

Representative Cheryl K. Acton proposes the following substitute bill:

PRISON HEALTH CARE SERVICES RETIREMENT

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Derrin R. Owens

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; and

- ▶ makes technical changes.

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



26 49-15-201, as last amended by Laws of Utah 2022, Chapter 171

27 49-23-201, as last amended by Laws of Utah 2022, Chapter 171

28

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

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

31 **49-14-201. System membership -- Eligibility.**

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

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

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

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

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

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

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

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

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

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

57 accordance with this chapter.

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

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

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

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

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

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

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

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

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

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

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

87 (8) An employee of the Department of Corrections shall continue to earn public safety

88 service credit in this 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;

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

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

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

96 (9) An employee of the Department of Health and Human Services who is transferred
97 from the Department of Corrections' clinical services bureau to provide a clinical or health care
98 service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service
99 credit in this system if:

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

102 (b) the employee:

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

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

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

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

108 [~~9~~] (10) An employee who is reassigned to the Division of Technology Services or to
109 the Division of Human Resource Management, and who was a member of this system, is
110 entitled to remain a member of this system.

111 [~~10~~] (11) (a) To determine that a position is covered under this system, the office and,
112 if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that
113 the position requires the employee to:

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

115 (ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or
116 53-13-105.

117 (b) If a position satisfies the requirements of Subsection [~~10~~](a) (11)(a), the office
118 and the Peace Officer Standards and Training Council shall consider whether or not the

119 position requires the employee to:

- 120 (i) perform duties that consist primarily of actively preventing or detecting crime and
- 121 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- 122 (ii) perform duties that consist primarily of providing community protection; and
- 123 (iii) respond to situations involving threats to public safety and make emergency
- 124 decisions affecting the lives and health of others.

125 ~~[(11)]~~ (12) If a subcommittee is used to recommend the determination of disputes to

126 the Peace Officer Standards and Training Council, the subcommittee shall comply with the

127 requirements of Subsection ~~[(10)]~~ (11) in making the subcommittee's recommendation.

128 ~~[(12)]~~ (13) A final order of the Peace Officer Standards and Training Council regarding

129 a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative

130 Procedures Act.

131 ~~[(13)]~~ (14) Except as provided under Subsection ~~[(14)]~~ (15), if a participating

132 employer's public safety service employees are not covered by this system or under Chapter 15,

133 Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety

134 service employees who may otherwise qualify for membership in this system shall, at the

135 discretion of the participating employer, remain in their current retirement system.

136 ~~[(14)]~~ (15) (a) A public safety service employee employed by an airport police

137 department, which elects to cover the airport police department's public safety service

138 employees under the Public Safety Noncontributory Retirement System under Subsection

139 ~~[(13)]~~ (14), may elect to remain in the public safety service employee's current retirement

140 system.

141 (b) The public safety service employee's election to remain in the current retirement

142 system under Subsection ~~[(14)(a)]~~ (15)(a):

- 143 (i) shall be made at the time the employer elects to move the employer's public safety
- 144 service employees to a public safety retirement system;
- 145 (ii) documented by written notice to the participating employer; and
- 146 (iii) is irrevocable.

147 ~~[(15)]~~ (16) (a) Subject to Subsection ~~[(16)]~~ (17), beginning July 1, 2015, a public safety

148 service employee who is a dispatcher employed by:

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

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

153 (b) A participating employer's election to cover the participating employer's dispatchers
154 under this system under Subsection [~~(15)(a)(ii)~~] (16)(a)(ii) is irrevocable and shall be
155 documented by a resolution adopted by the governing body of the participating employer in
156 accordance with rules made by the office.

157 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution
158 of a participating employer under Subsection [~~(15)(b)~~] (16)(b), is not eligible for service credit
159 in this system.

160 [~~(16)~~] (17) Notwithstanding any other provision of this section, a person initially
161 entering employment with a participating employer on or after July 1, 2011, who does not have
162 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
163 may not participate in this system.

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

165 **49-15-201. System membership -- Eligibility.**

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

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

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

175 (b) (i) A participating employer other than the state that elected on or before July 1,
176 1989, to participate in this system shall, have allowed, before July 1, 1989, a public safety
177 service employee to elect to participate in either this system or the Public Safety Contributory
178 Retirement System.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

231 (9) An employee of the Department of Corrections shall continue to earn public safety
232 service credit in this system if:

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

235 (b) the employee:

236 (i) remains employed by the Department of Corrections;

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

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

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

240 (10) An employee of the Department of Health and Human Services who is transferred
241 from the Department of Corrections' clinical services bureau to provide a clinical or health care
242 service to an inmate as defined in Section [64-13-1](#) shall continue to earn public safety service

243 credit in this system if:

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

246 (b) the employee:

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

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

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

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

252 ~~[(10)]~~ (11) Any employee who is reassigned to the Division of Technology Services or
253 to the Division of Human Resource Management, and who was a member in this system, shall
254 be entitled to remain a member in this system.

255 ~~[(11)]~~ (12) (a) To determine that a position is covered under this system, the office and,
256 if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that
257 the position requires the employee to:

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

259 (ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or
260 53-13-105.

261 (b) If a position satisfies the requirements of Subsection ~~[(11)(a)]~~ (12)(a), the office
262 and Peace Officer Standards and Training Council shall consider whether the position requires
263 the employee to:

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

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

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

269 ~~[(12)]~~ (13) If a subcommittee is used to recommend the determination of disputes to
270 the Peace Officer Standards and Training Council, the subcommittee shall comply with the
271 requirements of Subsection ~~[(11)]~~ (12) in making the subcommittee's recommendation.

272 ~~[(13)]~~ (14) A final order of the Peace Officer Standards and Training Council regarding
273 a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative

274 Procedures Act.

275 ~~[(14)]~~ (15) Except as provided under Subsection ~~[(15)]~~ (16), if a participating
276 employer's public safety service employees are not covered by this system or under Chapter 14,
277 Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service
278 employees who may otherwise qualify for membership in this system shall, at the discretion of
279 the participating employer, remain in their current retirement system.

280 ~~[(15)]~~ (16) (a) A public safety service employee employed by an airport police
281 department, which elects to cover the airport police department's public safety service
282 employees under the Public Safety Noncontributory Retirement System under Subsection (14),
283 may elect to remain in the public safety service employee's current retirement system.

284 (b) The public safety service employee's election to remain in the current retirement
285 system under Subsection ~~[(15)(a)]~~ (16)(a):

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

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

289 (iii) is irrevocable.

290 ~~[(16)]~~ (17) (a) Subject to Subsection ~~[(17)]~~ (18), beginning July 1, 2015, a public safety
291 service employee who is a dispatcher employed by:

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

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

296 (b) A participating employer's election to cover the participating employer's dispatchers
297 under this system under Subsection ~~[(16)(a)(ii)]~~ (17)(a)(ii) is irrevocable and shall be
298 documented by a resolution adopted by the governing body of the participating employer in
299 accordance with rules made by the office.

300 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution
301 of a participating employer under Subsection ~~[(16)(b)]~~ (17)(b), is not eligible for service credit
302 in this system.

303 ~~[(17)]~~ (18) Notwithstanding any other provision of this section, a person initially
304 entering employment with a participating employer on or after July 1, 2011, who does not have

305 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
306 may not participate in this system.

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

308 **49-23-201. System membership -- Eligibility.**

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

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

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

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

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

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

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

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

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

328 (c) An election made by a public safety service employee or firefighter service
329 employee initially entering employment with a participating employer under this Subsection (2)
330 is irrevocable beginning one year from the date of eligibility for accrual of benefits.

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

335 (3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher

336 employed by:

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

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

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

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

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

353 (5) An employee of the Department of Corrections shall continue to earn public safety
354 service credit in this system if:

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

357 (b) the employee:

358 (i) remains employed by the Department of Corrections;

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

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

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

362 (6) An employee of the Department of Health and Human Services who is transferred
363 from the Department of Corrections' clinical services bureau to provide a clinical or health care
364 service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service
365 credit in this system if:

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

367 hired on or after July 1, 2015; and

368 (b) the employee:

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

370 and Human Services;

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

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

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