

1 **REEMPLOYMENT RESTRICTIONS AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd Weiler**

5 House Sponsor: Merrill F. Nelson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
10 postretirement employment restrictions.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ exempts an active senior justice court judge appointed to hear cases by the Utah
14 Supreme Court and a part-time appointed board member from postretirement
15 employment restrictions;
- 16 ▶ exempts a reemployed retiree who serves as a judge from reemployment earnings
17 limitations; 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 2013, Chapter 48

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 or an active
40 senior justice court judge as described by Utah State Court Rules, appointed to hear cases by
41 the Utah Supreme Court in accordance with Article VIII, Section 4, Utah 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 (c) (i) This section does not apply to employment as a part-time appointed board
47 member who does not receive any remuneration, stipend, or other benefit for the part-time
48 appointed board member's service.
49 (ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does
50 not include receipt of per diem and travel expenses up to the amounts established by the
51 Division of Finance in:
52 (A) Section [63A-3-106](#);
53 (B) Section [63A-3-107](#); and
54 (C) rules made by the Division of Finance according to Sections [63A-3-106](#) and
55 [63A-3-107](#).
56 (2) A retiree may not for the same period of reemployment:
57 (a) (i) earn additional service credit; or

58 (ii) receive any retirement related contribution from a participating employer; and
59 (b) receive a retirement allowance.

60 (3) (a) Except as provided under Subsection (3)(b), the office shall cancel the
61 retirement allowance of a retiree if the reemployment with a participating employer begins
62 within one year of the retiree's retirement date.

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

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

67 (ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree
68 does not receive any employer provided benefits, including:

69 (A) medical benefits;

70 (B) dental benefits;

71 (C) other insurance benefits except for workers' compensation as provided under Title
72 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law
73 for Social Security, Medicare, and unemployment insurance; or

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

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

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

79 (c) Beginning January 1, 2013, the board shall adjust the amount under Subsection
80 (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar
81 year as measured by a United States Bureau of Labor Statistics Consumer Price Index average
82 as determined by the board.

83 (d) The office shall cancel the retirement allowance of a retiree for the remainder of the
84 calendar year if the reemployment with a participating employer exceeds the ~~[limitations]~~
85 limitation under Subsection (3)(b)(iii)(A).

86 (e) If a retiree is reemployed under the provisions of (3)(b), the termination date of the
87 reemployment, as confirmed in writing by the participating employer, is considered the retiree's
88 retirement date for the purpose of calculating the separation requirement under Subsection
89 (3)(a).

90 (4) If a reemployed retiree has completed the one-year separation from employment
91 with a participating employer required under Subsection (3)(a), the retiree may elect to:

92 (a) earn additional service credit in accordance with this title and cancel the retiree's
93 retirement allowance; or

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

96 (5) A participating employer who reemploys a retiree shall contribute to the office the
97 amortization rate, as defined in Section 49-11-102, to be applied to the system that would have
98 covered the retiree, if the reemployed retiree:

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

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

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

104 (i) if the participating employer reemploys a retiree;

105 (ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

106 (iii) of any election by the retiree under Subsection (4).

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

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

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

113 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in

114 accordance with Subsection (7)(b) if the office receives notice or learns of:

115 (i) the reemployment of a retiree in violation of Subsection (3); or

116 (ii) the election of a reemployed retiree under Subsection (4)(a).

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

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

121 (ii) an election by an employee under Subsection (4)(a).

122 (c) If the retiree is not otherwise eligible for retirement coverage in the reemployed
123 position:

124 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

125 (ii) the participating employer shall pay the amortization rate to the office on behalf of
126 the retiree.

127 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date
128 of reemployment:

129 (i) is not entitled to a recalculated retirement benefit; and

130 (ii) will resume the allowance that was being paid at the time of cancellation.

131 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under
132 Subsection (7) and who retires two or more years after the date of reinstatement to active
133 membership shall:

134 (i) resume receiving the allowance that was being paid at the time of cancellation; and

135 (ii) receive an additional allowance based on the formula in effect at the date of the
136 subsequent retirement for all service credit accrued between the first and subsequent retirement
137 dates.

138 (9) (a) A retiree subject to this section shall report to the office the status of the
139 reemployment under Subsection (3) or (4).

140 (b) If the retiree fails to inform the office of an election under Subsection (4), the office
141 shall withhold one month's benefit for each month the retiree fails to inform the office under

S.B. 15

Enrolled Copy

142 Subsection (9)(a).

143 (10) The board may make rules to implement this section.