

1 **AMORTIZATION RATE CONTRIBUTION FOR REEMPLOYED**
2 **RETIREEES REVISIONS**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Douglas V. Sagers**

6 Senate Sponsor: Todd Weiler

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
11 postretirement provisions for certain nonbenefitted reemployed retirees.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ clarifies that a participating employer is only required to make the amortization rate
15 contribution for a reemployed retiree who:

- 16 • has completed the one-year separation after retirement; and
- 17 • elects to continue to receive a retirement allowance; and

18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **49-11-505**, as last amended by Laws of Utah 2012, Chapter 298

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

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

29 **49-11-505. Reemployment of a retiree -- Restrictions.**

- 30 (1) (a) For purposes of this section, "retiree":
31 (i) means a person who:
32 (A) retired from a participating employer; and
33 (B) begins reemployment on or after July 1, 2010, with a participating employer;
34 (ii) does not include a person:
35 (A) who was reemployed by a participating employer before July 1, 2010; and
36 (B) whose participating employer that reemployed the person under Subsection
37 (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with
38 Section 49-11-621 after July 1, 2010; and
39 (iii) does not include a person who is reemployed as an active senior judge appointed
40 to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah
41 Constitution.
42 (b) (i) This section does not apply to employment as an elected official if the elected
43 official's position is not full time as certified by the participating employer.
44 (ii) The provisions of this section apply to an elected official whose elected position is
45 full time as certified by the participating employer.
46 (2) A retiree may not for the same period of reemployment:
47 (a) (i) earn additional service credit; or
48 (ii) receive any retirement related contribution from a participating employer; and
49 (b) receive a retirement allowance.
50 (3) (a) Except as provided under Subsection (3)(b), the office shall cancel the
51 retirement allowance of a retiree if the reemployment with a participating employer begins
52 within one year of the retiree's retirement date.
53 (b) The office may not cancel the retirement allowance of a retiree who is reemployed
54 with a participating employer within one year of the retiree's retirement date if:
55 (i) the retiree is not reemployed by a participating employer for a period of at least 60
56 days from the retiree's retirement date;
57 (ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree

58 does not receive any employer provided benefits, including:

59 (A) medical benefits;

60 (B) dental benefits;

61 (C) other insurance benefits except for workers' compensation as provided under Title

62 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state

63 law for Social Security, Medicare, and unemployment insurance; or

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

65 (iii) the retiree does not earn in any calendar year of reemployment an amount in excess

66 of the lesser of:

67 (A) \$15,000; or

68 (B) one-half of the retiree's final average salary upon which the retiree's retirement

69 allowance is based.

70 (c) Beginning January 1, 2013, the board shall adjust the amount under Subsection

71 (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar

72 year as measured by a United States Bureau of Labor Statistics Consumer Price Index average

73 as determined by the board.

74 (d) The office shall cancel the retirement allowance of a retiree for the remainder of the

75 calendar year if the reemployment with a participating employer exceeds the limitations under

76 Subsection (3)(b)(iii).

77 (e) If a retiree is reemployed under the provisions of (3)(b), the termination date of the

78 reemployment, as confirmed in writing by the participating employer, is considered the retiree's

79 retirement date for the purpose of calculating the separation requirement under Subsection

80 (3)(a).

81 (4) If a reemployed retiree [~~is not subject to~~] has completed the one-year separation
82 from employment with a participating employer required under Subsection (3)(a), the retiree

83 may elect to:

84 (a) earn additional service credit in accordance with this title and cancel the retiree's

85 retirement allowance; or

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

88 (5) ~~[If a retiree makes an election under Subsection (4)(b) to continue to receive a~~
89 ~~retirement allowance while reemployed, the] A participating employer who reemploys a retiree~~
90 shall contribute to the office the amortization rate, as defined in Section 49-11-102, to be
91 applied to the system that would have covered the retiree~~[-], if the reemployed retiree:~~

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

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

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

- 97 (i) if the participating employer reemploys a retiree;
- 98 (ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and
- 99 (iii) of any election by the retiree under Subsection (4).

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

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

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

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

- 108 (i) the reemployment of a retiree in violation of Subsection (3); or
- 109 (ii) the election of a reemployed retiree under Subsection (4)(a).

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

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

- 114 (ii) an election by an employee under Subsection (4)(a).
- 115 (c) If the retiree is not otherwise eligible for retirement coverage in the reemployed
- 116 position:
- 117 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and
- 118 (ii) the participating employer shall pay the amortization rate to the office on behalf of
- 119 the retiree.
- 120 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date
- 121 of reemployment:
- 122 (i) is not entitled to a recalculated retirement benefit; and
- 123 (ii) will resume the allowance that was being paid at the time of cancellation.
- 124 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under
- 125 Subsection (7) and who retires two or more years after the date of reinstatement to active
- 126 membership shall:
- 127 (i) resume receiving the allowance that was being paid at the time of cancellation; and
- 128 (ii) receive an additional allowance based on the formula in effect at the date of the
- 129 subsequent retirement for all service credit accrued between the first and subsequent retirement
- 130 dates.
- 131 (9) (a) A retiree subject to this section shall report to the office the status of the
- 132 reemployment under Subsection (3) or (4).
- 133 (b) If the retiree fails to inform the office of an election under Subsection [~~(9)(a)~~] (4),
- 134 the office shall withhold one month's benefit for each month the retiree fails to inform the
- 135 office under Subsection (9)(a).
- 136 (10) The board may make rules to implement this section.