

1 **PUBLIC EMPLOYEES' RETIREMENT -**
2 **SPOUSAL ELECTION**
3 2010 GENERAL SESSION
4 STATE OF UTAH

5 **Chief Sponsor: C. Brent Wallis**
6 Senate Sponsor: _____



8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions of the Public Employees' Contributory Retirement Act and
11 the Public Employees' Noncontributory Retirement Act by amending election of
12 retirement provisions.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ requires a person who is selecting a retirement allowance option under the Public
16 Employees' Contributory or Noncontributory Retirement Act to obtain written
17 consent for the selected option from the person's spouse, as applicable with certain
18 exceptions;

19 ▶ requires a person who is selecting a partial lump-sum payment option at the time of
20 application for retirement to obtain written consent for the selected option from the
21 person's spouse, as applicable with certain exceptions; and

22 ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **49-11-1001**, as enacted by Laws of Utah 2006, Chapter 305

30 **49-12-402**, as last amended by Laws of Utah 2007, Chapters 130 and 306

31 **49-13-402**, as last amended by Laws of Utah 2007, Chapter 130



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

34 Section 1. Section **49-11-1001** is amended to read:

35 **49-11-1001. Partial lump-sum payment option.**

36 (1) (a) At the time of application for retirement, a member may elect to receive a
37 lump-sum payment of a portion of the member's retirement allowance equal to 12 or 24 months
38 of the member's allowance to be paid upon retirement.

39 (b) If the retiree is married at the time of the election, the election must be approved, in
40 writing, by the retiree's spouse, unless the retiree's spouse is incapacitated as defined in Section
41 75-1-201.

42 (2) The member's allowance shall be reduced to reflect the actuarial value of the
43 lump-sum received under Subsection (1).

44 (3) A member who has received a lump-sum payment under this section is not eligible
45 for another lump-sum payment under this section.

46 (4) The board may make rules to implement this section.

47 Section 2. Section **49-12-402** is amended to read:

48 **49-12-402. Service retirement plans -- Calculation of retirement allowance --**
49 **Social Security limitations.**

50 (1) (a) Except as provided under Section 49-12-701, retirees of this system may choose
51 from the six retirement options described in this section.

52 (b) If the retiree is married at the time of the election, the election must be approved, in
53 writing, by the retiree's spouse, unless the retiree's spouse is incapacitated as defined in Section
54 75-1-201.

55 [~~(b)~~] (c) Options Two, Three, Four, Five, and Six are modifications of the Option One
56 calculation.

57 (2) The Option One benefit is an annual allowance calculated as follows:

58 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service

59 credit, the allowance is:

60 (i) an amount equal to 1.25% of the retiree's final average monthly salary multiplied by
61 the number of years of service credit accrued prior to July 1, 1975; plus

62 (ii) an amount equal to 2% of the retiree's final average monthly salary multiplied by
63 the number of years of service credit accrued on and after July 1, 1975.

64 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
65 each year of retirement from age 60 to age 65, unless the member has 30 or more years of
66 accrued credit in which event no reduction is made to the allowance.

67 (c) (i) Years of service includes any fractions of years of service to which the retiree
68 may be entitled.

69 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
70 service credit is within 1/10 of one year of the total years of service credit required for
71 retirement, the retiree shall be considered to have the total years of service credit required for
72 retirement.

73 (d) An Option One allowance is only payable to the member during the member's
74 lifetime.

75 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
76 by reducing an Option One benefit based on actuarial computations to provide the following:

77 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
78 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
79 member contributions, the remaining balance of the retiree's member contributions shall be
80 paid in accordance with Sections 49-11-609 and 49-11-610.

81 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
82 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
83 the lifetime of the retiree's lawful spouse at the time of retirement.

84 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
85 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid
86 to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

87 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
88 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
89 time of initial retirement under Option One shall be paid to the retiree for the remainder of the

90 retiree's life, beginning on the last day of the month following the month in which the lawful
91 spouse dies.

92 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
93 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
94 of initial retirement under Option One shall be paid to the retiree for the remainder of the
95 retiree's life, beginning on the last day of the month following the month in which the lawful
96 spouse dies.

97 (4) (a) (i) The final average salary is limited in the computation of that part of an
98 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
99 received employer contributions on a portion of compensation from an educational institution
100 toward the payment of the premium required on a retirement annuity contract with the
101 Teachers' Insurance and Annuity Association of America or with any other public or private
102 system, organization, or company to \$4,800.

103 (ii) This limitation is not applicable to retirees who elected to continue in this system
104 by July 1, 1967.

105 (b) Periods of employment which are exempt from this system under Subsection
106 49-12-203(1)(b), may be purchased by the member for the purpose of retirement only if all
107 benefits from the Teachers' Insurance and Annuity Association of America or any other public
108 or private system or organization based on this period of employment are forfeited.

109 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
110 date, the retirement is canceled and the death shall be considered as that of a member before
111 retirement.

112 (b) Any payments made to the retiree shall be deducted from the amounts due to the
113 beneficiary.

114 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the
115 retiree may elect to convert the benefit to a Option One benefit at the time of divorce, if there is
116 no court order filed in the matter.

117 Section 3. Section **49-13-402** is amended to read:

118 **49-13-402. Service retirement plans -- Calculation of retirement allowance --**
119 **Social Security limitations.**

120 (1) (a) Except as provided under Section 49-13-701, retirees of this system may choose

121 from the six retirement options described in this section.

122 (b) If the retiree is married at the time of the election, the election must be approved, in
123 writing, by the retiree's spouse, unless the retiree's spouse is incapacitated as defined in Section
124 75-1-201.

125 [~~(b)~~] (c) Options Two, Three, Four, Five, and Six are modifications of the Option One
126 calculation.

127 (2) The Option One benefit is an allowance calculated as follows:

128 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
129 credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary
130 multiplied by the number of years of service credit accrued.

131 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
132 each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of
133 retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which
134 event no reduction is made to the allowance.

135 (c) (i) Years of service include any fractions of years of service to which the retiree
136 may be entitled.

137 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
138 service credit is within 1/10 of one year of the total years of service credit required for
139 retirement, the retiree shall be considered to have the total years of service credit required for
140 retirement.

141 (d) An Option One allowance is only payable to the member during the member's
142 lifetime.

143 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
144 by reducing an Option One benefit based on actuarial computations to provide the following:

145 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
146 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
147 member contributions, the remaining balance of the retiree's member contributions shall be
148 paid in accordance with Sections 49-11-609 and 49-11-610.

149 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
150 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
151 the lifetime of the retiree's lawful spouse at the time of retirement.

152 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
153 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid
154 to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

155 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
156 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
157 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
158 retiree's life, beginning on the last day of the month following the month in which the lawful
159 spouse dies.

160 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
161 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
162 of initial retirement under Option One shall be paid to the retiree for the remainder of the
163 retiree's life, beginning on the last day of the month following the month in which the lawful
164 spouse dies.

165 (4) (a) (i) The final average salary is limited in the computation of that part of an
166 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
167 received employer contributions on a portion of compensation from an educational institution
168 toward the payment of the premium required on a retirement annuity contract with the
169 Teachers' Insurance and Annuity Association of America or with any other public or private
170 system, organization, or company to \$4,800.

171 (ii) This limitation is not applicable to retirees who elected to continue in the Public
172 Employees' Contributory Retirement System by July 1, 1967.

173 (b) Periods of employment which are exempt from this system as permitted under
174 Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement
175 only if all benefits from the Teachers' Insurance and Annuity Association of America or any
176 other public or private system or organization based on this period of employment are forfeited.

177 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
178 date, the retirement is canceled and the death shall be considered as that of a member before
179 retirement.

180 (b) Any payments made to the retiree shall be deducted from the amounts due to the
181 beneficiary.

182 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the

183 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
184 is no court order filed in the matter.

Legislative Review Note
as of 1-6-10 1:34 PM

Office of Legislative Research and General Counsel

H.B. 83 - Public Employees' Retirement - Spousal Election

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
