

**VOLUNTEER FIREFIGHTER POSTRETIREMENT
EMPLOYMENT AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

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:

- ▶ provides that reemployment as a volunteer firefighter is not subject to postretirement reemployment provisions under certain circumstances;
- ▶ provides that a member is not required to cease employment as a volunteer firefighter of a participating employer to be eligible to retire; 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

49-12-401, as last amended by Laws of Utah 2014, Chapter 15

49-13-401, as last amended by Laws of Utah 2014, Chapter 15



28 **49-14-401**, as last amended by Laws of Utah 2014, Chapter 15
 29 **49-15-401**, as last amended by Laws of Utah 2014, Chapter 15
 30 **49-16-401**, as last amended by Laws of Utah 2014, Chapter 15
 31 **49-22-304**, as last amended by Laws of Utah 2014, Chapter 15
 32 **49-23-303**, as last amended by Laws of Utah 2014, Chapter 15

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

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

36 **49-11-505. Reemployment of a retiree -- Restrictions.**

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

38 (i) means a person who:

39 (A) retired from a participating employer; and

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

41 (ii) does not include a person:

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

43 (B) whose participating employer that reemployed the person under Subsection
 44 (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with
 45 Section **49-11-621** after July 1, 2010; and

46 (iii) does not include a person who is reemployed as an active senior judge or an active
 47 senior justice court judge as described by Utah State Court Rules, appointed to hear cases by
 48 the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

49 (b) (i) This section does not apply to employment as an elected official if the elected
 50 official's position is not full time as certified by the participating employer.

51 (ii) The provisions of this section apply to an elected official whose elected position is
 52 full time as certified by the participating employer.

53 (c) (i) This section does not apply to employment as a part-time appointed board
 54 member who does not receive any remuneration, stipend, or other benefit for the part-time
 55 appointed board member's service.

56 (ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does
 57 not include receipt of per diem and travel expenses up to the amounts established by the
 58 Division of Finance in:

59 (A) Section [63A-3-106](#);
60 (B) Section [63A-3-107](#); and
61 (C) rules made by the Division of Finance according to Sections [63A-3-106](#) and
62 [63A-3-107](#).

63 (d) (i) This section does not apply to employment as a volunteer firefighter as defined
64 in Section [49-16-102](#) or [49-23-102](#) if the volunteer firefighter does not receive any
65 compensation, except for:

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

68 (B) a length-of-service award;

69 (C) insurance policy premiums paid by the participating employer in the event of death
70 of an active volunteer firefighter or a line-of-duty accidental death or disability; or

71 (D) reimbursement of expenses incurred in the performance of duties.

72 (ii) For purposes of Subsections (1)(d)(i)(A) and (B), the total amount of any discounts,
73 tax credits, vouchers, and payments to a volunteer firefighter may not exceed \$500 per month.

74 (iii) Beginning January 1, 2016, the board shall adjust the amount under Subsection
75 (1)(d)(ii) by the annual change in the Consumer Price Index during the previous calendar year
76 as measured by a United States Bureau of Labor Statistics Consumer Price Index average as
77 determined by the board.

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

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

80 (ii) receive any retirement related contribution from a participating employer; and

81 (b) receive a retirement allowance.

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

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

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

89 (ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree

90 does not receive any employer provided benefits, including:

91 (A) medical benefits;

92 (B) dental benefits;

93 (C) other insurance benefits except for workers' compensation as provided under Title
94 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law
95 for Social Security, Medicare, and unemployment insurance; or

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

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

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

101 (c) Beginning January 1, 2013, the board shall adjust the amounts under Subsection
102 (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar
103 year as measured by a United States Bureau of Labor Statistics Consumer Price Index average
104 as determined by the board.

105 (d) The office shall cancel the retirement allowance of a retiree for the remainder of the
106 calendar year if the reemployment with a participating employer exceeds the limitation under
107 Subsection (3)(b)(iii)(A).

108 (e) If a retiree is reemployed under the provisions of Subsection (3)(b), the termination
109 date of the reemployment, as confirmed in writing by the participating employer, is considered
110 the retiree's retirement date for the purpose of calculating the separation requirement under
111 Subsection (3)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

138 (ii) the election of a reemployed retiree under Subsection (4)(a).

139 (b) If the retiree is eligible for retirement coverage in the reemployed position, the
140 office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the
141 retiree to active member status on the first day of the month following the date of:

142 (i) reemployment if the retiree is subject to Subsection (3); or

143 (ii) an election by an employee under Subsection (4)(a).

144 (c) If the retiree is not otherwise eligible for retirement coverage in the reemployed
145 position:

146 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

147 (ii) the participating employer shall pay the amortization rate to the office on behalf of
148 the retiree.

149 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date
150 of reemployment:

151 (i) is not entitled to a recalculated retirement benefit; and

- 152 (ii) will resume the allowance that was being paid at the time of cancellation.
- 153 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under
- 154 Subsection (7) and who retires two or more years after the date of reinstatement to active
- 155 membership shall:
 - 156 (i) resume receiving the allowance that was being paid at the time of cancellation; and
 - 157 (ii) receive an additional allowance based on the formula in effect at the date of the
 - 158 subsequent retirement for all service credit accrued between the first and subsequent retirement
 - 159 dates.
- 160 (9) (a) A retiree subject to this section shall report to the office the status of the
- 161 reemployment under Subsection (3) or (4).
 - 162 (b) If the retiree fails to inform the office of an election under Subsection (4), the office
 - 163 shall withhold one month's benefit for each month the retiree fails to inform the office under
 - 164 Subsection (9)(a).
- 165 (10) A retiree shall be considered as having completed the one-year separation from
- 166 employment with a participating employer required under Subsection (3)(a), if the retiree:
 - 167 (a) before retiring:
 - 168 (i) was employed with a participating employer as a public safety service employee as
 - 169 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);
 - 170 (ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury
 - 171 resulting from external force or violence while performing the duties of the employment, and
 - 172 for which injury the retiree would have been approved for total disability in accordance with
 - 173 the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if
 - 174 years of service are not considered;
 - 175 (iii) had less than 30 years of service credit but had sufficient service credit to retire,
 - 176 with an unreduced allowance making the public safety service employee ineligible for
 - 177 long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term
 - 178 Disability Act, or a substantially similar long-term disability program; and
 - 179 (iv) does not receive any long-term disability benefits from any participating employer;
 - 180 and
 - 181 (b) is reemployed by a different participating employer.
 - 182 (11) The board may make rules to implement this section.

183 Section 2. Section **49-12-401** is amended to read:

184 **49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

185 (1) A member is qualified to receive an allowance from this system when:

186 (a) except as provided under Subsection (3), the member ceases actual work for every
187 participating employer that employs the member before the member's retirement date and
188 provides evidence of the termination;

189 (b) the member has submitted to the office a retirement application form that states the
190 member's proposed retirement date; and

191 (c) one of the following conditions is met as of the member's retirement date:

192 (i) the member has accrued at least four years of service credit and has attained an age
193 of 65 years;

194 (ii) the member has accrued at least 10 years of service credit and has attained an age
195 of 62 years;

196 (iii) the member has accrued at least 20 years of service credit and has attained an age
197 of 60 years; or

198 (iv) the member has accrued at least 30 years of service credit.

199 (2) (a) The member's retirement date:

200 (i) shall be the 1st or the 16th day of the month, as selected by the member;

201 (ii) shall be on or after the date of termination; and

202 (iii) may not be more than 90 days before or after the date the application is received by
203 the office.

204 (b) Except as provided under Subsection (3), a member may not be employed by a
205 participating employer in the system established by this chapter on the retirement date selected
206 under Subsection (2)(a)(i).

207 (3) (a) A member who is employed by a participating employer and who is also an
208 elected official is not required to cease service as an elected official to be qualified to receive
209 an allowance under Subsection (1), unless the member is retiring from service as an elected
210 official.

211 (b) A member who is employed by a participating employer and who is also a part-time
212 appointed board member is not required to cease service as a part-time appointed board
213 member to be qualified to receive an allowance under Subsection (1).

214 (c) A member who is employed by a participating employer, who is also a volunteer
215 firefighter as defined in Section 49-16-102 or 49-23-102, is not required to cease service as a
216 volunteer firefighter to be qualified to receive an allowance under Subsection (1).

217 Section 3. Section **49-13-401** is amended to read:

218 **49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

219 (1) A member is qualified to receive an allowance from this system when:

220 (a) except as provided under Subsection (3), the member ceases actual work for every
221 participating employer that employs the member before the member's retirement date and
222 provides evidence of the termination;

223 (b) the member has submitted to the office a retirement application form that states the
224 member's proposed retirement date; and

225 (c) one of the following conditions is met as of the member's retirement date:

226 (i) the member has accrued at least four years of service credit and has attained an age
227 of 65 years;

228 (ii) the member has accrued at least 10 years of service credit and has attained an age
229 of 62 years;

230 (iii) the member has accrued at least 20 years of service credit and has attained an age
231 of 60 years;

232 (iv) the member has accrued at least 30 years of service credit; or

233 (v) the member has accrued at least 25 years of service credit, in which case the
234 member shall be subject to the reduction under Subsection 49-13-402(2)(b).

235 (2) (a) The member's retirement date:

236 (i) shall be the 1st or the 16th day of the month, as selected by the member;

237 (ii) shall be on or after the date of termination; and

238 (iii) may not be more than 90 days before or after the date the application is received by
239 the office.

240 (b) Except as provided under Subsection (3), a member may not be employed by a
241 participating employer in the system established by this chapter on the retirement date selected
242 under Subsection (2)(a)(i).

243 (3) (a) A member who is employed by a participating employer and who is also an
244 elected official is not required to cease service as an elected official to be qualified to receive

245 an allowance under Subsection (1), unless the member is retiring from service as an elected
246 official.

247 (b) A member who is employed by a participating employer and who is also a part-time
248 appointed board member is not required to cease service as a part-time appointed board
249 member to be qualified to receive an allowance under Subsection (1).

250 (c) A member who is employed by a participating employer, who is also a volunteer
251 firefighter as defined in Section 49-16-102 or 49-23-102, is not required to cease service as a
252 volunteer firefighter to be qualified to receive an allowance under Subsection (1).

253 Section 4. Section 49-14-401 is amended to read:

254 **49-14-401. Eligibility for service retirement -- Date of retirement --**

255 **Qualifications.**

256 (1) A member is qualified to receive an allowance from this system when:

257 (a) except as provided under Subsection (3), the member ceases actual work for every
258 participating employer that employs the member before the member's retirement date and
259 provides evidence of the termination;

260 (b) the member has submitted to the office a retirement application form that states the
261 member's proposed retirement date; and

262 (c) one of the following conditions is met as of the member's retirement date:

263 (i) the member has accrued at least 20 years of service credit;

264 (ii) the member has accrued at least 10 years of service credit and has attained an age
265 of 60 years; or

266 (iii) the member has accrued at least four years of service credit and has attained an age
267 of 65 years.

268 (2) (a) The member's retirement date:

269 (i) shall be the 1st or the 16th day of the month, as selected by the member;

270 (ii) shall be on or after the date of termination; and

271 (iii) may not be more than 90 days before or after the date the application is received by
272 the office.

273 (b) Except as provided under Subsection (3), a member may not be employed by a
274 participating employer in the system established by this chapter on the retirement date selected
275 under Subsection (2)(a)(i).

276 (3) (a) A member who is employed by a participating employer and who is also an
277 elected official is not required to cease service as an elected official to be qualified to receive
278 an allowance under Subsection (1), unless the member is retiring from service as an elected
279 official.

280 (b) A member who is employed by a participating employer and who is also a part-time
281 appointed board member is not required to cease service as a part-time appointed board
282 member to be qualified to receive an allowance under Subsection (1).

283 (c) A member who is employed by a participating employer, who is also a volunteer
284 firefighter as defined in Section 49-16-102 or 49-23-102, is not required to cease service as a
285 volunteer firefighter to be qualified to receive an allowance under Subsection (1).

286 Section 5. Section 49-15-401 is amended to read:

287 **49-15-401. Eligibility for service retirement -- Date of retirement --**

288 **Qualifications.**

289 (1) A member is qualified to receive an allowance from this system when:

290 (a) except as provided under Subsection (3), the member ceases actual work for every
291 participating employer that employs the member before the member's retirement date and
292 provides evidence of the termination;

293 (b) the member has submitted to the office a retirement application form that states the
294 member's proposed retirement date; and

295 (c) one of the following conditions is met as of the member's retirement date:

296 (i) the member has accrued at least 20 years of service credit;

297 (ii) the member has accrued at least 10 years of service credit and has attained an age
298 of 60 years; or

299 (iii) the member has accrued at least four years of service and has attained an age of 65
300 years.

301 (2) (a) The member's retirement date:

302 (i) shall be the 1st or the 16th day of the month, as selected by the member;

303 (ii) shall be on or after the date of termination; and

304 (iii) may not be more than 90 days before or after the date the application is received by
305 the office.

306 (b) Except as provided under Subsection (3), a member may not be employed by a

307 participating employer in the system established by this chapter on the retirement date selected
308 under Subsection (2)(a)(i).

309 (3) (a) A member who is employed by a participating employer and who is also an
310 elected official is not required to cease service as an elected official to be qualified to receive
311 an allowance under Subsection (1), unless the member is retiring from service as an elected
312 official.

313 (b) A member who is employed by a participating employer and who is also a part-time
314 appointed board member is not required to cease service as a part-time appointed board
315 member to be qualified to receive an allowance under Subsection (1).

316 (c) A member who is employed by a participating employer, who is also a volunteer
317 firefighter as defined in Section 49-16-102 or 49-23-102, is not required to cease service as a
318 volunteer firefighter to be qualified to receive an allowance under Subsection (1).

319 Section 6. Section 49-16-401 is amended to read:

320 **49-16-401. Eligibility for service retirement -- Date of retirement --**

321 **Qualifications.**

322 (1) A member is qualified to receive an allowance from this system when:

323 (a) except as provided under Subsection (3), the member ceases actual work for every
324 participating employer that employs the member before the member's retirement date and
325 provides evidence of the termination;

326 (b) the member has submitted to the office a retirement application form that states the
327 member's proposed retirement date; and

328 (c) one of the following conditions is met as of the member's retirement date:

329 (i) the member has accrued at least 20 years of service credit;

330 (ii) the member has accrued at least 10 years of service credit and has attained an age
331 of 60 years; or

332 (iii) the member has accrued at least four years of service credit and has attained an age
333 of 65 years.

334 (2) (a) The member's retirement date:

335 (i) shall be the 1st or the 16th day of the month, as selected by the firefighter service
336 employee;

337 (ii) shall be on or after the date of termination; and

338 (iii) may not be more than 90 days before or after the date the application is received by
339 the office.

340 (b) Except as provided under Subsection (3), a member may not be employed by a
341 participating employer in the system established by this chapter on the retirement date selected
342 under Subsection (2)(a)(i).

343 (3) (a) A member who is employed by a participating employer and who is also an
344 elected official is not required to cease service as an elected official to be qualified to receive
345 an allowance under Subsection (1), unless the member is retiring from service as an elected
346 official.

347 (b) A member who is employed by a participating employer and who is also a part-time
348 appointed board member is not required to cease service as a part-time appointed board
349 member to be qualified to receive an allowance under Subsection (1).

350 (c) A member who is employed by a participating employer, who is also a volunteer
351 firefighter, is not required to cease service as a volunteer firefighter to be qualified to receive
352 an allowance under Subsection (1).

353 Section 7. Section **49-22-304** is amended to read:

354 **49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --**
355 **Qualifications.**

356 (1) A member is qualified to receive an allowance from this system when:

357 (a) except as provided under Subsection (3), the member ceases actual work for every
358 participating employer that employs the member before the member's retirement date and
359 provides evidence of the termination;

360 (b) the member has submitted to the office a retirement application form that states the
361 member's proposed retirement date; and

362 (c) one of the following conditions is met as of the member's retirement date:

363 (i) the member has accrued at least four years of service credit and has attained an age
364 of 65 years;

365 (ii) the member has accrued at least 10 years of service credit and has attained an age
366 of 62 years;

367 (iii) the member has accrued at least 20 years of service credit and has attained an age
368 of 60 years; or

369 (iv) the member has accrued at least 35 years of service credit.
370 (2) (a) The member's retirement date:
371 (i) shall be the 1st or the 16th day of the month, as selected by the member;
372 (ii) shall be on or after the date of termination; and
373 (iii) may not be more than 90 days before or after the date the application is received by
374 the office.

375 (b) Except as provided under Subsection (3), a member may not be employed by a
376 participating employer in the system established by this chapter on the retirement date selected
377 under Subsection (2)(a)(i).

378 (3) (a) A member who is employed by a participating employer and who is also an
379 elected official is not required to cease service as an elected official to be qualified to receive
380 an allowance under Subsection (1), unless the member is retiring from service as an elected
381 official.

382 (b) A member who is employed by a participating employer and who is also a part-time
383 appointed board member is not required to cease service as a part-time appointed board
384 member to be qualified to receive an allowance under Subsection (1).

385 (c) A member who is employed by a participating employer, who is also a volunteer
386 firefighter as defined in Section 49-16-102 or 49-23-102, is not required to cease service as a
387 volunteer firefighter to be qualified to receive an allowance under Subsection (1).

388 Section 8. Section 49-23-303 is amended to read:

389 **49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**
390 **Qualifications.**

391 (1) A member is qualified to receive an allowance from this system when:
392 (a) except as provided under Subsection (3), the member ceases actual work for every
393 participating employer that employs the member before the member's retirement date and
394 provides evidence of the termination;
395 (b) the member has submitted to the office a retirement application form that states the
396 member's proposed retirement date; and
397 (c) one of the following conditions is met as of the member's retirement date:
398 (i) the member has accrued at least four years of service credit and has attained an age
399 of 65 years;

400 (ii) the member has accrued at least 10 years of service credit and has attained an age
401 of 62 years;

402 (iii) the member has accrued at least 20 years of service credit and has attained an age
403 of 60 years; or

404 (iv) the member has accrued at least 25 years of service credit.

405 (2) (a) The member's retirement date:

406 (i) shall be the 1st or the 16th day of the month, as selected by the member;

407 (ii) shall be on or after the date of termination; and

408 (iii) may not be more than 90 days before or after the date the application is received by
409 the office.

410 (b) Except as provided under Subsection (3), a member may not be employed by a
411 participating employer in the system established by this chapter on the retirement date selected
412 under Subsection (2)(a)(i).

413 (3) (a) A member who is employed by a participating employer and who is also an
414 elected official is not required to cease service as an elected official to be qualified to receive
415 an allowance under Subsection (1), unless the member is retiring from service as an elected
416 official.

417 (b) A member who is employed by a participating employer and who is also a part-time
418 appointed board member is not required to cease service as a part-time appointed board
419 member to be qualified to receive an allowance under Subsection (1).

420 (c) A member who is employed by a participating employer, who is also a volunteer
421 firefighter, is not required to cease service as a volunteer firefighter to be qualified to receive
422 an allowance under Subsection (1).

Legislative Review Note
as of 1-15-15 8:31 AM

Office of Legislative Research and General Counsel