

1 **POSTRETIREMENT REEMPLOYMENT MODIFICATIONS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kera Birkeland**

5 Senate Sponsor: _____

6

LONG TITLE

7 **General Description:**

8 This bill modifies the postretirement reemployment restrictions for a retiree who was a
9 public safety service employee or a teacher.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ allows a retiree who was a public safety service employee or a teacher to be
- 14 reemployed with a participating employer within the one-year separation period if
- 15 the retiree does not earn more than \$35,000 per year in postretirement
- 16 reemployment;
- 17 ▶ applies an inflation adjustment to the earnings limitation; and
- 18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill provides a special effective date.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **49-11-1202**, as last amended by Laws of Utah 2020, Chapter 449

26 **49-11-1205**, as last amended by Laws of Utah 2021, Chapter 193



28 [49-11-1207](#), as last amended by Laws of Utah 2022, Chapter 171

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, at the time of retirement, a public safety service employee as defined in Section
64 49-14-102 and retires from the system described in Chapter 14, Public Safety Contributory
65 Retirement Act;

66 (b) is, at the time of retirement, a public safety service employee as defined in Section
67 49-15-102 and retires from the system described in Chapter 15, Public Safety Noncontributory
68 Retirement Act;

69 (c) is, at the time of retirement, a public safety service employee as defined in Section
70 49-23-102 and retires from the system described in Chapter 23, New Public Safety and
71 Firefighter Tier II Contributory Retirement Act; or

72 (d) is, at the time of retirement, a teacher and retires from one of the following
73 retirement systems:

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

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

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

77 ~~[(4)]~~ (5) (a) "Reemployed," "reemploy," or "reemployment" means work or service
78 performed for a participating employer after retirement, in exchange for compensation.

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

81 (i) listed as the contractor; or

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

83 ~~[(5)]~~ (6) "Retiree":

84 (a) means a person who:

85 (i) retired from a participating employer; and

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

87 (b) does not include a person:

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

89 (B) whose participating employer that reemployed the person under Subsection

90 ~~[(5)(b)(i)(A)]~~ (6)(b)(i)(A) was dissolved, consolidated, merged, or structurally changed in
 91 accordance with Section [49-11-621](#) on or after July 1, 2010; or

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

94 (7) "Teacher" means an individual employed by a school district or a charter school
 95 who is required to hold an educator license issued by the state board and who has an
 96 assignment to teach in a classroom.

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

98 **49-11-1205. Postretirement reemployment restriction exceptions.**

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

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

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

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

106 (B) medical benefits;

107 (C) dental benefits;

108 (D) other insurance benefits except for workers' compensation as provided under Title
 109 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
 110 Act, and withholdings required by federal or state law for social security, Medicare, and
 111 unemployment insurance; or

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

113 (iii) (A) for a retiree who is not a qualifying retiree or reemployed as a judge, the
 114 retiree ~~[does not earn]~~ earns, in any calendar year of reemployment, an amount ~~[in excess of the~~
 115 lesser of] that is no more than \$15,000 or one-half of the retiree's final average salary upon
 116 which the retiree's retirement allowance is based; ~~[or]~~

117 (B) for a retiree who is a qualifying retiree and is not reemployed as a judge, the retiree
 118 earns, in any calendar year of reemployment, an amount that is no more than \$35,000; or

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

120 (b) The board shall adjust the amounts under Subsection (1)(a)(iii) by the annual

121 change in the Consumer Price Index during the previous calendar year as measured by a United
122 States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

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

125 (a) before retiring:

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

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

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

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

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

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

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

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

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

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

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

150 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
151 credits, vouchers, and payments to an affiliated emergency services worker may not exceed

152 \$500 per month.

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

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

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

161 (ii) 55 years old.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

198 Section 3. Section 49-11-1207 is amended to read:

199 **49-11-1207. Postretirement reemployment -- Violations -- Penalties.**

200 (1) (a) If the office receives notice or learns of the reemployment of a retiree in
201 violation of Section 49-11-1204 or 49-11-1205, the office shall:

202 (i) immediately cancel the retiree's retirement allowance;

203 (ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar
204 year if the reemployment with a participating employer exceeded the limitation under
205 Subsection 49-11-1205(1)(a)(iii)(A), (1)(a)(iii)(B), (3)(b), or (4)(b); and

206 (iii) recover any overpayment resulting from the violation in accordance with the
207 provisions of Section 49-11-607 before the allowance may be reinstated.

208 (b) Reinstatement of an allowance following cancellation for a violation under this
209 section is subject to the procedures and provisions under Section 49-11-1204.

210 (2) If a retiree or participating employer failed to report reemployment in violation of
211 Section 49-11-1206, the retiree, participating employer, or both, who are found to be
212 responsible for the failure to report, are liable to the office for the amount of any overpayment
213 resulting from the violation.

214 (3) A participating employer is liable to the office for a payment or failure to make a
215 payment in violation of this part.

216 (4) If a participating employer fails to notify the office in accordance with Section
217 [49-11-1206](#), the participating employer is immediately subject to a compliance audit by the
218 office.

219 Section 4. **Effective date.**

220 This bill takes effect on January 1, 2024.