

1 **BOARD OF PARDONS RETIREMENT AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel R. Liljenquist**

5 House Sponsor: Don L. Ipson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
10 public safety retirement provisions.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ amends the definition of "public safety service" to include a full-time member of the
14 Board of Pardons and Parole for the Public Safety Contributory Retirement System,
15 the Public Safety Noncontributory Retirement System, and the New Public Safety
16 and Firefighter Tier II Contributory Retirement System; and

17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **49-14-102**, as last amended by Laws of Utah 2003, Chapter 240

25 **49-15-102**, as last amended by Laws of Utah 2003, Chapters 131 and 240

26 **49-23-102**, as enacted by Laws of Utah 2010, Chapter 266

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

29 Section 1. Section **49-14-102** is amended to read:

30 **49-14-102. Definitions.**

31 As used in this chapter:

32 (1) (a) "Compensation" means the total amount of payments that are includable in
33 gross income which are received by a public safety service employee as base income for the
34 regularly scheduled work period. The participating employer shall establish the regularly
35 scheduled work period. Base income shall be determined prior to the deduction of member
36 contributions or any amounts the public safety service employee authorizes to be deducted for
37 salary deferral or other benefits authorized by federal law.

38 (b) "Compensation" includes performance-based bonuses and cost-of-living
39 adjustments.

40 (c) "Compensation" does not include:

41 (i) overtime;

42 (ii) sick pay incentives;

43 (iii) retirement pay incentives;

44 (iv) the monetary value of remuneration paid in kind, including a residence, use of
45 equipment or uniform, travel, or similar payments;

46 (v) a lump-sum payment or special payments covering accumulated leave; and

47 (vi) all contributions made by a participating employer under this system or under any
48 other employee benefit system or plan maintained by a participating employer for the benefit of
49 a member or participant.

50 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
51 under Internal Revenue Code Section 401(a)(17).

52 (2) "Final average salary" means the amount computed by averaging the highest three
53 years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

54 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
55 compensation in any one of the years used may not exceed the previous year's compensation by
56 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
57 of the dollar during the previous year, as measured by a United States Bureau of Labor

58 Statistics Consumer Price Index average as determined by the board.

59 (b) In cases where the participating employer provides acceptable documentation to the
60 office, the limitation in Subsection (2)(a) may be exceeded if:

61 (i) the public safety service employee has transferred from another agency; or

62 (ii) the public safety service employee has been promoted to a new position.

63 (3) "Line-of-duty death" means a death resulting from external force, violence, or
64 disease occasioned by an act of duty as a public safety service employee.

65 (4) "Participating employer" means an employer which meets the participation
66 requirements of Section 49-14-201.

67 (5) (a) "Public safety service" means employment normally requiring an average of
68 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

69 (i) law enforcement officer in accordance with Section 53-13-103;

70 (ii) correctional officer in accordance with Section 53-13-104; [~~and~~]

71 (iii) special function officer approved in accordance with Sections 49-14-201 and
72 53-13-105[;]; and

73 (iv) full-time member of the Board of Pardons and Parole created under Section
74 77-27-2.

75 (b) Except as provided under Subsection (5)(a)(iv), "public safety service" also requires
76 that in the course of employment the employee's life or personal safety is at risk.

77 (c) Except for the minimum hour requirement, Subsections (5)(a) and (b) do not apply
78 to any person who was eligible for service credit in this system [~~prior to~~] before January 1,
79 1984.

80 (6) "Public safety service employee" means an employee of a participating employer
81 who performs public safety service under this chapter.

82 (7) "System" means the Public Safety Contributory Retirement System created under
83 this chapter.

84 (8) "Years of service credit" means the number of periods, each to consist of 12 full
85 months as determined by the board, whether consecutive or not, during which a public safety

86 service employee was employed by a participating employer, including time the public safety
87 service employee was absent in the service of the United States government on military duty.

88 Section 2. Section **49-15-102** is amended to read:

89 **49-15-102. Definitions.**

90 As used in this chapter:

91 (1) (a) "Compensation" means the total amount of payments that are includable in
92 gross income received by a public safety service employee as base income for the regularly
93 scheduled work period. The participating employer shall establish the regularly scheduled
94 work period. Base income shall be determined prior to the deduction of any amounts the
95 public safety service employee authorizes to be deducted for salary deferral or other benefits
96 authorized by federal law.

97 (b) "Compensation" includes performance-based bonuses and cost-of-living
98 adjustments.

99 (c) "Compensation" does not include:

100 (i) overtime;

101 (ii) sick pay incentives;

102 (iii) retirement pay incentives;

103 (iv) the monetary value of remuneration paid in kind, as in a residence, use of
104 equipment or uniform, travel, or similar payments;

105 (v) a lump-sum payment or special payment covering accumulated leave; and

106 (vi) all contributions made by a participating employer under this system or under any
107 other employee benefit system or plan maintained by a participating employer for the benefit of
108 a member or participant.

109 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
110 under Internal Revenue Code Section 401(a)(17).

111 (2) "Final average salary" means the amount computed by averaging the highest three
112 years of annual compensation preceding retirement subject to Subsections (2)(a) and (b).

113 (a) Except as provided in Subsection (2)(b), the percentage increase in annual

114 compensation in any one of the years used may not exceed the previous year's compensation by
115 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
116 of the dollar during the previous year, as measured by a United States Bureau of Labor
117 Statistics Consumer Price Index average as determined by the board.

118 (b) In cases where the participating employer provides acceptable documentation to the
119 office, the limitation in Subsection (2)(a) may be exceeded if:

120 (i) the public safety service employee has transferred from another agency; or

121 (ii) the public safety service employee has been promoted to a new position.

122 (3) "Line-of-duty death" means a death resulting from external force, violence, or
123 disease occasioned by an act of duty as a public safety service employee.

124 (4) "Participating employer" means an employer which meets the participation
125 requirements of Section 49-15-201.

126 (5) (a) "Public safety service" means employment normally requiring an average of
127 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

128 (i) law enforcement officer in accordance with Section 53-13-103;

129 (ii) correctional officer in accordance with Section 53-13-104; ~~and~~

130 (iii) special function officer approved in accordance with Sections 49-15-201 and
131 53-13-105[-]; and

132 (iv) full-time member of the Board of Pardons and Parole created under Section
133 77-27-2.

134 (b) Except as provided under Subsection (5)(a)(iv), "public safety service" also requires
135 that in the course of employment the employee's life or personal safety is at risk.

136 (6) "Public safety service employee" means an employee of a participating employer
137 who performs public safety service under this chapter.

138 (7) "System" means the Public Safety Noncontributory Retirement System created
139 under this chapter.

140 (8) "Years of service credit" means the number of periods, each to consist of 12 full
141 months as determined by the board, whether consecutive or not, during which a public safety

142 service employee was employed by a participating employer, including time the public safety
143 service employee was absent in the service of the United States government on military duty.

144 Section 3. Section **49-23-102** is amended to read:

145 **49-23-102. Definitions.**

146 As used in this chapter:

147 (1) (a) "Compensation" means the total amount of payments that are includable in
148 gross income received by a public safety service employee or a firefighter service employee as
149 base income for the regularly scheduled work period. The participating employer shall
150 establish the regularly scheduled work period. Base income shall be determined prior to the
151 deduction of any amounts the public safety service employee or firefighter service employee
152 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

153 (b) "Compensation" includes performance-based bonuses and cost-of-living
154 adjustments.

155 (c) "Compensation" does not include:

156 (i) overtime;

157 (ii) sick pay incentives;

158 (iii) retirement pay incentives;

159 (iv) the monetary value of remuneration paid in kind, as in a residence, use of
160 equipment or uniform, travel, or similar payments;

161 (v) a lump-sum payment or special payment covering accumulated leave; and

162 (vi) all contributions made by a participating employer under this system or under any
163 other employee benefit system or plan maintained by a participating employer for the benefit of
164 a member or participant.

165 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
166 under Internal Revenue Code Section 401(a)(17).

167 (2) "Corresponding Tier I system" means the system or plan that would have covered
168 the member if the member had initially entered employment before July 1, 2011.

169 (3) "Final average salary" means the amount computed by averaging the highest five

170 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
171 (d).

172 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
173 compensation in any one of the years used may not exceed the previous year's compensation by
174 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
175 of the dollar during the previous year, as measured by a United States Bureau of Labor
176 Statistics Consumer Price Index average as determined by the board.

177 (b) In cases where the participating employer provides acceptable documentation to the
178 office, the limitation in Subsection (3)(a) may be exceeded if:

- 179 (i) the member has transferred from another agency; or
- 180 (ii) the member has been promoted to a new position.

181 (c) If the member retires more than six months from the date of termination of
182 employment, the member is considered to have been in service at the member's last rate of pay
183 from the date of the termination of employment to the effective date of retirement for purposes
184 of computing the member's final average salary only.

185 (d) If the member has less than five years of service credit in this system, final average
186 salary means the average annual compensation paid to the member during the full period of
187 service credit.

188 (4) "Firefighter service" means employment normally requiring an average of 2,080
189 hours of regularly scheduled employment per year rendered by a member who is a firefighter
190 service employee trained in firefighter techniques and assigned to a position of hazardous duty
191 with a regularly constituted fire department, but does not include secretarial staff or other
192 similar employees.

193 (5) "Firefighter service employee" means an employee of a participating employer who
194 provides firefighter service under this chapter. An employee of a regularly constituted fire
195 department who does not perform firefighter service is not a firefighter service employee.

196 (6) "Participating employer" means an employer which meets the participation
197 requirements of:

- 198 (a) Sections 49-14-201 and 49-14-202;
- 199 (b) Sections 49-15-201 and 49-15-202;
- 200 (c) Sections 49-16-201 and 49-16-202; or
- 201 (d) Sections 49-23-201 and 49-23-202.
- 202 (7) (a) "Public safety service" means employment normally requiring an average of
- 203 2,080 hours of regularly scheduled employment per year rendered by a member who is a:
- 204 (i) law enforcement officer in accordance with Section 53-13-103;
- 205 (ii) correctional officer in accordance with Section 53-13-104; [~~and~~]
- 206 (iii) special function officer approved in accordance with Sections 49-15-201 and
- 207 53-13-105[~~;~~]; and
- 208 (iv) full-time member of the Board of Pardons and Parole created under Section
- 209 77-27-2.
- 210 (b) Except as provided under Subsection (7)(a)(iv), "public safety service" also requires
- 211 that in the course of employment the employee's life or personal safety is at risk.
- 212 (8) "Public safety service employee" means an employee of a participating employer
- 213 who performs public safety service under this chapter.
- 214 (9) "System" means the New Public Safety and Firefighter Tier II Contributory
- 215 Retirement System created under this chapter.
- 216 (10) (a) "Volunteer firefighter" means any individual that is not regularly employed as
- 217 a firefighter service employee, but who:
- 218 (i) has been trained in firefighter techniques and skills;
- 219 (ii) continues to receive regular firefighter training; and
- 220 (iii) is on the rolls of a legally organized volunteer fire department which provides
- 221 ongoing training and serves a political subdivision of the state.
- 222 (b) An individual that volunteers assistance but does not meet the requirements of
- 223 Subsection (10)(a) is not a volunteer firefighter for purposes of this chapter.
- 224 (11) "Years of service credit" means:
- 225 (a) a period, consisting of 12 full months as determined by the board; or

226 (b) a period determined by the board, whether consecutive or not, during which a
227 regular full-time employee performed services for a participating employer, including any time
228 the regular full-time employee was absent on a paid leave of absence granted by a participating
229 employer or was absent in the service of the United States government on military duty as
230 provided by this chapter.