

UTAH RETIREMENT SYSTEM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the contribution provisions of the New Public Employees' Tier II Contributory Retirement Act.

Highlighted Provisions:

This bill:

- ▶ authorizes a participating employer to elect to pay member contributions that exceed the contribution cap for employees that are members of the Public Employees' Tier II Hybrid Retirement System; and

- ▶ requires a participating employer to make an additional nonelective contribution to an employee that is a member of the Public Employees' Tier II Defined Contribution Plan, if the participating employer elects to pay the required member contribution as an employer pick up for employees that are members of the Public Employees' Tier II Hybrid Retirement System.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-22-301, as last amended by Laws of Utah 2011, Chapter 439



28 **49-22-401**, as last amended by Laws of Utah 2022, Chapter 171



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

31 Section 1. Section **49-22-301** is amended to read:

32 **49-22-301. Contributions.**

33 (1) Participating employers and members shall pay the certified contribution rates to
34 the office to maintain the defined benefit portion of this system on a financially and actuarially
35 sound basis.

36 (2) (a) A participating employer shall pay up to 10% of compensation toward the
37 certified contribution rate to the office for the defined benefit portion of this system.

38 (b) ~~[A]~~ Except as provided in Subsection (2)(c), a member shall [only] pay to the office
39 the amount, if any, of the certified contribution rate for the defined benefit portion of this
40 system that exceeds the percent of compensation paid by the participating employer under
41 Subsection (2)(a).

42 (c) A participating employer may elect to pay all or part of the required member
43 contribution under Subsection (2)(b) on behalf of the member as an employer pick up under 26
44 U.S.C. Sec. 414(h)(2), in addition to the required participating employer contribution under
45 Subsection (2)(a).

46 ~~[(e)]~~ (d) In addition to the percent specified under Subsection (2)(a), the participating
47 employer shall pay the corresponding Tier I system amortization rate of the employee's
48 compensation to the office to be applied to the employer's corresponding Tier I system liability.

49 ~~[(3) A participating employer may not elect to pay all or part of the required member~~
50 ~~contributions under Subsection (2)(b), in addition to the required participating employer~~
51 ~~contributions.]~~

52 ~~[(4)]~~ (3) (a) A member contribution is credited by the office to the account of the
53 individual member.

54 (b) This amount, together with refund interest, is held in trust for the payment of
55 benefits to the member or the member's beneficiaries.

56 (c) A member contribution is vested and nonforfeitable.

57 ~~[(5)]~~ (4) (a) Each member is considered to consent to payroll deductions of member
58 contributions.

59 (b) The payment of compensation less these payroll deductions is considered full
60 payment for services rendered by the member.

61 ~~[(6)]~~ (5) Benefits provided under the defined benefit portion of the Tier II Hybrid
62 Retirement System created under this part:

63 (a) may not be increased unless the actuarial funded ratios of all systems under this title
64 reach 100%; and

65 (b) may be decreased only in accordance with the provisions of Section 49-22-310.
66 Section 2. Section 49-22-401 is amended to read:

67 **49-22-401. Contributions -- Rates.**

68 (1) (a) Up to the amount allowed by federal law, the participating employer shall make
69 a nonelective contribution of 10% of the participant's compensation to a defined contribution
70 plan.

71 (b) In addition to the nonelective contribution described in Subsection (1)(a), if a
72 participating employer elects under Subsection 49-22-301(2)(c) to pay all or part of the
73 required member contribution on behalf of the participating employer's employees that are
74 members covered under Part 3, Tier II Hybrid Retirement System, the participating employer
75 shall make an additional nonelective contribution to an employee that is a member covered
76 under this part at the same percentage rate of the participant's compensation as the participating
77 employer's election to pay required member contributions on behalf of the participating
78 employer's employees that are members covered under Part 3, Tier II Hybrid Retirement
79 System.

80 (2) (a) The participating employer shall contribute the 10% nonelective contribution
81 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
82 Internal Revenue Code that:

83 (i) is sponsored by the board; and

84 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

85 (b) The member may make voluntary deferrals to:

86 (i) the qualified 401(k) plan that receives the employer contribution described in this
87 Subsection (2); or

88 (ii) at the member's option, another defined contribution plan established by the
89 participating employer.

90 (c) In addition to the percent specified under Subsection (2)(a), the participating
91 employer shall pay the corresponding Tier I system amortization rate of the employee's
92 compensation to the office to be applied to the employer's corresponding Tier I system liability.

93 (3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the
94 participating employer under Subsection (2)(a) vests to the member upon accruing four years of
95 employment as a regular full-time employee under this title.

96 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
97 member's benefit immediately and is nonforfeitable.

98 (c) (i) Upon filing a written request for exemption with the office, an eligible employee
99 is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section
100 [49-22-205](#).

101 (ii) An employee who is exempt under this Subsection (3)(c) is not eligible for
102 additional service credit in the plan for the period of exempt employment.

103 (d) (i) Years of employment under Subsection (3)(a) includes any fraction of a year to
104 which the member may be entitled.

105 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of
106 one year of the total years required for vesting, the member shall be considered to have the total
107 years of employment required for vesting.

108 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
109 invested in a default option selected by the board until the member is vested in accordance with
110 Subsection (3)(a).

111 (b) A member may direct the investment of contributions including associated
112 investment gains and losses made by a participating employer under Subsection (2)(a) only
113 after the contributions have vested in accordance with Subsection (3)(a).

114 (c) A member may direct the investment of contributions made by the member under
115 Subsection (3)(b).

116 (5) No loans shall be available from contributions made by a participating employer
117 under Subsection (2)(a).

118 (6) No hardship distributions shall be available from contributions made by a
119 participating employer under Subsection (2)(a).

120 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment

121 with a participating employer prior to the vesting period described in Subsection (3)(a), all
122 contributions made by a participating employer on behalf of the member including associated
123 investment gains and losses under Subsection (2)(a) are subject to forfeiture.

124 (b) If a member who terminates employment with a participating employer prior to the
125 vesting period described in Subsection (3)(a) subsequently enters employment with the same or
126 another participating employer within 10 years of the termination date of the previous
127 employment:

128 (i) all contributions made by the previous participating employer on behalf of the
129 member including associated investment gains and losses shall be reinstated upon the member's
130 employment as a regular full-time employee; and

131 (ii) the length of time that the member worked with the previous employer shall be
132 included in determining whether the member has completed the vesting period under
133 Subsection (3)(a).

134 (c) The office shall establish a forfeiture account and shall specify the uses of the
135 forfeiture account, which may include an offset against administrative costs or employer
136 contributions made under this section.

137 (8) The office may request from any other plan under Subsection (2)(b)(ii) any relevant
138 information pertaining to the maintenance of the plan's tax qualification under the Internal
139 Revenue Code.

140 (9) The office may take any action that in the office's judgment is necessary to maintain
141 the tax-qualified status of the office's 401(k) defined contribution plan under federal law.

142 **Section 3. Effective date.**

143 This bill takes effect on July 1, 2024.