

POSTRETIREMENT EMPLOYMENT

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rich Cunningham

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions for postretirement reemployment.

Highlighted Provisions:

This bill:

- ▶ allows a retiree to be reemployed with a participating employer after 60 days from the retiree's retirement date if the retiree:
 - does not receive certain employer provided benefits for the reemployment; and
 - is reemployed by a different agency;
- ▶ repeals earning limitation provisions for a retiree who is reemployed with a participating employer after 60 days from the retiree's retirement date; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-11-505, as last amended by Laws of Utah 2014, Chapters 15, 175, and 311



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

29 Section 1. Section **49-11-505** is amended to read:

30 **49-11-505. Reemployment of a retiree -- Restrictions.**

31 (1) (a) For purposes of this section, "retiree":

32 (i) means a person who:

33 (A) retired from a participating employer; and

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

35 (ii) does not include a person:

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

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

38 (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with

39 Section **49-11-621** after July 1, 2010; and

40 (iii) does not include a person who is reemployed as an active senior judge or an active

41 senior justice court judge as described by Utah State Court Rules, appointed to hear cases by

42 the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

43 (b) (i) This section does not apply to employment as an elected official if the elected

44 official's position is not full time as certified by the participating employer.

45 (ii) The provisions of this section apply to an elected official whose elected position is

46 full time as certified by the participating employer.

47 (c) (i) This section does not apply to employment as a part-time appointed board

48 member who does not receive any remuneration, stipend, or other benefit for the part-time

49 appointed board member's service.

50 (ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does

51 not include receipt of per diem and travel expenses up to the amounts established by the

52 Division of Finance in:

53 (A) Section **63A-3-106**;

54 (B) Section **63A-3-107**; and

55 (C) rules made by the Division of Finance according to Sections **63A-3-106** and

56 **63A-3-107**.

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

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

59 (ii) receive any retirement related contribution from a participating employer; and
 60 (b) receive a retirement allowance.

61 (3) (a) Except as provided under Subsection (3)(b) or (10), the office shall cancel the
 62 retirement allowance of a retiree if the reemployment with a participating employer begins
 63 within one year of the retiree's retirement date.

64 (b) The office may not cancel the retirement allowance of a retiree who is reemployed
 65 with a participating employer [~~within one year~~] after 60 days of the retiree's retirement date if:

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

68 [~~(ii) upon reemployment after the break in service under Subsection (3)(b)(i);~~]

69 (i) the retiree does not receive any of the following employer provided benefits[-
 70 including] for the reemployment:

71 (A) retirement benefits including any retirement related contributions from a
 72 participating employer; or

73 [~~(A) medical benefits;~~]

74 [~~(B) dental benefits;~~]

75 [~~(C) other insurance benefits except for workers' compensation as provided under Title~~
 76 ~~34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law~~
 77 ~~for Social Security, Medicare, and unemployment insurance; or]~~

78 [~~(D)~~] (B) paid time off, including sick, annual, or other type of leave; and

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

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

83 [(c) ~~Beginning January 1, 2013, the board shall adjust the amounts under Subsection~~
 84 ~~(3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar~~
 85 ~~year as measured by a United States Bureau of Labor Statistics Consumer Price Index average~~
 86 ~~as determined by the board.]~~

87 (ii) the retiree is reemployed by a different agency.

88 [~~(d)~~] (c) The office shall cancel the retirement allowance of a retiree for the remainder
 89 of the calendar year if the reemployment with a participating employer [~~exceeds the limitation~~

90 ~~under Subsection (3)(b)(iii)(A)] is in violation of the provisions of this Subsection (3).~~

91 ~~[(e)]~~ (d) If a retiree is reemployed under the provisions of Subsection (3)(b), the
92 termination date of the reemployment, as confirmed in writing by the participating employer, is
93 considered the retiree's retirement date for the purpose of calculating the separation
94 requirement under Subsection (3)(a).

95 (4) If a reemployed retiree has completed the one-year separation from employment
96 with a participating employer required under Subsection (3)(a), the retiree may elect to:

97 (a) earn additional service credit in accordance with this title and cancel the retiree's
98 retirement allowance; or

99 (b) continue to receive the retiree's retirement allowance and forfeit any retirement
100 related contribution from the participating employer who reemployed the retiree.

101 (5) A participating employer who reemploys a retiree shall contribute to the office the
102 amortization rate, as defined in Section 49-11-102, to be applied to the system that would have
103 covered the retiree, if the reemployed retiree:

104 (a) has completed the one-year separation from employment with a participating
105 employer required under Subsection (3)(a); and

106 (b) makes an election under Subsection (4)(b) to continue to receive a retirement
107 allowance while reemployed.

108 (6) (a) A participating employer shall immediately notify the office:

109 (i) if the participating employer reemploys a retiree;

110 (ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

111 (iii) of any election by the retiree under Subsection (4).

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

114 (c) A participating employer is liable to the office for a payment or failure to make a
115 payment in violation of this section.

116 (d) If a participating employer fails to notify the office in accordance with this section,
117 the participating employer is immediately subject to a compliance audit by the office.

118 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in
119 accordance with Subsection (7)(b) if the office receives notice or learns of:

120 (i) the reemployment of a retiree in violation of Subsection (3); or

- 121 (ii) the election of a reemployed retiree under Subsection (4)(a).
- 122 (b) If the retiree is eligible for retirement coverage in the reemployed position, the
123 office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the
124 retiree to active member status on the first day of the month following the date of:
- 125 (i) reemployment if the retiree is subject to Subsection (3); or
126 (ii) an election by an employee under Subsection (4)(a).
- 127 (c) If the retiree is not otherwise eligible for retirement coverage in the reemployed
128 position:
- 129 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and
130 (ii) the participating employer shall pay the amortization rate to the office on behalf of
131 the retiree.
- 132 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date
133 of reemployment:
- 134 (i) is not entitled to a recalculated retirement benefit; and
135 (ii) will resume the allowance that was being paid at the time of cancellation.
- 136 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under
137 Subsection (7) and who retires two or more years after the date of reinstatement to active
138 membership shall:
- 139 (i) resume receiving the allowance that was being paid at the time of cancellation; and
140 (ii) receive an additional allowance based on the formula in effect at the date of the
141 subsequent retirement for all service credit accrued between the first and subsequent retirement
142 dates.
- 143 (9) (a) A retiree subject to this section shall report to the office the status of the
144 reemployment under Subsection (3) or (4).
- 145 (b) If the retiree fails to inform the office of an election under Subsection (4), the office
146 shall withhold one month's benefit for each month the retiree fails to inform the office under
147 Subsection (9)(a).
- 148 (10) A retiree shall be considered as having completed the one-year separation from
149 employment with a participating employer required under Subsection (3)(a), if the retiree:
- 150 (a) before retiring:
- 151 (i) was employed with a participating employer as a public safety service employee as

152 defined in Section 49-14-102, 49-15-102, or 49-23-102;

153 (ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury
154 resulting from external force or violence while performing the duties of the employment, and
155 for which injury the retiree would have been approved for total disability in accordance with
156 the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if
157 years of service are not considered;

158 (iii) had less than 30 years of service credit but had sufficient service credit to retire,
159 with an unreduced allowance making the public safety service employee ineligible for
160 long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term
161 Disability Act, or a substantially similar long-term disability program; and

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

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

165 (11) The board may make rules to implement this section.

Legislative Review Note
as of 12-22-14 6:12 PM

Office of Legislative Research and General Counsel