

PRISON HEALTH CARE SERVICES RETIREMENT

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies membership provisions of the public safety retirement systems to include certain employees of the Department of Health and Human Services.

Highlighted Provisions:

This bill:

► provides the circumstances under which an employee who was employed by the Department of Corrections and now is an employee of the Department of Health and Human Services shall continue to earn public safety service credit in the public safety retirement systems.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-14-201, as last amended by Laws of Utah 2022, Chapter 171

49-15-201, as last amended by Laws of Utah 2022, Chapter 171

49-23-201, as last amended by Laws of Utah 2022, Chapter 171



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

29 Section 1. Section **49-14-201** is amended to read:

30 **49-14-201. System membership -- Eligibility.**

31 (1) Except as provided in Section **49-15-201**, a public safety service employee of a
32 participating employer participating in this system is eligible for service credit in this system at
33 the earliest of:

34 (a) July 1, 1969, if the public safety service employee was employed by the
35 participating employer on July 1, 1969, and the participating employer was participating in this
36 system on that date;

37 (b) the date the participating employer begins participating in this system if the public
38 safety service employee was employed by the participating employer on that date; or

39 (c) the date the public safety service employee is employed by the participating
40 employer and is eligible to perform public safety service, except that a public safety service
41 employee initially entering employment with a participating employer on or after July 1, 2011,
42 who does not have service credit accrued before July 1, 2011, in a Tier I system or plan
43 administered by the board, may not participate in this system.

44 (2) (a) (i) A participating employer that has public safety service and firefighter service
45 employees that require cross-training and duty shall enroll those dual purpose employees in the
46 system in which the greatest amount of time is actually worked.

47 (ii) The employees shall either be full-time public safety service or full-time firefighter
48 service employees of the participating employer.

49 (b) (i) Before transferring a dual purpose employee from one system to another, the
50 participating employer shall receive written permission from the office.

51 (ii) The office may request documentation to verify the appropriateness of the transfer.

52 (3) The board may combine or segregate the actuarial experience of participating
53 employers in this system for the purpose of setting contribution rates.

54 (4) (a) (i) Each participating employer participating in this system shall annually
55 submit to the office a schedule indicating the positions to be covered under this system in
56 accordance with this chapter.

57 (ii) The office may require documentation to justify the inclusion of any position under
58 this system.

59 (b) If there is a dispute between the office and a participating employer or employee
60 over any position to be covered, the disputed position shall be submitted to the Peace Officer
61 Standards and Training Council established under Section 53-6-106 for determination.

62 (c) (i) The Peace Officer Standards and Training Council's authority to decide
63 eligibility for public safety service credit is limited to claims for coverage under this system for
64 time periods after July 1, 1989.

65 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
66 to service credit earned in another system before July 1, 1989.

67 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
68 Standards and Training Council granting a position coverage under this system may only be
69 applied prospectively from the date of that decision.

70 (iv) A decision of the Peace Officer Standards and Training Council granting a position
71 coverage under this system may be applied retroactively only if:

72 (A) the participating employer covered other similarly situated positions under this
73 system during the time period in question; and

74 (B) the position otherwise meets all eligibility requirements for receiving service credit
75 in this system during the period for which service credit is to be granted.

76 (5) The Peace Officer Standards and Training Council may use a subcommittee to
77 provide a recommendation to the council in determining disputes between the office and a
78 participating employer or employee over a position to be covered under this system.

79 (6) The Peace Officer Standards and Training Council shall comply with Title 63G,
80 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

81 (7) A public safety employee who is transferred or promoted to an administration
82 position requiring the performance of duties that consist primarily of management or
83 supervision of public safety service employees shall continue to earn public safety service
84 credit in this system during the period in which the employee remains employed in the same
85 department.

86 (8) An employee of the Department of Health and Human Services who is transferred
87 from the Department of Corrections shall continue to earn public safety service credit in this
88 system if:

89 (a) the employee's position is no longer covered under this system for new employees

90 hired on or after July 1, 2015; and

91 (b) the employee:

92 (i) remains employed by the Department of Corrections or the Department of Health
93 and Human Services;

94 (ii) meets the eligibility requirements of this system;

95 (iii) was hired into a position covered by this system before July 1, 2015; and

96 (iv) has not had a break in service on or after July 1, 2015.

97 (9) An employee who is reassigned to the Division of Technology Services or to the
98 Division of Human Resource Management, and who was a member of this system, is entitled
99 to remain a member of this system.

100 (10) (a) To determine that a position is covered under this system, the office and, if a
101 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
102 position requires the employee to:

103 (i) except for a dispatcher, place the employee's life or personal safety at risk; and

104 (ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or
105 53-13-105.

106 (b) If a position satisfies the requirements of Subsection (10)(a), the office and the
107 Peace Officer Standards and Training Council shall consider whether or not the position
108 requires the employee to:

109 (i) perform duties that consist primarily of actively preventing or detecting crime and
110 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

111 (ii) perform duties that consist primarily of providing community protection; and

112 (iii) respond to situations involving threats to public safety and make emergency
113 decisions affecting the lives and health of others.

114 (11) If a subcommittee is used to recommend the determination of disputes to the
115 Peace Officer Standards and Training Council, the subcommittee shall comply with the
116 requirements of Subsection (10) in making the subcommittee's recommendation.

117 (12) A final order of the Peace Officer Standards and Training Council regarding a
118 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
119 Procedures Act.

120 (13) Except as provided under Subsection (14), if a participating employer's public

121 safety service employees are not covered by this system or under Chapter 15, Public Safety
122 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees
123 who may otherwise qualify for membership in this system shall, at the discretion of the
124 participating employer, remain in their current retirement system.

125 (14) (a) A public safety service employee employed by an airport police department,
126 which elects to cover the airport police department's public safety service employees under the
127 Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain
128 in the public safety service employee's current retirement system.

129 (b) The public safety service employee's election to remain in the current retirement
130 system under Subsection (14)(a):

131 (i) shall be made at the time the employer elects to move the employer's public safety
132 service employees to a public safety retirement system;

133 (ii) documented by written notice to the participating employer; and

134 (iii) is irrevocable.

135 (15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service
136 employee who is a dispatcher employed by:

137 (i) the state shall be eligible for service credit in this system; and

138 (ii) a participating employer other than the state shall be eligible for service credit in
139 this system if the dispatcher's participating employer elects to cover the participating
140 employer's dispatchers under this system.

141 (b) A participating employer's election to cover the participating employer's dispatchers
142 under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a
143 resolution adopted by the governing body of the participating employer in accordance with
144 rules made by the office.

145 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution
146 of a participating employer under Subsection (15)(b), is not eligible for service credit in this
147 system.

148 (16) Notwithstanding any other provision of this section, a person initially entering
149 employment with a participating employer on or after July 1, 2011, who does not have service
150 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may
151 not participate in this system.

152 Section 2. Section **49-15-201** is amended to read:

153 **49-15-201. System membership -- Eligibility.**

154 (1) (a) A public safety service employee employed by the state after July 1, 1989, but
155 before July 1, 2011, is eligible for service credit in this system.

156 (b) A public safety service employee employed by the state before July 1, 1989, may
157 either elect to receive service credit in this system or continue to receive service credit under
158 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
159 following the procedures established by the board under this chapter.

160 (2) (a) Public safety service employees of a participating employer other than the state
161 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
162 System shall be eligible only for service credit in that system.

163 (b) (i) A participating employer other than the state that elected on or before July 1,
164 1989, to participate in this system shall, have allowed, before July 1, 1989, a public safety
165 service employee to elect to participate in either this system or the Public Safety Contributory
166 Retirement System.

167 (ii) Except as expressly allowed by this title, the election of the public safety service
168 employee is final and may not be changed.

169 (c) A public safety service employee hired by a participating employer other than the
170 state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

171 (d) A public safety service employee of a participating employer other than the state
172 who began participation in this system after July 1, 1989, but before July 1, 2011, is only
173 eligible for service credit in this system.

174 (e) A person initially entering employment with a participating employer on or after
175 July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system
176 or plan administered by the board, may not participate in this system.

177 (3) (a) (i) A participating employer that has public safety service and firefighter service
178 employees that require cross-training and duty shall enroll those dual purpose employees in the
179 system in which the greatest amount of time is actually worked.

180 (ii) The employees shall either be full-time public safety service or full-time firefighter
181 service employees of the participating employer.

182 (b) (i) Before transferring a dual purpose employee from one system to another, the

183 participating employer shall receive written permission from the office.

184 (ii) The office may request documentation to verify the appropriateness of the transfer.

185 (4) The board may combine or segregate the actuarial experience of participating
186 employers in this system for the purpose of setting contribution rates.

187 (5) (a) (i) Each participating employer participating in this system shall annually
188 submit to the office a schedule indicating the positions to be covered under this system in
189 accordance with this chapter.

190 (ii) The office may require documentation to justify the inclusion of any position under
191 this system.

192 (b) If there is a dispute between the office and a participating employer or employee
193 over any position to be covered, the disputed position shall be submitted to the Peace Officer
194 Standards and Training Council established under Section 53-6-106 for determination.

195 (c) (i) The Peace Officer Standards and Training Council's authority to decide
196 eligibility for public safety service credit is limited to claims for coverage under this system for
197 time periods after July 1, 1989.

198 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
199 to service credit earned in another system before July 1, 1989.

200 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
201 Standards and Training Council granting a position coverage under this system may only be
202 applied prospectively from the date of that decision.

203 (iv) A decision of the Peace Officer Standards and Training Council granting a position
204 coverage under this system may be applied retroactively only if:

205 (A) the participating employer covered other similarly situated positions under this
206 system during the time period in question; and

207 (B) the position otherwise meets all eligibility requirements for receiving service credit
208 in this system during the period for which service credit is to be granted.

209 (6) The Peace Officer Standards and Training Council may use a subcommittee to
210 provide a recommendation to the council in determining disputes between the office and a
211 participating employer or employee over a position to be covered under this system.

212 (7) The Peace Officer Standards and Training Council shall comply with Title 63G,
213 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

214 (8) A public safety service employee who is transferred or promoted to an
215 administration position requiring the performance of duties that consist primarily of
216 management or supervision of public safety service employees shall continue to earn public
217 safety service credit in this system during the period in which the employee remains employed
218 in the same department.

219 (9) An employee of the Department of Health and Human Services who is transferred
220 from the Department of Corrections shall continue to earn public safety service credit in this
221 system if:

222 (a) the employee's position is no longer covered under this system for new employees
223 hired on or after July 1, 2015; and

224 (b) the employee:

225 (i) remains employed by the Department of Corrections or the Department of Health
226 and Human Services;

227 (ii) meets the eligibility requirements of this system;

228 (iii) was hired into a position covered by this system before July 1, 2015; and

229 (iv) has not had a break in service on or after July 1, 2015.

230 (10) Any employee who is reassigned to the Division of Technology Services or to the
231 Division of Human Resource Management, and who was a member in this system, shall be
232 entitled to remain a member in this system.

233 (11) (a) To determine that a position is covered under this system, the office and, if a
234 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
235 position requires the employee to:

236 (i) except for a dispatcher, place the employee's life or personal safety at risk; and

237 (ii) complete training as provided in Section [53-6-303](#), [53-13-103](#), [53-13-104](#), or
238 [53-13-105](#).

239 (b) If a position satisfies the requirements of Subsection (11)(a), the office and Peace
240 Officer Standards and Training Council shall consider whether the position requires the
241 employee to:

242 (i) perform duties that consist primarily of actively preventing or detecting crime and
243 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

244 (ii) perform duties that consist primarily of providing community protection; and

245 (iii) respond to situations involving threats to public safety and make emergency
246 decisions affecting the lives and health of others.

247 (12) If a subcommittee is used to recommend the determination of disputes to the
248 Peace Officer Standards and Training Council, the subcommittee shall comply with the
249 requirements of Subsection (11) in making the subcommittee's recommendation.

250 (13) A final order of the Peace Officer Standards and Training Council regarding a
251 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
252 Procedures Act.

253 (14) Except as provided under Subsection (15), if a participating employer's public
254 safety service employees are not covered by this system or under Chapter 14, Public Safety
255 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who
256 may otherwise qualify for membership in this system shall, at the discretion of the participating
257 employer, remain in their current retirement system.

258 (15) (a) A public safety service employee employed by an airport police department,
259 which elects to cover the airport police department's public safety service employees under the
260 Public Safety Noncontributory Retirement System under Subsection (14), may elect to remain
261 in the public safety service employee's current retirement system.

262 (b) The public safety service employee's election to remain in the current retirement
263 system under Subsection (15)(a):

264 (i) shall be made at the time the employer elects to move the employer's public safety
265 service employees to a public safety retirement system;

266 (ii) shall be documented by written notice to the participating employer; and

267 (iii) is irrevocable.

268 (16) (a) Subject to Subsection (17), beginning July 1, 2015, a public safety service
269 employee who is a dispatcher employed by:

270 (i) the state shall be eligible for service credit in this system; and

271 (ii) a participating employer other than the state shall be eligible for service credit in
272 this system if the dispatcher's participating employer elects to cover the participating
273 employer's dispatchers under this system.

274 (b) A participating employer's election to cover the participating employer's dispatchers
275 under this system under Subsection (16)(a)(ii) is irrevocable and shall be documented by a

276 resolution adopted by the governing body of the participating employer in accordance with
277 rules made by the office.

278 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution
279 of a participating employer under Subsection (16)(b), is not eligible for service credit in this
280 system.

281 (17) Notwithstanding any other provision of this section, a person initially entering
282 employment with a participating employer on or after July 1, 2011, who does not have service
283 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may
284 not participate in this system.

285 Section 3. Section **49-23-201** is amended to read:

286 **49-23-201. System membership -- Eligibility.**

287 (1) Beginning July 1, 2011, a participating employer that employs public safety service
288 employees or firefighter service employees shall participate in this system.

289 (2) (a) A public safety service employee or a firefighter service employee initially
290 entering employment with a participating employer on or after July 1, 2011, who does not have
291 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
292 is eligible:

293 (i) as a member for service credit and defined contributions under the Tier II hybrid
294 retirement system established by Part 3, Tier II Hybrid Retirement System; or

295 (ii) as a participant for defined contributions under the Tier II defined contributions
296 plan established by Part 4, Tier II Defined Contribution Plan.

297 (b) A public safety service employee or a firefighter service employee initially entering
298 employment with a participating employer on or after July 1, 2011, shall:

299 (i) make an election to participate in the system created under this chapter:

300 (A) as a member for service credit and defined contributions under the Tier II hybrid
301 retirement system established by Part 3, Tier II Hybrid Retirement System; or

302 (B) as a participant for defined contributions under the Tier II defined contribution plan
303 established by Part 4, Tier II Defined Contribution Plan; and

304 (ii) electronically submit to the office notification of the member's election under
305 Subsection (2)(b)(i) in a manner approved by the office.

306 (c) An election made by a public safety service employee or firefighter service

307 employee initially entering employment with a participating employer under this Subsection (2)
308 is irrevocable beginning one year from the date of eligibility for accrual of benefits.

309 (d) If no election is made under Subsection (2)(b)(i), the public safety service employee
310 or firefighter service employee shall become a member eligible for service credit and defined
311 contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid
312 Retirement System.

313 (3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher
314 employed by:

315 (i) the state shall be eligible for service credit in this system; and

316 (ii) a participating employer other than the state shall be eligible for service credit in
317 this system if the dispatcher's participating employer elects to cover the participating
318 employer's dispatchers under this system.

319 (b) A participating employer's election to cover the participating employer's dispatchers
320 under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a
321 resolution adopted by the governing body of the participating employer in accordance with
322 rules made by the office.

323 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution
324 of a participating employer under Subsection (3)(b), is not eligible for service credit in this
325 system.

326 (4) A public safety service employee who is transferred or promoted to an
327 administration position requiring the performance of duties that consist primarily of
328 management or supervision of public safety service employees shall continue to earn public
329 safety service credit in this system during the period in which the employee remains employed
330 in the same department.

331 (5) An employee of the Department of Health and Human Services who is transferred
332 from the Department of Corrections shall continue to earn public safety service credit in this
333 system if:

334 (a) the employee's position is no longer covered under this system for new employees
335 hired on or after July 1, 2015; and

336 (b) the employee:

337 (i) remains employed by the Department of Corrections or the Department of Health

338 and Human Services;

339 (ii) meets the eligibility requirements of this system;

340 (iii) was hired into a position covered by this system before July 1, 2015; and

341 (iv) has not had a break in service on or after July 1, 2015.