

1 **POSTRETIREMENT REEMPLOYMENT RESTRICTIONS**

2 **AMENDMENTS**

3 2024 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Matthew H. Gwynn**

6 Senate Sponsor: Wayne A. Harper

7

LONG TITLE

8 **General Description:**

9 This bill modifies provisions governing postretirement reemployment.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ creates an alternative method for a retiree within the Utah Retirement Systems
- 14 (URS) to be eligible to return to work with a URS participating employer and
- 15 receive a retirement allowance;
- 16 ▶ establishes reporting requirements; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides a special effective date.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **49-11-1202**, as last amended by Laws of Utah 2020, Chapter 449

25 **49-11-1204**, as last amended by Laws of Utah 2020, Chapter 24

26 **49-11-1205**, as last amended by Laws of Utah 2021, Chapter 193



28 49-11-1206, as enacted by Laws of Utah 2016, Chapter 310 and last amended by
29 Coordination Clause, Laws of Utah 2016, Chapter 310

30 49-11-1207, as last amended by Laws of Utah 2022, Chapter 171

31 ENACTS:

32 49-11-1209, Utah Code Annotated 1953



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

35 Section 1. Section 49-11-1202 is amended to read:

36 **49-11-1202. Definitions.**

37 As used in this part:

38 (1) (a) "Affiliated emergency services worker" means ~~[a person]~~ an individual who:

39 (i) is employed by a participating employer;

40 (ii) performs emergency services for another participating employer that is a different
41 agency;

42 (iii) is trained in techniques and skills required for the emergency service;

43 (iv) continues to receive regular training required for the service;

44 (v) is on the rolls as a trained affiliated emergency services worker of the participating
45 employer; and

46 (vi) provides ongoing service for a participating employer, which service may include
47 service as a volunteer firefighter, reserve law enforcement officer, search and rescue worker,
48 emergency medical technician, ambulance worker, park ranger, or public utilities worker.

49 (b) "Affiliated emergency services worker" does not include ~~[a person]~~ an individual
50 who performs work or service but does not meet the requirements of Subsection (1)(a).

51 (2) "Amortization rate" means the amortization rate, as defined in Section 49-11-102,
52 to be applied to the system that would have covered the retiree if the retiree's reemployed
53 position were deemed to be an eligible, full-time position within that system.

54 (3) "Bona fide termination of employment" means:

55 (a) permanent separation from employment or a fee-for-service relationship with any
56 participating employer; and

57 (b) separation from employment without a prearrangement that anticipates
58 postretirement reemployment or a postretirement fee-for-service relationship with a

59 participating employer.

60 (4) "Normal cost rate" means the normal cost rate, as defined in Section [49-11-102](#), to
61 be applied to the system that would have covered the retiree if the retiree's reemployed position
62 were deemed to be an eligible, full-time position within that system.

63 [~~3~~] (5) "Part-time appointed or elected board member" means an individual who:

64 (a) serves in a position:

65 (i) as a member of a board, commission, council, committee, panel, or other body of a
66 participating employer; and

67 (ii) that is designated in the participating employer's governing statute, charter, creation
68 document, or similar document;

69 (b) is appointed or elected to the position for a definite and fixed term of office by
70 official and duly recorded action of the participating employer;

71 (c) except for the service in the position, does not perform other work or service for
72 compensation for the participating employer, whether as an employee or under a contract; and

73 (d) retires from a participating employer that is different than the participating
74 employer with the position in which the person serves.

75 (6) "Public employee retiree" means a retiree who retires under:

76 (a) Chapter 12, Public Employees' Contributory Retirement Act;

77 (b) Chapter 13, Public Employees' Noncontributory Retirement Act; or

78 (c) Chapter 22, Part 3, Tier II Hybrid Retirement System.

79 (7) "Public safety or firefighter retiree" means a retiree who retires under:

80 (a) Chapter 14, Public Safety Contributory Retirement Act;

81 (b) Chapter 15, Public Safety Noncontributory Retirement Act;

82 (c) Chapter 16, Firefighters' Retirement Act; or

83 (d) Chapter 23, Part 3, Tier II Hybrid Retirement System.

84 [~~4~~] (8) (a) "Reemployed," "reemploy," or "reemployment" means work or service
85 performed for a participating employer after retirement, in exchange for compensation.

86 (b) [~~Reemployment~~] "Reemployed," "reemploy," or "reemployment" includes work or
87 service performed on a contract for a participating employer if the retiree is:

88 (i) listed as the contractor; or

89 (ii) an owner, partner, or principal of the contractor.

90 ~~[(5)]~~ (9) (a) "Retiree":
 91 ~~[(a)]~~ means ~~[a person]~~ an individual who:
 92 (i) retired from a participating employer; and
 93 (ii) begins reemployment on or after July 1, 2010, with a participating employer ~~[, and]~~

94 .
 95 (b) "Retiree" does not include ~~[a person]~~ an individual:
 96 (i) (A) who was reemployed by a participating employer before July 1, 2010; and
 97 (B) whose participating employer that reemployed the ~~[person]~~ individual under
 98 Subsection ~~[(5)(b)(i)(A)]~~ (9)(b)(i)(A) was dissolved, consolidated, merged, or structurally
 99 changed in accordance with Section [49-11-621](#) on or after July 1, 2010; or
 100 (ii) who is working under a phased retirement agreement in accordance with ~~[Title 49,~~
 101 ~~Chapter 11, Part 13, Phased Retirement]~~ Chapter 11, Part 13, Phased Retirement.

102 Section 2. Section **49-11-1204** is amended to read:

103 **49-11-1204. General restrictions -- Election following one-year separation --**

104 **Amortization rate.**

105 (1) A retiree may not for the same period of reemployment:

- 106 (a) (i) earn additional service credit; or
- 107 (ii) receive any retirement related contribution from a participating employer; and
- 108 (b) receive a retirement allowance.

109 (2) (a) Except as provided under Section [49-11-1205](#), the office shall cancel the
 110 retirement allowance of a retiree if the reemployment with a participating employer begins
 111 within one year of the retiree's retirement date.

112 (b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the
 113 retiree may be eligible to earn additional service credit in the reemployed position and receive
 114 an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

115 (3) If a reemployed retiree, in accordance with Subsection (2)(a), is exempt from
 116 having the allowance cancelled, including for completing the one-year separation from
 117 employment with a participating employer, the retiree may elect to:

- 118 (a) cancel the retiree's retirement allowance and instead earn additional service credit in
 119 the reemployed position and receive an allowance in accordance with Subsections (4)(a) and
 120 (5) and other provisions of this title; or

121 (b) continue to receive the retiree's retirement allowance, [~~forfeit earning~~] not earn
122 additional service credit, and [~~forfeit~~] not receive any retirement-related contribution from the
123 participating employer that reemployed the retiree.

124 (4) (a) If a retiree's retirement allowance is cancelled and the retiree is eligible for
125 retirement coverage in a reemployed position, the office shall reinstate the retiree to active
126 member status on the first day of the month following the date of the employee's eligible
127 reemployment.

128 (b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible
129 for retirement coverage in the reemployed position, the participating employer that reemploys
130 the retiree shall contribute the amortization rate to the office on behalf of the retiree.

131 (c) A participating employer that reemploys a retiree in accordance with Subsection
132 [49-11-1205](#)(1) is not required to contribute the amortization rate to the office.

133 (5) (a) For a retiree reinstated to active member status under Subsection (4)(a) who
134 retires within two years from the date of reemployment, the office:

135 (i) may not recalculate a retirement benefit for the retiree; and

136 (ii) shall resume the allowance that was being paid to the retiree at the time of the
137 cancellation.

138 (b) Subject to Subsection (1), for a retiree who is reinstated to active membership
139 under Subsection (4)(a) and retires two or more years after the date of reinstatement to active
140 membership, the office shall:

141 (i) resume the allowance that was being paid at the time of cancellation; and

142 (ii) calculate an additional allowance for the retiree based on the formula in effect at
143 the date of the subsequent retirement for all service credit accrued between the first and
144 subsequent retirement dates.

145 Section 3. Section [49-11-1205](#) is amended to read:

146 **[49-11-1205. Postretirement reemployment restriction exceptions.](#)**

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

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

151 (ii) the retiree has a bona fide termination of employment on the retiree's retirement

152 date;

153 ~~[(ii)]~~ (iii) upon reemployment after the break in service under Subsection (1)(a)(i), the
154 retiree does not receive any employer paid benefits, including:

155 (A) retirement service credit or retirement-related contributions;

156 (B) medical benefits;

157 (C) dental benefits;

158 (D) other insurance benefits except for workers' compensation as provided under Title
159 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
160 Act, and withholdings required by federal or state law for social security, Medicare, and
161 unemployment insurance; or

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

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

166 (B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

167 (b) The board shall adjust the amounts under Subsection ~~[(1)(a)(iii)]~~ (1)(a)(iv) by the
168 annual change in the Consumer Price Index during the previous calendar year as measured by a
169 United States Bureau of Labor Statistics Consumer Price Index average as determined by the
170 board.

171 (2) A retiree shall be considered as having completed the one-year separation from
172 employment with a participating employer ~~[required under]~~ described in Section 49-11-1204, if
173 the retiree:

174 (a) before retiring:

175 (i) was employed with a participating employer as a public safety service employee as
176 defined in Section 49-14-102, 49-15-102, or 49-23-102;

177 (ii) during the employment under Subsection (2)(a)(i), suffered a physical injury
178 resulting from external force or violence while performing the duties of the employment, for
179 which injury the retiree would have been approved for total disability in accordance with the
180 provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service
181 are not considered;

182 (iii) had less than 30 years of service credit but had sufficient service credit to retire,

183 with an unreduced allowance making the public safety service employee ineligible for
184 long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act,
185 or a substantially similar long-term disability program;

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

188 (v) is at least 50 years old; and

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

190 (3) (a) The office may not cancel the retirement allowance of a retiree who is employed
191 as an affiliated emergency services worker within one year of the retiree's retirement date if the
192 affiliated emergency services worker does not receive any compensation, except for:

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

195 (ii) a length-of-service award;

196 (iii) insurance policy premiums paid by the participating employer in the event of death
197 of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

198 (iv) reimbursement of expenses incurred in the performance of duties.

199 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
200 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
201 \$500 per month.

202 (c) The board shall adjust the amount under Subsection (3)(b) by the annual change in
203 the Consumer Price Index during the previous calendar year as measured by a United States
204 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

205 (d) A retiree is eligible for an exemption from the requirement to cease service without
206 cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time
207 of retirement, is at least:

208 (i) 50 years old, if the retiree is retiring from a public safety system or a firefighter
209 system; or

210 (ii) 55 years old.

211 (4) (a) The office may not cancel the retirement allowance of a retiree who is employed
212 as a part-time appointed or elected board member within one year after the retiree's retirement
213 date if the part-time appointed or elected board member does not receive any compensation

214 exceeding the amount described in this Subsection (4).

215 (b) A retiree who is a part-time appointed or elected board member for one or more
216 boards, commissions, councils, committees, panels, or other bodies of participating employers:

217 (i) may receive an aggregate amount of compensation, remuneration, a stipend, or other
218 benefit for service on a single or multiple boards, commissions, councils, committees, panels,
219 or other bodies of no more than \$5,000 per year; and

220 (ii) may not receive an employer paid retirement service credit or retirement-related
221 contribution.

222 (c) For purposes of Subsection (4)(b)(i):

223 (i) a part-time appointed or elected board member's compensation includes:

224 (A) an amount paid for the part-time appointed or elected board member's coverage in
225 a group insurance plan provided by the participating employer; and

226 (B) the part-time appointed or elected board member's receipt of any other benefit
227 provided by the participating employer; and

228 (ii) the part-time appointed or elected board member's compensation does not include:

229 (A) an amount the participating employer pays for employer-matching employment
230 taxes, if the participating employer treats the part-time appointed or elected board member as
231 an employee for federal tax purposes; or

232 (B) an amount that the part-time appointed or elected board member receives for per
233 diem and travel expenses for up to 12 approved meetings or activities of the government board
234 per year, if the per diem and travel expenses do not exceed the amounts established by the
235 Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the
236 Division of Finance according to Sections 63A-3-106 and 63A-3-107.

237 (d) The board shall adjust the amount under Subsection (4)(b)(i) by the annual change
238 in the Consumer Price Index during the previous calendar year as measured by a United States
239 Bureau of Labor Statistics Consumer Price Index average, as determined by the board.

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

242 (i) the retiree has a bona fide termination of employment on the retiree's retirement
243 date;

244 (ii) the retiree is not employed, including by a fee-for-service relationship, with any

245 participating employer for a period of:
246 (A) at least 90 days if the retiree is a public employee retiree; or
247 (B) at least 60 days if the retiree is a public safety or firefighter retiree;
248 (iii) the retiree agrees to a modified retirement allowance as described in Subsections
249 (5)(b), (c), and (d); and
250 (iv) the participating employer that reemploys the retiree agrees to pay to the office the
251 normal cost rate in addition to the amortization rate.
252 (b) During a period of reemployment, the retiree:
253 (i) receives a retirement allowance that is 20% less than the retirement allowance the
254 retiree is entitled to receive in accordance with:
255 (A) for a retiree who retired under Chapter 12, Public Employees' Contributory
256 Retirement Act, Section [49-12-402](#);
257 (B) for a retiree who retired under Chapter 13, Public Employees' Noncontributory
258 Retirement Act, Section [49-13-402](#); or
259 (C) for a retiree who retired under Chapter 22, Part 3, Tier II Hybrid Retirement
260 System, Section [49-22-305](#); or
261 (ii) a retirement allowance that is 15% less than the retirement allowance the retiree is
262 entitled to receive in accordance with:
263 (A) for a retiree who retired under Chapter 14, Public Safety Contributory Retirement
264 Act, Section [49-14-402](#);
265 (B) for a retiree who retired under Chapter 15, Public Safety Noncontributory
266 Retirement Act, Section [49-15-402](#);
267 (C) for a retiree who retired under Chapter 16, Firefighters' Retirement Act, Section
268 [49-16-402](#); or
269 (D) for a retiree who retired under Chapter 23, Part 3, Tier II Hybrid Retirement
270 System, Section [49-23-304](#).
271 (c) During the period of reemployment, the retiree does not receive the annual
272 cost-of-living adjustment described in:
273 (i) for a retiree who retired under Chapter 12, Public Employees' Contributory
274 Retirement Act, Section [49-12-407](#);
275 (ii) for a retiree who retired under Chapter 13, Public Employees' Noncontributory

276 Retirement Act, Section 49-13-407;

277 (iii) for a retiree who retired under Chapter 14, Public Safety Contributory Retirement
278 Act, Section 49-14-403;

279 (iv) for a retiree who retired under Chapter 15, Public Safety Noncontributory
280 Retirement Act, Section 49-15-403;

281 (v) for a retiree who retired under Chapter 16, Firefighters' Retirement Act, Section
282 49-16-403;

283 (vi) for a retiree who retired under Chapter 22, Part 3, Tier II Hybrid Retirement
284 System, Section 49-22-308; or

285 (vii) for a retiree who retired under Chapter 23, Part 3, Tier II Hybrid Retirement
286 System, Section 49-23-307.

287 (d) (i) The office shall begin paying the retiree's full retirement allowance on the first
288 day of the month following the month in which the office receives written notification that the
289 reemployed retiree has a subsequent retirement date based on a termination of the
290 reemployment.

291 (ii) (A) For purposes of Subsection (5)(d)(i), the full retirement allowance includes the
292 elimination of the allowance reduction described in Subsection (5)(b)(i) or (4)(b)(ii) and the
293 annual cost-of-living adjustment that was prohibited under Subsection (5)(c) during the period
294 of reemployment.

295 (B) A retiree may not receive the difference between the full retirement allowance and
296 the reduced retirement allowance described in Subsection (5)(b)(i) or (5)(b)(ii) or the annual
297 cost-of-living adjustment that the retiree would have received if the retiree had not been
298 reemployed.

299 ~~[(5)]~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the
300 termination date of the reemployment, as confirmed in writing by the participating employer, is
301 considered the retiree's retirement date for the purpose of calculating the separation
302 requirement ~~[under]~~ described in Section 49-11-1204.

303 (b) The office shall cancel the retirement allowance of a retiree for the remainder of the
304 calendar year if the reemployment with a participating employer exceeds the limitation under
305 Subsection ~~[(1)(a)(iii)]~~ (1)(a)(iv), (3)(b), or (4)(b).

306 (7) A retiree who is reemployed under the provisions of Subsection (5) may not

307 subsequently be reemployed under Section 49-11-1204 unless the office cancels the retirement
308 allowance during the subsequent reemployment.

309 Section 4. Section 49-11-1206 is amended to read:

310 **49-11-1206. Notice of postretirement reemployment.**

311 (1) A participating employer shall immediately notify the office:

312 (a) if the participating employer reemploys a retiree;

313 (b) whether the reemployment is subject to Section 49-11-1204 or Subsection
314 49-11-1205(1), (2), ~~or~~ (3), or (5); and

315 (c) of any election by the retiree under Section 49-11-1204.

316 (2) A participating employer shall certify to the office whether the position of an
317 elected official is or is not full time.

318 (3) A retiree subject to this part shall report to the office the status of the reemployment
319 under Section 49-11-1204 or 49-11-1205.

320 Section 5. Section 49-11-1207 is amended to read:

321 **49-11-1207. Postretirement reemployment -- Violations -- Penalties.**

322 (1) (a) If the office receives notice or learns of the reemployment of a retiree in
323 violation of Section 49-11-1204 or 49-11-1205, the office shall:

324 (i) immediately cancel the retiree's retirement allowance;

325 (ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar
326 year if the reemployment with a participating employer exceeded the limitation under
327 Subsection ~~[49-11-1205(1)(a)(iii)(A)]~~ 49-11-1205(1)(a)(iv), (3)(b), or (4)(b); and

328 (iii) recover any overpayment resulting from the violation in accordance with the
329 provisions of Section 49-11-607 before the allowance may be reinstated.

330 (b) Reinstatement of an allowance following cancellation for a violation under this
331 section is subject to the procedures and provisions under Section 49-11-1204.

332 (2) If a retiree or participating employer failed to report reemployment in violation of
333 Section 49-11-1206, the retiree, participating employer, or both, who are found to be
334 responsible for the failure to report, are liable to the office for the amount of any overpayment
335 resulting from the violation.

336 (3) A participating employer is liable to the office for a payment or failure to make a
337 payment in violation of this part.

338 (4) If a participating employer fails to notify the office in accordance with Section
339 49-11-1206, the participating employer is immediately subject to a compliance audit by the
340 office.

341 Section 6. Section 49-11-1209 is enacted to read:

342 **49-11-1209. Reporting requirement.**

343 (1) On or before October 1, 2027, and every other interim thereafter, the office shall
344 report to the Retirement and Independent Entities Committee:

345 (a) the number of retirees who are reemployed and receiving a retirement allowance;

346 (b) the number of retirees described in Subsection (1)(a) who are public employee
347 retirees and the number who are public safety or firefighter retirees;

348 (c) the average number of years of service credit before retirement for each type of
349 retiree; and

350 (d) the number of retirees who reemployed on or after July 1, 2025, and have
351 subsequently retired.

352 (2) The office shall report the information described in Subsection (1) separately for
353 retirees who reemploy under Section 49-11-1204 and Subsection 49-11-1205(5).

354 Section 7. **Effective date.**

355 This bill takes effect on July 1, 2025.