

1 POSTRETIREMENT REEMPLOYMENT RESTRICTIONS AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Wayne A. Harper

Cosponsor:	Sahara Hayes	Jefferson Moss
Cheryl K. Acton	Sandra Hollins	Calvin R. Musselman
Gay Lynn Bennion	Tim Jimenez	Doug Owens
Kera Birkeland	Marsha Judkins	Karen M. Peterson
Brady Brammer	Brian S. King	Thomas W. Peterson
Joel K. Briscoe	Jason B. Kyle	Angela Romero
Jefferson S. Burton	Trevor Lee	Mike Schultz
Kay J. Christofferson	Rosemary T. Lesser	Casey Snider
Tyler Clancy	Karianne Lisonbee	Jeffrey D. Stenquist
Jennifer Dailey-Provost	Anthony E. Loubet	Andrew Stoddard
James A. Dunnigan	Steven J. Lund	R. Neil Walter
Joseph Elison	Matt MacPherson	Douglas R. Welton
Katy Hall	Ashlee Matthews	Mark A. Wheatley
Jon Hawkins	Carol S. Moss	Ryan D. Wilcox

2

3 LONG TITLE

4 General Description:

5 This bill modifies provisions governing postretirement reemployment.

6 Highlighted Provisions:

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ creates an alternative method for a retiree within the Utah Retirement Systems (URS) to

10 be eligible to return to work with a URS participating employer and receive a retirement
 11 allowance;

- 12 ▸ establishes reporting requirements; and
- 13 ▸ makes technical and conforming changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 This bill provides a special effective date.

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **49-11-1202**, as last amended by Laws of Utah 2020, Chapter 449

21 **49-11-1204**, as last amended by Laws of Utah 2020, Chapter 24

22 **49-11-1205**, as last amended by Laws of Utah 2021, Chapter 193

23 **49-11-1206**, as enacted by Laws of Utah 2016, Chapter 310 and last amended by
 24 Coordination Clause, Laws of Utah 2016, Chapter 310

25 **49-11-1207**, as last amended by Laws of Utah 2022, Chapter 171

26 ENACTS:

27 **49-11-1209**, Utah Code Annotated 1953

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

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

31 **49-11-1202 . Definitions.**

32 As used in this part:

- 33 (1) (a) "Affiliated emergency services worker" means ~~[a person]~~ an individual who:
- 34 (i) is employed by a participating employer;
 - 35 (ii) performs emergency services for another participating employer that is a different
 36 agency;
 - 37 (iii) is trained in techniques and skills required for the emergency service;
 - 38 (iv) continues to receive regular training required for the service;
 - 39 (v) is on the rolls as a trained affiliated emergency services worker of the
 40 participating employer; and
 - 41 (vi) provides ongoing service for a participating employer, which service may
 42 include service as a volunteer firefighter, reserve law enforcement officer, search
 43 and rescue worker, emergency medical technician, ambulance worker, park

- 44 ranger, or public utilities worker.
- 45 (b) "Affiliated emergency services worker" does not include [~~a person~~] an individual who
46 performs 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, to be
48 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) "Bona fide termination of employment" means:
- 51 (a) permanent separation from employment or a fee-for-service relationship with any
52 participating employer; and
- 53 (b) separation from employment without a prearrangement that anticipates
54 postretirement reemployment or a postretirement fee-for-service relationship with a
55 participating employer.
- 56 (4) "Normal cost rate" means the normal cost rate, as defined in Section 49-11-102, to be
57 applied to the system that would have covered the retiree if the retiree's reemployed
58 position were deemed to be an eligible, full-time position within that system.
- 59 [~~(3)~~] (5) "Part-time appointed or elected board member" means an individual who:
- 60 (a) serves in a position:
- 61 (i) as a member of a board, commission, council, committee, panel, or other body of
62 a participating employer; and
- 63 (ii) that is designated in the participating employer's governing statute, charter,
64 creation document, or similar document;
- 65 (b) is appointed or elected to the position for a definite and fixed term of office by
66 official and duly recorded action of the participating employer;
- 67 (c) except for the service in the position, does not perform other work or service for
68 compensation for the participating employer, whether as an employee or under a
69 contract; and
- 70 (d) retires from a participating employer that is different than the participating employer
71 with the position in which the person serves.
- 72 (6) "Public employee retiree" means a retiree who retires under:
- 73 (a) Chapter 12, Public Employees' Contributory Retirement Act;
- 74 (b) Chapter 13, Public Employees' Noncontributory Retirement Act; or
- 75 (c) Chapter 22, Part 3, Tier II Hybrid Retirement System.
- 76 (7) "Public safety or firefighter retiree" means a retiree who retires under:
- 77 (a) Chapter 14, Public Safety Contributory Retirement Act;

78 (b) Chapter 15, Public Safety Noncontributory Retirement Act;

79 (c) Chapter 16, Firefighters' Retirement Act; or

80 (d) Chapter 23, Part 3, Tier II Hybrid Retirement System.

81 ~~[(4)]~~ (8) (a) "Reemployed," "reemploy," or "reemployment" means work or service
82 performed for a participating employer after retirement, in exchange for
83 compensation.

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

86 (i) listed as the contractor; or

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

88 ~~[(5)]~~ (9) (a) "Retiree"~~[:]~~

89 ~~[(a)]~~ means ~~[a person]~~ an individual who:

90 (i) retired from a participating employer; and

91 (ii) begins reemployment on or after July 1, 2010, with a participating employer~~[-and]~~ .

92 (b) "Retiree" does not include ~~[a person]~~ an individual:

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

94 (B) whose participating employer that reemployed the ~~[person]~~ individual under
95 Subsection ~~[(5)(b)(i)(A)]~~ (9)(b)(i)(A) was dissolved, consolidated, merged, or
96 structurally changed in accordance with Section 49-11-621 on or after July 1,
97 2010; or

98 (ii) who is working under a phased retirement agreement in accordance with ~~[Title~~
99 ~~49, Chapter 11, Part 13, Phased Retirement]~~ Chapter 11, Part 13, Phased
100 Retirement.

101 Section 2. Section **49-11-1204** is amended to read:

102 **49-11-1204 . General restrictions -- Election following one-year separation --**

103 **Amortization rate.**

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

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

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

107 (b) receive a retirement allowance.

108 (2) (a) Except as provided under Section 49-11-1205, the office shall cancel the
109 retirement allowance of a retiree if the reemployment with a participating employer
110 begins within one year of the retiree's retirement date.

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

- 112 retiree may be eligible to earn additional service credit in the reemployed position
113 and receive an allowance in accordance with Subsections (4)(a) and (5) and other
114 provisions of this title.
- 115 (3) If a reemployed retiree, in accordance with Subsection (2)(a), is exempt from having the
116 allowance cancelled, including for completing the one-year separation from employment
117 with a participating employer, the retiree may elect to:
- 118 (a) cancel the retiree's retirement allowance and instead earn additional service credit in
119 the reemployed position and receive an allowance in accordance with Subsections
120 (4)(a) and (5) and other provisions of this title; or
- 121 (b) continue to receive the retiree's retirement allowance, [~~forfeit earning~~] not earn
122 additional service credit, and [~~forfeit~~] not receive any retirement-related contribution
123 from the participating employer that reemployed the retiree.
- 124 (4) (a) If a retiree's retirement allowance is cancelled and the retiree is eligible for
125 retirement coverage in a reemployed position, the office shall reinstate the retiree to
126 active member status on the first day of the month following the date of the
127 employee's eligible reemployment.
- 128 (b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible for
129 retirement coverage in the reemployed position, the participating employer that
130 reemploys the retiree shall contribute the amortization rate to the office on behalf of
131 the retiree.
- 132 (c) A participating employer that reemploys a retiree in accordance with Subsection
133 49-11-1205(1) is not required to contribute the amortization rate to the office.
- 134 (5) (a) For a retiree reinstated to active member status under Subsection (4)(a) who
135 retires within two years from the date of reemployment, the office:
- 136 (i) may not recalculate a retirement benefit for the retiree; and
137 (ii) shall resume the allowance that was being paid to the retiree at the time of the
138 cancellation.
- 139 (b) Subject to Subsection (1), for a retiree who is reinstated to active membership under
140 Subsection (4)(a) and retires two or more years after the date of reinstatement to
141 active membership, the office shall:
- 142 (i) resume the allowance that was being paid at the time of cancellation; and
143 (ii) calculate an additional allowance for the retiree based on the formula in effect at
144 the date of the subsequent retirement for all service credit accrued between the
145 first and subsequent retirement dates.

146 Section 3. Section **49-11-1205** is amended to read:

147 **49-11-1205 . Postretirement reemployment restriction exceptions.**

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

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

153 (ii) the retiree has a bona fide termination of employment on the retiree's retirement
154 date;

155 ~~[(iii)]~~ (iii) upon reemployment after the break in service under Subsection (1)(a)(i), the
156 retiree does not receive any employer paid benefits, including:

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

158 (B) medical benefits;

159 (C) dental benefits;

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

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

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

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

169 (b) The board shall adjust the amounts under Subsection ~~[(1)(a)(iii)]~~ (1)(a)(iv) by the
170 annual change in the Consumer Price Index during the previous calendar year as
171 measured by a United States Bureau of Labor Statistics Consumer Price Index
172 average as determined by the board.

173 (2) A retiree shall be considered as having completed the one-year separation from
174 employment with a participating employer ~~[required under]~~ described in Section
175 49-11-1204, if the retiree:

176 (a) before retiring:

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

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

- 180 resulting from external force or violence while performing the duties of the
181 employment, for which injury the retiree would have been approved for total
182 disability in accordance with the provisions under Chapter 21, Public Employees'
183 Long-Term Disability Act, if years of service are not considered;
- 184 (iii) had less than 30 years of service credit but had sufficient service credit to retire,
185 with an unreduced allowance making the public safety service employee ineligible
186 for long-term disability payments under Chapter 21, Public Employees'
187 Long-Term Disability Act, or a substantially similar long-term disability program;
- 188 (iv) does not receive any long-term disability benefits from any participating
189 employer; and
- 190 (v) is at least 50 years old; and
- 191 (b) is reemployed by a different participating employer.
- 192 (3) (a) The office may not cancel the retirement allowance of a retiree who is employed
193 as an affiliated emergency services worker within one year of the retiree's retirement
194 date if the affiliated emergency services worker does not receive any compensation,
195 except for:
- 196 (i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money
197 or cash equivalent payment not tied to productivity and paid periodically for
198 services;
- 199 (ii) a length-of-service award;
- 200 (iii) insurance policy premiums paid by the participating employer in the event of
201 death of an affiliated emergency services worker or a line-of-duty accidental death
202 or disability; or
- 203 (iv) reimbursement of expenses incurred in the performance of duties.
- 204 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
205 credits, vouchers, and payments to an affiliated emergency services worker may not
206 exceed \$500 per month.
- 207 (c) The board shall adjust the amount under Subsection (3)(b) by the annual change in
208 the Consumer Price Index during the previous calendar year as measured by a United
209 States Bureau of Labor Statistics Consumer Price Index average as determined by the
210 board.
- 211 (d) A retiree is eligible for an exemption from the requirement to cease service without
212 cancellation of a retirement allowance under this Subsection (3) only if the retiree, at
213 the time of retirement, is at least:

- 214 (i) 50 years old, if the retiree is retiring from a public safety system or a firefighter
215 system; or
- 216 (ii) 55 years old.
- 217 (4) (a) The office may not cancel the retirement allowance of a retiree who is employed
218 as a part-time appointed or elected board member within one year after the retiree's
219 retirement date if the part-time appointed or elected board member does not receive
220 any compensation exceeding the amount described in this Subsection (4).
- 221 (b) A retiree who is a part-time appointed or elected board member for one or more
222 boards, commissions, councils, committees, panels, or other bodies of participating
223 employers:
- 224 (i) may receive an aggregate amount of compensation, remuneration, a stipend, or
225 other benefit for service on a single or multiple boards, commissions, councils,
226 committees, panels, or other bodies of no more than \$5,000 per year; and
- 227 (ii) may not receive an employer paid retirement service credit or retirement-related
228 contribution.
- 229 (c) For purposes of Subsection (4)(b)(i):
- 230 (i) a part-time appointed or elected board member's compensation includes:
- 231 (A) an amount paid for the part-time appointed or elected board member's
232 coverage in a group insurance plan provided by the participating employer; and
- 233 (B) the part-time appointed or elected board member's receipt of any other benefit
234 provided by the participating employer; and
- 235 (ii) the part-time appointed or elected board member's compensation does not include:
- 236 (A) an amount the participating employer pays for employer-matching
237 employment taxes, if the participating employer treats the part-time appointed
238 or elected board member as an employee for federal tax purposes; or
- 239 (B) an amount that the part-time appointed or elected board member receives for
240 per diem and travel expenses for up to 12 approved meetings or activities of
241 the government board per year, if the per diem and travel expenses do not
242 exceed the amounts established by the Division of Finance under Sections
243 63A-3-106 and 63A-3-107 or by rules made by the Division of Finance
244 according to Sections 63A-3-106 and 63A-3-107.
- 245 (d) The board shall adjust the amount under Subsection (4)(b)(i) by the annual change in
246 the Consumer Price Index during the previous calendar year as measured by a United
247 States Bureau of Labor Statistics Consumer Price Index average, as determined by

248 the board.

249 (5) (a) The office may not cancel the retirement allowance of a retiree who is
250 reemployed with a participating employer within one year of the retiree's retirement
251 date if:

252 (i) the retiree has a bona fide termination of employment on the retiree's retirement
253 date;

254 (ii) the retiree is not employed, including by a fee-for-service relationship, with any
255 participating employer for a period of:

256 (A) at least 90 days if the retiree is a public employee retiree; or

257 (B) at least 90 days if the retiree is a public safety or firefighter retiree;

258 (iii) the retiree agrees to a modified retirement allowance as described in Subsections
259 (5)(b), (c), and (d); and

260 (iv) the participating employer that reemploys the retiree agrees to pay to the office
261 the normal cost rate in addition to the amortization rate.

262 (b) During a period of reemployment, the retiree:

263 (i) receives a retirement allowance that is 20% less than the retirement allowance the
264 retiree is entitled to receive in accordance with:

265 (A) for a retiree who retired under Chapter 12, Public Employees' Contributory
266 Retirement Act, Section 49-12-402;

267 (B) for a retiree who retired under Chapter 13, Public Employees' Noncontributory
268 Retirement Act, Section 49-13-402; or

269 (C) for a retiree who retired under Chapter 22, Part 3, Tier II Hybrid Retirement
270 System, Section 49-22-305; or

271 (ii) a retirement allowance that is 15% less than the retirement allowance the retiree is
272 entitled to receive in accordance with:

273 (A) for a retiree who retired under Chapter 14, Public Safety Contributory
274 Retirement Act, Section 49-14-402;

275 (B) for a retiree who retired under Chapter 15, Public Safety Noncontributory
276 Retirement Act, Section 49-15-402;

277 (C) for a retiree who retired under Chapter 16, Firefighters' Retirement Act,
278 Section 49-16-402; or

279 (D) for a retiree who retired under Chapter 23, Part 3, Tier II Hybrid Retirement
280 System, Section 49-23-304.

281 (c) During the period of reemployment, the retiree does not receive the annual

- 282 cost-of-living adjustment described in:
- 283 (i) for a retiree who retired under Chapter 12, Public Employees' Contributory
- 284 Retirement Act, Section 49-12-407;
- 285 (ii) for a retiree who retired under Chapter 13, Public Employees' Noncontributory
- 286 Retirement Act, Section 49-13-407;
- 287 (iii) for a retiree who retired under Chapter 14, Public Safety Contributory
- 288 Retirement Act, Section 49-14-403;
- 289 (iv) for a retiree who retired under Chapter 15, Public Safety Noncontributory
- 290 Retirement Act, Section 49-15-403;
- 291 (v) for a retiree who retired under Chapter 16, Firefighters' Retirement Act, Section
- 292 49-16-403;
- 293 (vi) for a retiree who retired under Chapter 22, Part 3, Tier II Hybrid Retirement
- 294 System, Section 49-22-308; or
- 295 (vii) for a retiree who retired under Chapter 23, Part 3, Tier II Hybrid Retirement
- 296 System, Section 49-23-307.
- 297 (d) (i) The office shall begin paying the retiree's full retirement allowance on the first
- 298 day of the month following the month in which the office receives written
- 299 notification that the reemployed retiree has a subsequent retirement date based on
- 300 a termination of the reemployment.
- 301 (ii) (A) For purposes of Subsection (5)(d)(i), the full retirement allowance
- 302 includes the elimination of the allowance reduction described in Subsection
- 303 (5)(b)(i) or (5)(b)(ii) and the annual cost-of-living adjustment that was
- 304 prohibited under Subsection (5)(c) during the period of reemployment.
- 305 (B) A retiree may not receive the difference between the full retirement allowance
- 306 and the reduced retirement allowance described in Subsection (5)(b)(i) or
- 307 (5)(b)(ii) or the annual cost-of-living adjustment that the retiree would have
- 308 received if the retiree had not been reemployed.
- 309 ~~[(5)]~~ (6) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the
- 310 termination date of the reemployment, as confirmed in writing by the participating
- 311 employer, is considered the retiree's retirement date for the purpose of calculating the
- 312 separation requirement ~~[under]~~ described in Section 49-11-1204.
- 313 (b) The office shall cancel the retirement allowance of a retiree for the remainder of the
- 314 calendar year if the reemployment with a participating employer exceeds the
- 315 limitation under Subsection ~~[(1)(a)(iii)]~~ (1)(a)(iv), (3)(b), or (4)(b).

316 (7) A retiree who is reemployed under the provisions of Subsection (5) may not
317 subsequently be reemployed under Section 49-11-1204 unless the office cancels the
318 retirement allowance during the subsequent reemployment.

319 Section 4. Section **49-11-1206** is amended to read:

320 **49-11-1206 . Notice of postretirement reemployment.**

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

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

323 (b) whether the reemployment is subject to Section 49-11-1204 or Subsection
324 49-11-1205(1), (2), ~~(3)~~, or (5); and

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

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

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

330 Section 5. Section **49-11-1207** is amended to read:

331 **49-11-1207 . Postretirement reemployment -- Violations -- Penalties.**

332 (1) (a) If the office receives notice or learns of the reemployment of a retiree in violation
333 of Section 49-11-1204 or 49-11-1205, the office shall:

334 (i) immediately cancel the retiree's retirement allowance;

335 (ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar
336 year if the reemployment with a participating employer exceeded the limitation
337 under Subsection ~~[49-11-1205(1)(a)(iii)(A)]~~ 49-11-1205(1)(a)(iv), (3)(b), or (4)(b);
338 and

339 (iii) recover any overpayment resulting from the violation in accordance with the
340 provisions of Section 49-11-607 before the allowance may be reinstated.

341 (b) Reinstatement of an allowance following cancellation for a violation under this
342 section is subject to the procedures and provisions under Section 49-11-1204.

343 (2) If a retiree or participating employer failed to report reemployment in violation of
344 Section 49-11-1206, the retiree, participating employer, or both, who are found to be
345 responsible for the failure to report, are liable to the office for the amount of any
346 overpayment resulting from the violation.

347 (3) A participating employer is liable to the office for a payment or failure to make a
348 payment in violation of this part.

349 (4) If a participating employer fails to notify the office in accordance with Section

350 49-11-1206, the participating employer is immediately subject to a compliance audit by
351 the office.

352 Section 6. Section **49-11-1209** is enacted to read:

353 **49-11-1209 . Reporting requirement.**

354 (1) On or before October 1, 2027, and every other interim thereafter, the office shall report
355 to the Retirement and Independent Entities Committee:

356 (a) the number of retirees who are reemployed and receiving a retirement allowance;

357 (b) the number of retirees described in Subsection (1)(a) who are public employee
358 retirees and the number who are public safety or firefighter retirees;

359 (c) the average number of years of service credit before retirement for each type of
360 retiree; and

361 (d) the number of retirees who reemployed on or after July 1, 2025, and have
362 subsequently retired.

363 (2) The office shall report the information described in Subsection (1) separately for retirees
364 who reemploy under Section 49-11-1204 and Subsection 49-11-1205(5).

365 Section 7. **Effective date.**

366 This bill takes effect on July 1, 2025.