

1                                   **LICENSED CLINICAL THERAPIST RETIREMENT**

2   **AMENDMENTS**

3   2022 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Karen Mayne**

6   House Sponsor: \_\_\_\_\_

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7  
8                                   **LONG TITLE**

9                                   **General Description:**

10                                   This bill modifies the postretirement reemployment restrictions for individuals who  
11                                   work as licensed clinical therapists after retirement.

12                                   **Highlighted Provisions:**

13                                   This bill:

- 14                                   ▶ defines terms;
- 15                                   ▶ provides the circumstances under which a Utah Retirement Systems retiree may be  
16                                   reemployed as a licensed clinical therapist within the one-year separation  
17                                   requirement without cancellation of the retiree's retirement allowance; and  
18                                   ▶ makes technical and conforming changes.

19                                   **Money Appropriated in this Bill:**

20                                   None

21                                   **Other Special Clauses:**

22                                   This bill provides a special effective date.

23                                   **Utah Code Sections Affected:**

24                                   AMENDS:

25                                   **49-11-1202**, as last amended by Laws of Utah 2020, Chapter 449

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

27                                   **49-11-1206**, as enacted by Laws of Utah 2016, Chapter 310 and last amended by



28 Coordination Clause, Laws of Utah 2016, Chapter 310

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

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

32 **49-11-1202. Definitions.**

33 As used in this part:

34 (1) (a) "Affiliated emergency services worker" means a person who:

35 (i) is employed by a participating employer;

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

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

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

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

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

45 (b) "Affiliated emergency services worker" does not include a person who performs  
46 work or service but does not meet the requirements of Subsection (1)(a).

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

50 (3) "Part-time appointed or elected board member" means an individual who:

51 (a) serves in a position:

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

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

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

58 (c) except for the service in the position, does not perform other work or service for

59 compensation for the participating employer, whether as an employee or under a contract; and

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

62 (4) "Qualifying retiree" means a retiree who:

63 (a) has a bona fide termination from all participating employers and does not have,  
64 before the retiree retires, a prearrangement that anticipates postretirement reemployment with a  
65 participating employer;

66 (b) is reemployed by the state as a licensed clinical therapist; and

67 (c) is licensed as:

68 (i) a clinical social worker under Title 58, Chapter 60, Part 2, Social Worker Licensing  
69 Act;

70 (ii) a marriage and family therapist under Title 58, Chapter 60, Part 3, Marriage and  
71 Family Therapist Licensing Act;

72 (iii) a clinical mental health counselor under Title 58, Chapter 60, Part 4, Clinical  
73 Mental Health Counselor Licensing Act; or

74 (iv) a psychologist under Title 58, Chapter 61, Psychologist Licensing Act.

75 [~~4~~] (5) (a) "Reemployed," "reemploy," or "reemployment" means work or service  
76 performed for a participating employer after retirement, in exchange for compensation.

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

79 (i) listed as the contractor; or

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

81 [~~5~~] (6) "Retiree":

82 (a) means a person who:

83 (i) retired from a participating employer; and

84 (ii) begins reemployment on or after July 1, 2010, with a participating employer; and

85 (b) does not include a person:

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

87 (B) whose participating employer that reemployed the person under Subsection [~~5~~]

88 (6)(b)(i)(A) was dissolved, consolidated, merged, or structurally changed in accordance with

89 Section 49-11-621 on or after July 1, 2010; or

90 (ii) who is working under a phased retirement agreement in accordance with [Title 49,]  
91 Chapter 11, Part 13, Phased Retirement.

92 Section 2. Section **49-11-1205** is amended to read:

93 **49-11-1205. Postretirement reemployment restriction exceptions.**

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

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

98 (ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree  
99 does not receive any employer paid benefits, including:

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

101 (B) medical benefits;

102 (C) dental benefits;

103 (D) other insurance benefits except for workers' compensation as provided under Title  
104 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease  
105 Act, and withholdings required by federal or state law for social security, Medicare, and  
106 unemployment insurance; or

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

108 (iii) (A) the retiree [~~does not earn~~] earns, in any calendar year of reemployment an  
109 amount [~~in excess of~~] that is no more than the lesser of \$15,000 or one-half of the retiree's final  
110 average salary upon which the retiree's retirement allowance is based; or

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

112 (b) The board shall adjust the amounts under Subsection (1)(a)(iii) by the annual change  
113 in the Consumer Price Index during the previous calendar year as measured by a United States  
114 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

115 (2) A retiree shall be considered as having completed the one-year separation from  
116 employment with a participating employer required under Section [49-11-1204](#), if the retiree:

117 (a) before retiring:

118 (i) was employed with a participating employer as a public safety service employee as  
119 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);

120 (ii) during the employment under Subsection (2)(a)(i), suffered a physical injury

121 resulting from external force or violence while performing the duties of the employment, for  
122 which injury the retiree would have been approved for total disability in accordance with the  
123 provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service  
124 are not considered;

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

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

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

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

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

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

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

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

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

142 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax  
143 credits, vouchers, and payments to an affiliated emergency services worker may not exceed  
144 \$500 per month.

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

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

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

152 system; or

153 (ii) 55 years old.

154 (4) (a) The office may not cancel the retirement allowance of a retiree employed as a  
155 part-time appointed or elected board member within one year after the retiree's retirement date  
156 if the part-time appointed or elected board member does not receive any compensation  
157 exceeding the amount described in this Subsection (4).

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

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

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

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

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

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

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

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

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

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

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

183           (5) The office may not cancel the retirement allowance of a qualifying retiree who is  
184 reemployed within one year of the qualifying retiree's retirement date if the qualifying retiree:

185           (a) is not reemployed by a participating employer for a period of at least 60 days from  
186 the qualifying retiree's retirement date; and

187           (b) upon reemployment after the break in service under Subsection (5)(a), does not  
188 receive any employer-paid retirement service credit or retirement-related contributions.

189           ~~[(5)]~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) [or] (4),  
190 or (5) the termination date of the reemployment, as confirmed in writing by the participating  
191 employer, is considered the retiree's retirement date for the purpose of calculating the  
192 separation requirement under Section 49-11-1204.

193           (b) The office shall cancel the retirement allowance of a retiree for the remainder of the  
194 calendar year if the reemployment with a participating employer exceeds the limitation under  
195 Subsection (1)(a)(iii), (3)(b), or (4)(b).

196           Section 3. Section **49-11-1206** is amended to read:

197           **49-11-1206. Notice of postretirement reemployment.**

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

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

200           (b) whether the reemployment is subject to Section 49-11-1204 or Subsection  
201 49-11-1205(1), (2), [or] (3), or (5); and

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

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

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

207           Section 4. **Effective date.**

208           This bill takes effect on January 1, 2023.