Summary of Proposed Items for the 2020 General Session Bill, "Utah Retirement Systems Amendments"

DRAFT 9/9/2019

- This draft bill represents the administrative and technical amendments to Title 49 recommended annually to the Legislature by the Utah Retirement Systems (URS).
- These changes are not substantive benefit modifications nor is it anticipated that the bill will have any fiscal impact.
- In recognition of the nature of these changes, the bill has an effective date of July 1, 2020.
- This draft bill will be presented at a Retirement and Independent Entities Interim Committee meeting and URS will request a vote for this to be a recommended committee bill for the 2020 General Session.

Key changes include:

1. Participation elections.
   - Employee exclusions, exemptions, participation, or elections are the subject of many Utah Code sections.
   - The Retirement Board is required by statute to: "ensure that the systems, plans, programs, and funds are administered according to law"; "maintain, in conjunction with participating employers and members, the systems, plans, and programs on an actuarially sound basis"; "protect the tax qualified status of the systems, plans, and programs under its control . . ."; and make rules.
   - The board has made rules. The purpose of these language additions are to help provide more notice to those who read the statues that these provisions are also subject to federal law and board rules.

49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.

(2) In accordance with this section and subject to federal law and board rules, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is: . . .

49-12-203. Exclusions from membership in system.

... (8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in
this section shall be made in accordance with this section and subject to federal law and board rules.

2. Employer contributions for certain working retirees.
   • Section 49-11-504.
   • For working retirees who were reemployed prior to July 1, 2010, the employer may make an elective retirement related contribution in an amount up to the normal cost rate.
   • With the implementation of Tier 2, all employers now participate in the URS defined contribution plans.
   • Some employers, particularly those that are exempt from Social Security, would prefer to utilize a 457 plan, which is not a qualified defined contribution plan.
   • This statutory change would allow employer flexibility to utilize the 457 plan, while ensuring that URS can continue to administer and monitor these post-retirement contributions.

49-11-504. Reemployment of a retiree -- Restrictions.

(8) . . .
(b) The contributions under Subsection (8)(a) are not required, but if paid, shall be paid to a retiree-designated:
   (i) qualified defined contribution plan administered by the board, if the participating employer participates in a qualified defined contribution plan administered by the board; or
   (ii) qualified defined contribution plan offered by the participating employer if the participating employer does not participate in a qualified defined contribution plan administered by the board.

(c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not participating in a qualified defined contribution plan administered by the board, the employer may elect to pay the contributions under Subsection (8)(a) to a deferred compensation plan administered by the board.

3. Payments to certain survivors.
   • Sections 49-11-609.
   • Clarifies the application process for payments to certain survivors based upon an affidavit if there are not designated beneficiaries for the deceased member.

49-11-609. Beneficiary designations -- Revocation of beneficiary designation -- Procedure -- Beneficiary not designated -- Payment to survivors in order established under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased’s expenses.

(4)(b)
(i) A payment may not be made to a person included in any of the groups referred to in Subsection (4)(a) if at the date of payment there is a living person in any of the groups preceding it.
(ii) Payment to a person in any group may be based upon receipt of an affidavit in a form satisfactory to the office that:
(A) there are no living individuals in the group preceding it;
(B) the probate of the estate of the deceased has not been commenced; and
(C) more than 30 days have elapsed since the date of death of the decedent.

4. Insurance premium payments for firefighter and public safety retirees.
   • Section 49-11-612.
   • Under federal law, eligible retired firefighters and public safety officers can exclude from taxable income a certain part of their retirement benefits that is used to pay the premiums for health insurance, if such payments are made directly from the retirement plan.
   • In addition to premium payments from a retirement allowance, this change would allow such payments to be made from a URS defined contribution plan.

49-11-612. Domestic relations order benefits -- Nonassignability of benefits or payments -- Exemption from legal process.

... (3) ...
(b) The office may, upon the request of a retiree of a public safety or firefighter system, deduct insurance premiums from the retiree's allowance or defined contribution plan administered by the board.

5. Post-retirement reemployment.
   • Section 49-11-1204.
   • This is not a substantive change to the post-retirement reemployment restrictions.
   • This change simply clarifies that a retiree may be eligible to earn additional service credit in a reemployed position, whether the retirement allowance was cancelled by URS or the retiree's election.
   • In either case, the retirement allowance is resumed following termination of the reemployed position. If the retiree earned two or more years of service credit following retirement, an additional retirement allowance amount will be calculated and also paid to the retiree.

49-11-1204. General restrictions -- Election following one-year separation - - Amortization rate.
(1) A retiree may not for the same period of reemployment:
   (a) (i) earn additional service credit; or
   (ii) receive any retirement related contribution from a participating employer; and
   (b) receive a retirement allowance.
(2)(a) Except as provided under Section 49-11-1205, the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree’s retirement date.
(b) If the office cancels the retiree's retirement allowance as provided under Subsection (2)(a), the retiree may be eligible to earn additional service credit in the reemployed position and receive an allowance in accordance with Subsection (4)(a), Subsection (5), and other provisions of this title.
(3) If a reemployed retiree, in accordance with Subsection (2)(a), is exempt from having the allowance cancelled, including for completing the one-year separation from employment with a participating employer required under Subsection (2), the retiree may elect to:
(a) cancel the retiree’s retirement allowance and instead earn additional service credit in the reemployed position in accordance with Subsection (4)(a) and other provisions of this title; or
(b) continue to receive the retiree’s retirement allowance, forfeit earning additional service credit, and forfeit any retirement-related contribution from the participating employer that reemployed the retiree.
(4)
(a) If a retiree’s retirement allowance is cancelled and the retiree is eligible for retirement coverage in a reemployed position, the office shall reinstate the retiree to active member status on the first day of the month following the date of the employee’s eligible reemployment.
(b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible for retirement coverage in the reemployed position, the participating employer that reemploys the retiree shall contribute the amortization rate to the office on behalf of the retiree.
(c) A participating employer that reemploys a retiree in accordance with Subsection 49-11-1205(1) is not required to contribute the amortization rate to the office.
(5)
(a) For a retiree reinstated to active member status under Subsection (4)(a) who retires within two years from the date of reemployment, the office:
(i) may not recalculate a retirement benefit for the retiree; and
(ii) shall resume the allowance that was being paid to the retiree at the time of the cancellation.

6. Exchange employees.
   - Sections 49-12-203, 49-13-203, 49-22-203, and 49-22-205.
   - An “exchange employee” means an employee of a participating employer with a valid nonimmigrant visa for participation in exchange visitor programs in the United States, including the Exchange Visitor Visas (J category) and the Cultural Exchange Visas (Q category).
   - Statute currently automatically excludes exchange employees from retirement participation, but some employers would like to cover these individuals as part
of an incentive to get them to stay longer while other employers do not want to provide coverage.

- This change will allow, but does not require, an employer to elect to make all of its exchange employees eligible for retirement participation. Individual exchange employees of such employers could file a request for exemption from retirement participation, subject to applicable laws and rules.

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

... (c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of its exchange employees eligible for service credit in this system;

... (4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

... (m) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of its exchange employees eligible for service credit in this system.

7. Death Benefits for Tier 2 Public Safety/Firefighter Defined Contribution (DC) only plan members.

- Section 49-23-501.
- The purpose of this language addition is to clearly state and provide notice of the available death benefits for Tier 2 Public Safety/Firefighter DC only plan members.
- All active Tier 2 Public Safety/Firefighter members are covered by a lump-sum death benefit payable to a beneficiary; the cost of this benefit is paid by an addition to the contribution rate.
- Hybrid retirement system members are eligible for an ongoing monthly death benefit for a surviving spouse; the cost of this benefit is included in the hybrid system contribution rates.
- DC only plan members are not eligible for retirement benefits, including a surviving spouse ongoing benefit; such benefits are not funded since contributions are paid to the member's DC account.
- A DC only plan member's beneficiary is entitled to receive the amounts in the member's DC account.


... (4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:
(a) the return of any member contributions under this chapter; plus
(b) a percentage of the final average salary of the member to be determined
by the board.

.. (13) Except for the death benefit provided under Subsection (4), a member of the Tier II defined contribution plan is not eligible for death benefits under this section, Section 49-23-502, or Section 49-23-503.

8. Technical corrections.

49-22-201. System membership -- Eligibility.

.. (4) Notwithstanding the provisions of Subsection (3), a legislator or full-time elected official initially entering office on or after July 1, 2011, who has previously accrued service credit accrued before July 1, 2014:
(a) in a Tier I retirement system or plan administered by the board shall continue in the Tier I system or plan for which the legislator or full-time elected official is eligible; or
(b) in a Tier II hybrid retirement system shall continue in the Tier II system for which the legislator or full-time elected official is eligible.