

MODIFICATIONS TO PUBLIC SAFETY RETIREMENT

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies requirements related to retirement from a public safety or firefighter retirement system.

Highlighted Provisions:

This bill:

- ▶ reduces the length of the period of separation for postretirement reemployment of a retiree from a public safety system or a firefighter retirement system;
- ▶ provides the circumstances that constitute a separation from employment for purposes of being eligible for postretirement employment;
- ▶ schedules the termination of the reduced period of separation but requires legislative review before termination;
- ▶ modifies the years of service and increases the multiplier for purposes of calculating the retirement allowance provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



28 AMENDS:

29 49-11-1204, as last amended by Laws of Utah 2020, Chapter 24

30 49-11-1205, as last amended by Laws of Utah 2021, Chapter 193

31 49-11-1302, as enacted by Laws of Utah 2016, Chapter 280 and last amended by

32 Coordination Clause, Laws of Utah 2016, Chapter 310

33 49-23-301, as last amended by Laws of Utah 2020, Chapter 437

34 49-23-303, as last amended by Laws of Utah 2020, Chapter 449

35 49-23-304, as last amended by Laws of Utah 2019, Chapters 31, 484

36 63I-1-249, as last amended by Laws of Utah 2021, Chapter 195

37

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

39 Section 1. Section 49-11-1204 is amended to read:

40 49-11-1204. **General restrictions -- Election following one-year separation --**

41 **Amortization rate.**

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

43 (a) (i) earn additional service credit; or

44 (ii) receive any retirement related contribution from a participating employer; and

45 (b) receive a retirement allowance.

46 (2) (a) Except as provided under Section 49-11-1205, the office shall cancel the
47 retirement allowance of a retiree if the reemployment with a participating employer begins

48 within [~~one year of the retiree's retirement date.~~];

49 (i) 90 days of the retiree's retirement date, if the retiree is retiring from one of the
50 following retirement systems:

51 (A) Chapter 14, Public Safety Contributory Retirement Act;

52 (B) Chapter 15, Public Safety Noncontributory Retirement Act;

53 (C) Chapter 16, Firefighters' Retirement Act; or

54 (D) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement
55 Act; or

56 (ii) one year of the retiree's retirement date, if the retiree retires from a system other
57 than a system described in Subsection (2)(a)(i).

58 (b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the

59 retiree may be eligible to earn additional service credit in the reemployed position and receive
60 an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

61 (c) For purposes of determining whether the separation period described in Subsection
62 (2)(a) has been met, a retiree:

63 (i) shall have a bona fide termination from all participating employers; and

64 (ii) may not have, before the retiree retires, a prearrangement that anticipates
65 postretirement reemployment with a participating employer.

66 (3) If a reemployed retiree, in accordance with Subsection (2)(a), is exempt from
67 having the allowance cancelled, including for completing the [~~one-year~~] period of separation
68 from employment with a participating employer, the retiree may elect to:

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

72 (b) continue to receive the retiree's retirement allowance, forfeit earning additional
73 service credit, and forfeit any retirement-related contribution from the participating employer
74 that reemployed the retiree.

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

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

82 (c) A participating employer that reemploys a retiree in accordance with Subsection
83 [49-11-1205\(1\)](#) is not required to contribute the amortization rate to the office.

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

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

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

89 (b) Subject to Subsection (1), for a retiree who is reinstated to active membership

90 under Subsection (4)(a) and retires two or more years after the date of reinstatement to active
91 membership, the office shall:

- 92 (i) resume the allowance that was being paid at the time of cancellation; and
- 93 (ii) calculate an additional allowance for the retiree based on the formula in effect at
94 the date of the subsequent retirement for all service credit accrued between the first and
95 subsequent retirement dates.

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

97 **49-11-1205. Postretirement reemployment restriction exceptions.**

98 (1) (a) The office may not cancel the retirement allowance of a retiree who is
99 reemployed with a participating employer within [~~one year of the retiree's retirement date~~] the
100 period of separation required under Section 49-11-1204 if:

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

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

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

106 (B) medical benefits;

107 (C) dental benefits;

108 (D) other insurance benefits except for workers' compensation as provided under Title
109 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
110 Act, and withholdings required by federal or state law for social security, Medicare, and
111 unemployment insurance; or

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

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

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

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

120 (2) A retiree shall be considered as having completed the [~~one-year~~] period of

121 separation from employment with a participating employer required under Section 49-11-1204,
122 if the retiree:

123 (a) before retiring:

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

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

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

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

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

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

139 (3) (a) The office may not cancel the retirement allowance of a retiree who is employed
140 as an affiliated emergency services worker within [~~one year of the retiree's retirement date~~] the
141 period of separation required under Section 49-11-1204 if the affiliated emergency services
142 worker does not receive any compensation, except for:

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

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

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

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

149 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
150 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
151 \$500 per month.

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

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

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

160 (ii) 55 years old.

161 (4) (a) The office may not cancel the retirement allowance of a retiree employed as a
162 part-time appointed or elected board member within [~~one year after the retiree's retirement~~
163 ~~date~~] the period of separation required under Section [49-11-1204](#) if the part-time appointed or
164 elected board member does not receive any compensation exceeding the amount described in
165 this Subsection (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

198 Section 3. Section 49-11-1302 is amended to read:

199 **49-11-1302. Phased retirement -- Voluntary participation -- Employer duties.**

200 A participating employer may elect to participate in phased retirement for a retiree who
201 has not completed the [~~one-year~~] employment separation requirement under Section
202 49-11-1204 under the conditions established under this part, if the participating employer:

203 (1) establishes written policies and procedures for phased retirement that shall include
204 provisions for:

205 (a) granting and denying a request for phased retirement;

206 (b) needed approvals within the participating employer;

207 (c) time limits or other restrictions;

208 (d) identifying positions that may be included or excluded; and

209 (e) the elements of a written agreement described under Section 49-11-1304;

210 (2) enters into an agreement described under Section 49-11-1304;

211 (3) submits an application to the office for phased retirement on behalf of the parties of
212 the agreement described under Section 49-11-1304; and

213 (4) complies with this part.

214 Section 4. Section **49-23-301** is amended to read:

215 **49-23-301. Contributions.**

216 (1) Participating employers and members shall pay the certified contribution rates to
217 the office to maintain the defined benefit portion of this system on a financially and actuarially
218 sound basis in accordance with Subsection (2).

219 (2) (a) A participating employer shall pay up to 14% of compensation toward the
220 certified contribution rate to the office for the defined benefit portion of this system.

221 (b) Except as provided in Subsection (2)(c), a member shall pay to the office the
222 amount, if any, of the certified contribution rate for the defined benefit portion of this system
223 that exceeds the percent of compensation paid by the participating employer under Subsection
224 (2)(a).

225 (c) A participating employer may elect to pay all or part of the required member
226 contribution under Subsection (2)(b) on behalf of the member as an employer pick up under 26
227 U.S.C. Sec. 414(h)(2), in addition to the required participating employer contribution under
228 Subsection (2)(a).

229 (d) In addition to the percent specified under Subsection (2)(a), the participating
230 employer shall pay the corresponding Tier I system amortization rate of the employee's
231 compensation to the office to be applied to the employer's corresponding Tier I system liability.

232 (3) (a) A member contribution is credited by the office to the account of the individual
233 member.

234 (b) This amount, together with refund interest, is held in trust for the payment of
235 benefits to the member or the member's beneficiaries.

236 (c) A member contribution is vested and nonforfeitable.

237 (4) (a) Each member is considered to consent to payroll deductions of member
238 contributions.

239 (b) The payment of compensation less these payroll deductions is considered full
240 payment for services rendered by the member.

241 (5) Except as provided under Subsection (6), benefits provided under the defined
242 benefit portion of the Tier II hybrid retirement system created under this part:

243 (a) may not be increased unless the actuarial funded ratios of all systems under this title
244 reach 100%; and

245 (b) may be decreased only in accordance with the provisions of Section 49-23-309.

246 (6) (a) The Legislature authorizes increases to the death benefit provided to a Tier II
247 public safety service employee or firefighter member's surviving spouse effective on May 12,
248 2015, and July 1, 2020, as provided in Section 49-23-503.

249 (b) (i) The Legislature authorizes [~~an increase to the multiplier for~~] the following
250 changes to the calculation of the retirement allowance provided to a member of the New Public
251 Safety and Firefighter Tier II hybrid retirement system:

252 (A) the increase to the multiplier effective July 1, 2020, as provided in [Section
253 49-23-304.] Subsection 49-23-304(2)(a)(ii);

254 (B) the decrease to the number of years of service effective January 1, 2024, as
255 provided in Section 49-23-303; and

256 (C) the increase to the multiplier effective January 1, 2024, as provided in Subsection
257 49-23-304(2)(a)(iii).

258 (ii) The requirements of Section [~~49-22-310~~] 49-22-309 do not apply to the benefit
259 adjustment described in this Subsection (6)(b).

260 Section 5. Section 49-23-303 is amended to read:

261 **49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**
262 **Qualifications.**

263 (1) A member is qualified to receive an allowance from this system when:

264 (a) except as provided under Subsection (3), the member ceases actual work for every
265 participating employer that employs the member before the member's retirement date and
266 provides evidence of the termination;

267 (b) the member has submitted to the office a retirement application form that states the
268 member's proposed retirement date; and

269 (c) one of the following conditions is met as of the member's retirement date:

270 (i) the member has accrued at least four years of service credit and has attained an age
271 of 65 years;

272 (ii) the member has accrued at least 10 years of service credit and has attained an age
273 of 62 years;

274 (iii) the member has accrued at least 20 years of service credit and has attained an age
275 of 60 years; or

276 (iv) the member has accrued at least ~~[25]~~ 22 years of service credit.

277 (2) (a) The member's retirement date:

278 (i) shall be the 1st or the 16th day of the month, as selected by the member;

279 (ii) shall be on or after the date of termination; and

280 (iii) may not be more than 90 days before or after the date the application is received by
281 the office.

282 (b) Except as provided under Subsection (3), a member may not be employed by a
283 participating employer in the system established by this chapter on the retirement date selected
284 under Subsection (2)(a)(i).

285 (3) (a) A member who is employed by a participating employer and who is also an
286 elected official is not required to cease service as an elected official to be qualified to receive
287 an allowance under Subsection (1), unless the member is retiring from service as an elected
288 official.

289 (b) A member who is employed by a participating employer and who is also a part-time
290 appointed board member, as described in Subsection [49-11-1203\(2\)](#), is not required to cease
291 service as a part-time appointed board member to be qualified to receive an allowance under
292 Subsection (1).

293 (c) A member who is employed by a participating employer, who is also an affiliated
294 emergency services worker as defined in Section [49-11-1202](#) for a different agency, is not
295 required to cease service as an affiliated emergency services worker to be qualified to receive
296 an allowance under Subsection (1).

297 (d) A member who is employed by a participating employer and who is also a part-time
298 appointed or elected board member, as defined in Section [49-11-1202](#), for a different agency is
299 not required to cease service as a part-time appointed or elected board member to be qualified
300 to receive an allowance under Subsection (1).

301 (4) An exemption from the requirement to cease service and remain qualified to
302 receive an allowance as provided in Subsection (3) is available only for a member who, at the
303 time of retirement, is at least:

304 (a) 50 years old, if the member is retiring from a public safety system or firefighter
305 system; or

306 (b) 55 years old.

307 Section 6. Section **49-23-304** is amended to read:

308 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**
309 **allowance -- Social security limitations.**

310 (1) (a) Except as provided under Subsection (6), the retirees of this system may choose
311 from the six retirement options described in this section.

312 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
313 calculation.

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

315 (a) If the retiree is at least 65 years of age or has accrued at least 25 years of service
316 credit, the allowance is an amount equal to:

317 (i) 1.5% of the retiree's final average salary multiplied by the number of years of
318 service credit accrued on and after July 1, 2011, but before July 1, 2020; ~~plus~~

319 (ii) 2% of the retiree's final average salary multiplied by the number of years of service
320 credit accrued on and after July 1, 2020~~[-]~~, but before January 1, 2024; and

321 (iii) 2.27% of the retiree's final average salary multiplied by the number of years of
322 service credit accrued on or after January 1, 2024.

323 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
324 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25
325 or more years of accrued credit in which event no reduction is made to the allowance.

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

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

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

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

336 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
337 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's

338 member contributions, the remaining balance of the retiree's member contributions shall be
339 paid in accordance with Sections 49-11-609 and 49-11-610.

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

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

346 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
347 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
348 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
349 retiree's life, beginning on the first day of the month following the month in which the:

350 (i) spouse died, if notification and supporting documentation for the death are received
351 by the office within 90 days of the spouse's death; or

352 (ii) notification and supporting documentation for the death are received by the office,
353 if the notification and supporting documentation are received by the office more than 90 days
354 after the spouse's death.

355 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
356 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
357 of initial retirement under Option One shall be paid to the retiree for the remainder of the
358 retiree's life, beginning on the first day of the month following the month in which the:

359 (i) spouse died, if notification and supporting documentation for the death are received
360 by the office within 90 days of the spouse's death; or

361 (ii) notification and supporting documentation for the death are received by the office,
362 if the notification and supporting documentation are received by the office more than 90 days
363 after the spouse's death.

364 (4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement
365 date, the retirement is canceled and the death shall be considered as that of a member before
366 retirement.

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

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

372 (b) A conversion to an Option One benefit under this Subsection (5) begins on the first
373 day of the month following the month in which the notification and supporting documentation
374 for the divorce are received by the office.

375 (6) A retiree may not choose payment of an allowance under a retirement option
376 described in this section that is not applicable to that retiree, including because the retiree did
377 not make member contributions or does not have a lawful spouse at the time of retirement.

378 Section 7. Section **63I-1-249** is amended to read:

379 **63I-1-249. Repeal dates: Title 49.**

380 (1) Subsection 49-11-1204(2)(a)(i), relating to a 90-day separation for public safety and
381 firefighter retirees, is repealed July 1, 2027.

382 (2) The language in Subsection 49-11-1204(2)(a)(ii), ", if the retiree retires from a
383 system other than a system described in Subsection (2)(a)(i)," is repealed July 1, 2027.

384 [(+)] (3) Title 49, Chapter 11, Part 13, Phased Retirement, is repealed January 1, 2025.

385 [(2)] (4) Section 49-20-418 is repealed January 1, 2025.

386 Section 8. **Effective date.**

387 This bill takes effect on January 1, 2024.