

STATE EMPLOYEE RETIREMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to postretirement reemployment.

Highlighted Provisions:

This bill:

- ▶ allows a retiree who returns to employment after retirement under the limited earnings exception to treat the original retirement date as the termination date for purposes of calculating the one-year separation requirement.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

Section 1. Section **49-11-1205** is amended to read:

49-11-1205. Postretirement reemployment restriction exceptions.

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



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

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

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

33 (B) medical benefits;

34 (C) dental benefits;

35 (D) other insurance benefits except for workers' compensation as provided under Title
36 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
37 Act, and withholdings required by federal or state law for social security, Medicare, and
38 unemployment insurance; or

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

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

43 (B) the retiree is reemployed as a judge as defined under Section [78A-11-102](#).

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

47 (2) A retiree shall be considered as having completed the one-year separation from
48 employment with a participating employer required under Section [49-11-1204](#), if the retiree:

49 (a) before retiring:

50 (i) was employed with a participating employer as a public safety service employee as
51 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);

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

57 (iii) had less than 30 years of service credit but had sufficient service credit to retire,
58 with an unreduced allowance making the public safety service employee ineligible for

59 long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act,
60 or a substantially similar long-term disability program;

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

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

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

65 (3) (a) The office may not cancel the retirement allowance of a retiree who is employed
66 as an affiliated emergency services worker within one year of the retiree's retirement date if the
67 affiliated emergency services worker does not receive any compensation, except for:

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

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

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

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

74 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
75 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
76 \$500 per month.

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

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

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

85 (ii) 55 years old.

86 (4) (a) The office may not cancel the retirement allowance of a retiree employed as a
87 part-time appointed or elected board member within one year after the retiree's retirement date
88 if the part-time appointed or elected board member does not receive any compensation
89 exceeding the amount described in this Subsection (4).

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

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

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

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

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

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

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

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

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

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

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

115 (5) (a) If a retiree is reemployed under the provisions of Subsection [~~(4)~~ or] (4), the
116 termination date of the reemployment, as confirmed in writing by the participating employer, is
117 considered the retiree's retirement date for the purpose of calculating the separation
118 requirement under Section [49-11-1204](#).

119 (b) The office shall cancel the retirement allowance of a retiree for the remainder of the
120 calendar year if the reemployment with a participating employer exceeds the limitation under

121 Subsection (1)(a)(iii), (3)(b), or (4)(b).

122 Section 2. **Effective date.**

123 This bill takes effect on January 1, 2023.