

1                                   **CLASSIFIED SCHOOL EMPLOYEE AMENDMENTS**

2   2013 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Bradley G. Last**

5                                   Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies the Utah State Retirement and Benefit Insurance Act by amending  
10 provisions relating to classified school employees.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ provides that, for purposes of determining retirement benefits provided under the  
14 Utah State Retirement and Benefit Insurance Act, a regular full-time employee does  
15 not include a classified school employee:

16                   • who is hired on or after July 1, 2013, and does not receive benefits normally  
17 provided by the participating employer; or

18                   • who is hired before July 1, 2013, who did not qualify as a regular full-time  
19 employee before July 1, 2013, who does not receive benefits normally provided  
20 by the participating employer, and whose employment hours are increased on or  
21 after July 1, 2013; and

22           ▶ makes technical changes.

23 **Money Appropriated in this Bill:**

24           None

25 **Other Special Clauses:**

26           This bill takes effect on July 1, 2013.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **49-12-102**, as last amended by Laws of Utah 2012, Chapter 298

30 **49-13-102**, as last amended by Laws of Utah 2012, Chapter 298

31 **49-22-102**, as last amended by Laws of Utah 2011, Chapter 439



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

34 Section 1. Section **49-12-102** is amended to read:

35 **49-12-102. Definitions.**

36 As used in this chapter:

37 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total  
38 amount of payments made by a participating employer to a member of this system for services  
39 rendered to the participating employer, including:

40 (i) bonuses;

41 (ii) cost-of-living adjustments;

42 (iii) other payments currently includable in gross income and that are subject to Social  
43 Security deductions, including any payments in excess of the maximum amount subject to  
44 deduction under Social Security law;

45 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral  
46 or other benefits authorized by federal law; and

47 (v) member contributions.

48 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed  
49 under Internal Revenue Code, Section 401(a)(17).

50 (c) "Compensation" does not include:

51 (i) the monetary value of remuneration paid in kind, including a residence or use of  
52 equipment;

53 (ii) the cost of any employment benefits paid for by the participating employer;

54 (iii) compensation paid to a temporary employee, an exempt employee, or an employee  
55 otherwise ineligible for service credit;

56 (iv) any payments upon termination, including accumulated vacation, sick leave  
57 payments, severance payments, compensatory time payments, or any other special payments; or

58 (v) any allowances or payments to a member for costs or expenses paid by the

59 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,  
60 housing costs, insurance costs, equipment costs, and dependent care costs.

61 (d) The executive director may determine if a payment not listed under this Subsection  
62 (1) falls within the definition of compensation.

63 (2) "Final average salary" means the amount computed by averaging the highest five  
64 years of annual compensation preceding retirement subject to Subsections (2)(a), (b), (c), and  
65 (d).

66 (a) Except as provided in Subsection (2)(b), the percentage increase in annual  
67 compensation in any one of the years used may not exceed the previous year's compensation by  
68 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
69 of the dollar during the previous year, as measured by a United States Bureau of Labor  
70 Statistics Consumer Price Index average as determined by the board.

71 (b) In cases where the participating employer provides acceptable documentation to the  
72 office, the limitation in Subsection (2)(a) may be exceeded if:

- 73 (i) the member has transferred from another agency; or
- 74 (ii) the member has been promoted to a new position.

75 (c) If the member retires more than six months from the date of termination of  
76 employment, the member is considered to have been in service at the member's last rate of pay  
77 from the date of the termination of employment to the effective date of retirement for purposes  
78 of computing the member's final average salary only.

79 (d) If the member has less than five years of service credit in this system, final average  
80 salary means the average annual compensation paid to the member during the full period of  
81 service credit.

82 (3) "Participating employer" means an employer which meets the participation  
83 requirements of Sections 49-12-201 and 49-12-202.

84 (4) (a) "Regular full-time employee" means an employee whose term of employment  
85 for a participating employer contemplates continued employment during a fiscal or calendar  
86 year and whose employment normally requires an average of 20 hours or more per week,  
87 except as modified by the board, and who receives benefits normally provided by the  
88 participating employer.

89 (b) "Regular full-time employee" includes:

- 90 (i) a teacher whose term of employment for a participating employer contemplates
- 91 continued employment during a school year and who teaches half time or more;
- 92 (ii) a classified school employee;
- 93 (A) who is hired before July 1, 2013; and
- 94 (B) whose employment normally requires an average of 20 hours per week or more for
- 95 a participating employer, regardless of benefits provided;
- 96 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as
- 97 of January 1, 1990, as provided in Section 49-12-407;
- 98 (iv) a faculty member or employee of an institution of higher education who is
- 99 considered full time by that institution of higher education; and
- 100 (v) an individual who otherwise meets the definition of this Subsection (4) who
- 101 performs services for a participating employer through a professional employer organization or
- 102 similar arrangement.
- 103 (c) "Regular full-time employee" does not include a classified school employee:
- 104 (i) (A) who is hired on or after July 1, 2013; and
- 105 (B) who does not receive benefits normally provided by the participating employer
- 106 even if the employment normally requires an average of 20 hours per week or more for a
- 107 participating employer; or
- 108 (ii) (A) who is hired before July 1, 2013;
- 109 (B) who did not qualify as a regular full-time employee before July 1, 2013;
- 110 (C) who does not receive benefits normally provided by the participating employer;
- 111 and
- 112 (D) whose employment hours are increased on or after July 1, 2013, to require an
- 113 average of 20 hours per week or more for a participating employer.
- 114 (5) "System" means the Public Employees' Contributory Retirement System created
- 115 under this chapter.
- 116 (6) "Years of service credit" means:
- 117 (a) a period[;] consisting of 12 full months as determined by the board;
- 118 (b) a period determined by the board, whether consecutive or not, during which a
- 119 regular full-time employee performed services for a participating employer, including any time
- 120 the regular full-time employee was absent on a paid leave of absence granted by a participating

121 employer or was absent in the service of the United States government on military duty as  
122 provided by this chapter; or

123 (c) the regular school year consisting of not less than eight months of full-time service  
124 for a regular full-time employee of an educational institution.

125 Section 2. Section **49-13-102** is amended to read:

126 **49-13-102. Definitions.**

127 As used in this chapter:

128 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total  
129 amount of payments made by a participating employer to a member of this system for services  
130 rendered to the participating employer, including:

131 (i) bonuses;

132 (ii) cost-of-living adjustments;

133 (iii) other payments currently includable in gross income and that are subject to Social  
134 Security deductions, including any payments in excess of the maximum amount subject to  
135 deduction under Social Security law; and

136 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral  
137 or other benefits authorized by federal law.

138 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed  
139 under Internal Revenue Code, Section 401(a)(17).

140 (c) "Compensation" does not include:

141 (i) the monetary value of remuneration paid in kind, including a residence or use of  
142 equipment;

143 (ii) the cost of any employment benefits paid for by the participating employer;

144 (iii) compensation paid to a temporary employee, an exempt employee, or an employee  
145 otherwise ineligible for service credit;

146 (iv) any payments upon termination, including accumulated vacation, sick leave  
147 payments, severance payments, compensatory time payments, or any other special payments; or

148 (v) any allowances or payments to a member for costs or expenses paid by the  
149 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,  
150 housing costs, insurance costs, equipment costs, and dependent care costs.

151 (d) The executive director may determine if a payment not listed under this Subsection

152 (1) falls within the definition of compensation.

153 (2) "Final average salary" means the amount computed by averaging the highest three  
154 years of annual compensation preceding retirement subject to the following:

155 (a) Except as provided in Subsection (2)(b), the percentage increase in annual  
156 compensation in any one of the years used may not exceed the previous year's compensation by  
157 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
158 of the dollar during the previous year, as measured by a United States Bureau of Labor  
159 Statistics Consumer Price Index average as determined by the board.

160 (b) In cases where the participating employer provides acceptable documentation to the  
161 office, the limitation in Subsection (2)(a) may be exceeded if:

- 162 (i) the member has transferred from another agency; or
- 163 (ii) the member has been promoted to a new position.

164 (c) If the member retires more than six months from the date of termination of  
165 employment and for purposes of computing the member's final average salary only, the  
166 member is considered to have been in service at ~~[his]~~ the member's last rate of pay from the  
167 date of the termination of employment to the effective date of retirement.

168 (3) "Participating employer" means an employer which meets the participation  
169 requirements of Sections 49-13-201 and 49-13-202.

170 (4) (a) "Regular full-time employee" means an employee whose term of employment  
171 for a participating employer contemplates continued employment during a fiscal or calendar  
172 year and whose employment normally requires an average of 20 hours or more per week,  
173 except as modified by the board, and who receives benefits normally provided by the  
174 participating employer.

175 (b) "Regular full-time employee" includes:

176 (i) a teacher whose term of employment for a participating employer contemplates  
177 continued employment during a school year and who teaches half time or more;

178 (ii) a classified school employee;

179 (A) who is hired before July 1, 2013; and

180 (B) whose employment normally requires an average of 20 hours per week or more for  
181 a participating employer, regardless of benefits provided;

182 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as

183 of January 1, 1990, as provided in Section 49-13-407;

184 (iv) a faculty member or employee of an institution of higher education who is  
185 considered full time by that institution of higher education; and

186 (v) an individual who otherwise meets the definition of this Subsection (4) who  
187 performs services for a participating employer through a professional employer organization or  
188 similar arrangement.

189 (c) "Regular full-time employee" does not include a classified school employee:

190 (i) (A) who is hired on or after July 1, 2013; and

191 (B) who does not receive benefits normally provided by the participating employer  
192 even if the employment normally requires an average of 20 hours per week or more for a  
193 participating employer; or

194 (ii) (A) who is hired before July 1, 2013;

195 (B) who did not qualify as a regular full-time employee before July 1, 2013;

196 (C) who does not receive benefits normally provided by the participating employer;

197 and

198 (D) whose employment hours are increased on or after July 1, 2013, to require an  
199 average of 20 hours per week or more for a participating employer.

200 (5) "System" means the Public Employees' Noncontributory Retirement System.

201 (6) "Years of service credit" means:

202 (a) a period[;] consisting of 12 full months as determined by the board;

203 (b) a period determined by the board, whether consecutive or not, during which a  
204 regular full-time employee performed services for a participating employer, including any time  
205 the regular full-time employee was absent on a paid leave of absence granted by a participating  
206 employer or was absent in the service of the United States government on military duty as  
207 provided by this chapter; or

208 (c) the regular school year consisting of not less than eight months of full-time service  
209 for a regular full-time employee of an educational institution.

210 Section 3. Section **49-22-102** is amended to read:

211 **49-22-102. Definitions.**

212 As used in this chapter:

213 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total

214 amount of payments made by a participating employer to a member of this system for services  
215 rendered to the participating employer, including:

- 216 (i) bonuses;
- 217 (ii) cost-of-living adjustments;
- 218 (iii) other payments currently includable in gross income and that are subject to Social  
219 Security deductions, including any payments in excess of the maximum amount subject to  
220 deduction under Social Security law;
- 221 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral  
222 or other benefits authorized by federal law; and
- 223 (v) member contributions.

224 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed  
225 under Internal Revenue Code, Section 401(a)(17).

226 (c) "Compensation" does not include:

- 227 (i) the monetary value of remuneration paid in kind, including a residence or use of  
228 equipment;
- 229 (ii) the cost of any employment benefits paid for by the participating employer;
- 230 (iii) compensation paid to a temporary employee or an employee otherwise ineligible  
231 for service credit;
- 232 (iv) any payments upon termination, including accumulated vacation, sick leave  
233 payments, severance payments, compensatory time payments, or any other special payments; or
- 234 (v) any allowances or payments to a member for costs or expenses paid by the  
235 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,  
236 housing costs, insurance costs, equipment costs, and dependent care costs.

237 (d) The executive director may determine if a payment not listed under this Subsection  
238 (1) falls within the definition of compensation.

239 (2) "Corresponding Tier I system" means the system or plan that would have covered  
240 the member if the member had initially entered employment before July 1, 2011.

241 (3) "Final average salary" means the amount computed by averaging the highest five  
242 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and  
243 (d).

244 (a) Except as provided in Subsection (3)(b), the percentage increase in annual



245 compensation in any one of the years used may not exceed the previous year's compensation by  
246 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
247 of the dollar during the previous year, as measured by a United States Bureau of Labor  
248 Statistics Consumer Price Index average as determined by the board.

249 (b) In cases where the participating employer provides acceptable documentation to the  
250 office, the limitation in Subsection (3)(a) may be exceeded if:

251 (i) the member has transferred from another agency; or

252 (ii) the member has been promoted to a new position.

253 (c) If the member retires more than six months from the date of termination of  
254 employment, the member is considered to have been in service at the member's last rate of pay  
255 from the date of the termination of employment to the effective date of retirement for purposes  
256 of computing the member's final average salary only.

257 (d) If the member has less than five years of service credit in this system, final average  
258 salary means the average annual compensation paid to the member during the full period of  
259 service credit.

260 (4) "Participating employer" means an employer which meets the participation  
261 requirements of:

262 (a) Sections 49-12-201 and 49-12-202;

263 (b) Sections 49-13-201 and 49-13-202;

264 (c) Section 49-19-201; or

265 (d) Section 49-22-201 or 49-22-202.

266 (5) (a) "Regular full-time employee" means an employee whose term of employment  
267 for a participating employer contemplates continued employment during a fiscal or calendar  
268 year and whose employment normally requires an average of 20 hours or more per week,  
269 except as modified by the board, and who receives benefits normally provided by the  
270 participating employer.

271 (b) "Regular full-time employee" includes:

272 (i) a teacher whose term of employment for a participating employer contemplates  
273 continued employment during a school year and who teaches half time or more;

274 (ii) a classified school employee;

275 (A) who is hired before July 1, 2013; and

276 (B) whose employment normally requires an average of 20 hours per week or more for  
277 a participating employer, regardless of benefits provided;

278 (iii) an appointive officer whose appointed position is full time as certified by the  
279 participating employer;

280 (iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the  
281 attorney general, and a state legislator;

282 (v) an elected official not included under Subsection (5)(b)(iv) whose elected position  
283 is full time as certified by the participating employer;

284 (vi) a faculty member or employee of an institution of higher education who is  
285 considered full time by that institution of higher education; and

286 (vii) an individual who otherwise meets the definition of this Subsection (5) who  
287 performs services for a participating employer through a professional employer organization or  
288 similar arrangement.

289 (c) "Regular full-time employee" does not include:

290 (i) a firefighter service employee as defined in Section 49-23-102; ~~or~~

291 (ii) a public safety service employee as defined in Section 49-23-102~~[-];~~

292 (iii) a classified school employee:

293 (A) who is hired on or after July 1, 2013; and

294 (B) who does not receive benefits normally provided by the participating employer  
295 even if the employment normally requires an average of 20 hours per week or more for a  
296 participating employer; or

297 (iv) a classified school employee:

298 (A) who is hired before July 1, 2013;

299 (B) who did not qualify as a regular full-time employee before July 1, 2013;

300 (C) who does not receive benefits normally provided by the participating employer;

301 and

302 (D) whose employment hours are increased on or after July 1, 2013, to require an  
303 average of 20 hours per week or more for a participating employer.

304 (6) "System" means the New Public Employees' Tier II Contributory Retirement  
305 System created under this chapter.

306 (7) "Years of service credit" means:

- 307 (a) a period[;] consisting of 12 full months as determined by the board;
- 308 (b) a period determined by the board, whether consecutive or not, during which a
- 309 regular full-time employee performed services for a participating employer, including any time
- 310 the regular full-time employee was absent on a paid leave of absence granted by a participating
- 311 employer or was absent in the service of the United States government on military duty as
- 312 provided by this chapter; or
- 313 (c) the regular school year consisting of not less than eight months of full-time service
- 314 for a regular full-time employee of an educational institution.

315 Section 4. **Effective date.**

316 This bill takes effect on July 1, 2013.

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**Legislative Review Note**  
**as of 1-3-13 10:33 AM**

**Office of Legislative Research and General Counsel**