(ii) a length-of-service award;

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

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

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

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

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

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

HB0348S01 compared with HB0348

(ii) 55 years old.

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

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

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

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

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

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

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

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

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

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

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

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

(5) (a) The office may not cancel the retirement allowance of a ~~qualifying~~ retiree

HB0348S01 compared with HB0348

who is reemployed with a participating employer within one year of the ~~qualifying~~ retiree's retirement date if:

~~(a) the qualifying~~ (i) the retiree retires from one of the following retirement systems:

(A) Chapter 12, Public Employees' Contributory Retirement Act;

(B) Chapter 13, Public Employees' Noncontributory Retirement Act; or

(C) Chapter 22, New Public Employees' Tier II Contributory Retirement Act;

(ii) the retiree has a bona fide termination from all participating employers and does not have, before the retiree retires, a prearrangement that anticipates postretirement reemployment with a participating employer;

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

~~upon reemployment~~ after the ~~break in service under Subsection (5)(a), the qualifying~~ day on which the retiree retired;

(iv) the retiree is reemployed for a single participating employer;

(v) the retiree does not receive any employer paid retirement service credit or retirement-related contributions; and

(vi) the participating employer that reemploys the retiree pays to the office, on behalf of the retiree, the amortization rate and the retiree surcharge.

(b) The office shall apply the amortization rate and the retiree surcharge to the system that would have covered the retiree if the retiree's reemployed position were considered to be an eligible, full-time position within that system.

(c) Before October 1, 2028, the office shall study, evaluate, and report on the actuarial costs and effectiveness of implementing the retiree reemployment exception authorized under this Subsection (5) to the Retirement and Independent Entities Interim Committee.

~~(5)~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) ~~[or]~~, (4) ~~or~~, or (5) ~~or~~ the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

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

HB0348S01 compared with HB0348

Section ~~{3}~~4. Section ~~{49-11-1206}~~49-11-1205.5 is ~~{amended to read:~~
~~}~~enacted to read:

49-11-1205.5. Limited window exception to postretirement reemployment restriction.

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

(a) the retiree retired before February 1, 2022, from one of the following retirement systems:

(i) Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Chapter 13, Public Employees' Noncontributory Retirement Act; or

(iii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act;

(b) the retiree has a bona fide termination from all participating employers and does not have, before the retiree retires, a prearrangement that anticipates postretirement reemployment with a participating employer;

(c) the retiree is not reemployed by a participating employer for a period that is at least 60 days after the day on which the retiree retired; and

(d) the retiree does not receive any employer paid retirement service credit or retirement-related contributions.

(2) A participating employer shall immediately notify the office if the participating employer reemploys a retiree under this section.

(3) If a retiree is reemployed under this section, the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

Section 5. Section 49-11-1206 is amended to read:

49-11-1206. Notice of postretirement reemployment.

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

(a) if the participating employer reemploys a retiree;

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

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

HB0348S01 compared with HB0348

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

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

Section ~~{4}~~6. **Effective date.**

~~{This}~~(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2023.

(2) The changes to Section 49-11-1205.5 take effect on May 4, 2022.