

FIREFIGHTER RETIREMENT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement eligibility provisions for firefighters.

Highlighted Provisions:

This bill:

- ▶ provides that a person employed as a firefighter service employee on or after July 1, 2021, by the state as a participating employer is eligible to earn service credit in the New Public Safety and Firefighter Tier II Contributory Retirement System;
- ▶ requires the Retirement and Independent Entities Interim Committee to study and make recommendations on system eligibility for existing firefighter service employees who are employed by the state as a participating employer; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-23-102, as last amended by Laws of Utah 2016, Chapter 227

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

31 Section 1. Section **49-23-102** is amended to read:

32 **49-23-102. Definitions.**

33 As used in this chapter:

34 (1) (a) "Compensation" means the total amount of payments that are includable in
35 gross income received by a public safety service employee or a firefighter service employee as
36 base income for the regularly scheduled work period. The participating employer shall
37 establish the regularly scheduled work period. Base income shall be determined prior to the
38 deduction of any amounts the public safety service employee or firefighter service employee
39 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

40 (b) "Compensation" includes performance-based bonuses and cost-of-living
41 adjustments.

42 (c) "Compensation" does not include:

43 (i) overtime;

44 (ii) sick pay incentives;

45 (iii) retirement pay incentives;

46 (iv) the monetary value of remuneration paid in kind, as in a residence, use of
47 equipment or uniform, travel, or similar payments;

48 (v) a lump-sum payment or special payment covering accumulated leave; and

49 (vi) all contributions made by a participating employer under this system or under any
50 other employee benefit system or plan maintained by a participating employer for the benefit of
51 a member or participant.

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

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

56 (3) "Dispatcher" means the same as that term is defined in Section [53-6-102](#).

57 (4) "Final average salary" means the amount calculated by averaging the highest five

58 years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), (d),
59 and (e).

60 (a) Except as provided in Subsection (4)(b), the percentage increase in annual
61 compensation in any one of the years used may not exceed the previous year's compensation by
62 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
63 of the dollar during the previous year, as measured by a United States Bureau of Labor
64 Statistics Consumer Price Index average as determined by the board.

65 (b) In cases where the participating employer provides acceptable documentation to the
66 office, the limitation in Subsection (4)(a) may be exceeded if:

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

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

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

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

76 (e) The annual compensation used to calculate final average salary shall be based on:

77 (i) a calendar year for a member employed by a participating employer that is not an
78 educational institution; or

79 (ii) a contract year for a member employed by an educational institution.

80 (5) (a) "Firefighter service" means employment normally requiring an average of 2,080
81 hours of regularly scheduled employment per year rendered by a member who is:

82 (i) a firefighter service employee trained in firefighter techniques and assigned to a
83 position of hazardous duty with a regularly constituted fire department; ~~or~~

84 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire
85 marshal~~]; or~~

86 (iii) a firefighter service employee who is:

87 (A) hired on or after July 1, 2021;

88 (B) trained in firefighter techniques;

89 (C) assigned to a position of hazardous duty; and

90 (D) employed by the state as a participating employer.

91 (b) "Firefighter service" does not include secretarial staff or other similar employees.

92 (6) (a) "Firefighter service employee" means an employee of a participating employer
93 who provides firefighter service under this chapter.

94 (b) [An employee of a regularly constituted fire department who does not perform
95 firefighter service is not a firefighter] "Firefighter service employee" does not include an
96 employee of a regularly constituted fire department who does not perform firefighter service.

97 (7) (a) "Line-of-duty death" means a death resulting from:

98 (i) external force, violence, or disease occasioned by an act of duty as a public safety
99 service or firefighter service employee; or

100 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
101 training or another strenuous activity required as an act of duty as a public safety service or
102 firefighter service employee.

103 (b) "Line-of-duty death" does not include a death that:

104 (i) occurs during an activity that is required as an act of duty as a public safety service
105 or firefighter service employee if the activity is not a strenuous activity, including an activity
106 that is clerical, administrative, or of a nonmanual nature;

107 (ii) occurs during the commission of a crime committed by the employee;

108 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or
109 nonprescribed, contributes to the employee's death; or

110 (iv) occurs in a manner other than as described in Subsection (7)(a).

111 (8) "Participating employer" means an employer which meets the participation
112 requirements of:

113 (a) Sections [49-14-201](#) and [49-14-202](#);

- 114 (b) Sections 49-15-201 and 49-15-202;
- 115 (c) Sections 49-16-201 and 49-16-202; or
- 116 (d) Sections 49-23-201 and 49-23-202.
- 117 (9) (a) "Public safety service" means employment normally requiring an average of
- 118 2,080 hours of regularly scheduled employment per year rendered by a member who is a:
- 119 (i) law enforcement officer in accordance with Section 53-13-103;
- 120 (ii) correctional officer in accordance with Section 53-13-104;
- 121 (iii) special function officer approved in accordance with Sections 49-15-201 and
- 122 53-13-105;
- 123 (iv) dispatcher who is certified in accordance with Section 53-6-303; and
- 124 (v) full-time member of the Board of Pardons and Parole created under Section
- 125 77-27-2.
- 126 (b) Except as provided under Subsections (9)(a)(iv) and (v), "public safety service"
- 127 also requires that in the course of employment the employee's life or personal safety is at risk.
- 128 (10) "Public safety service employee" means an employee of a participating employer
- 129 who performs public safety service under this chapter.
- 130 (11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or
- 131 vigorous fire suppression, rescue, hazardous material response, emergency medical service,
- 132 physical law enforcement, prison security, disaster relief, or other emergency response activity.
- 133 (b) "Strenuous activity" includes participating in a participating employer sanctioned
- 134 and funded training exercise that involves difficult, stressful, or vigorous physical activity.
- 135 (12) "System" means the New Public Safety and Firefighter Tier II Contributory
- 136 Retirement System created under this chapter.
- 137 (13) (a) "Volunteer firefighter" means any individual that is not regularly employed as
- 138 a firefighter service employee, but who:
- 139 (i) has been trained in firefighter techniques and skills;
- 140 (ii) continues to receive regular firefighter training; and
- 141 (iii) is on the rolls of a legally organized volunteer fire department which provides

142 ongoing training and serves a political subdivision of the state.

143 (b) An individual that volunteers assistance but does not meet the requirements of
144 Subsection (13)(a) is not a volunteer firefighter for purposes of this chapter.

145 (14) "Years of service credit" means:

146 (a) a period, consisting of 12 full months as determined by the board; or

147 (b) a period determined by the board, whether consecutive or not, during which a
148 regular full-time employee performed services for a participating employer, including any time
149 the regular full-time employee was absent on a paid leave of absence granted by a participating
150 employer or was absent in the service of the United States government on military duty as
151 provided by this chapter.

152 Section 2. **Study.**

153 (1) During the 2020 Legislative interim, the Retirement and Independent Entities
154 Interim Committee shall study:

155 (a) modifications to the Firefighters' Retirement System and the New Public Safety and
156 Firefighter Tier II Contributory Retirement System;

157 (b) whether existing members of the Public Employees' Noncontributory Retirement
158 Act and the New Public Employees' Tier II Contributory Retirement Act should be covered
159 under the Firefighters' Retirement System and the New Public Safety and Firefighter Tier II
160 Contributory Retirement System if the members are employed as firefighter service employees
161 who are:

162 (i) trained in firefighter techniques;

163 (ii) assigned to a position of a hazardous duty; and

164 (iii) employed by the state as a participating employer; and

165 (c) other related issues.

166 (2) The Retirement and Independent Entities Interim Committee may make
167 recommendations for the 2021 Annual General Session based on the study described in
168 Subsection (1).

169 Section 3. **Effective date.**

170 (1) Except as provided in Subsection (2), this bill takes effect May 12, 2020.

171 (2) The actions affecting Section [49-23-102](#) take effect July 1, 2021.