

PUBLIC SAFETY DISABILITY BENEFITS AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill modifies disability coverage provisions of the Utah State Retirement and Insurance Benefit Act.

Highlighted Provisions:

This bill:

- ▶ requires a participating employer to provide a benefit protection contract for a public safety service employee or a firefighter service employee if the employee is injured or becomes ill as the result of external force or violence while performing employment duties;
- ▶ authorizes a participating employer to provide a benefit protection contract for a public safety service employee or a firefighter service employee for other injuries or illness; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

[49-11-404](#), as last amended by Laws of Utah 2011, Chapter 366

ENACTS:

[49-14-602](#), Utah Code Annotated 1953

30 **49-15-602**, Utah Code Annotated 1953

31 **49-23-602**, Utah Code Annotated 1953

32

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

34 Section 1. Section **49-11-404** is amended to read:

35 **49-11-404. Benefit protection contract authorized -- Annual report required.**

36 (1) (a) A participating employer may establish a salary protection program under which
37 [its] the participating employer's employees are paid during periods of disability.

38 (b) If a salary protection program is established, a participating employer may enter
39 into benefit protection contracts with the office.

40 (c) A salary protection program shall:

41 (i) pay benefits based on the rate of compensation of the member with a disability at
42 the time of disability;

43 (ii) pay benefits over the period of the disability;

44 (iii) not include settlement or lump sum payments of any type;

45 (iv) be based upon the member being awarded and receiving ongoing monthly
46 disability benefits that are:

47 (A) substantially equivalent to the long-term disability programs offered under Chapter
48 21, Public Employees' Long-Term Disability Act; [and] or

49 (B) workers' compensation indemnity benefits provided in accordance with Title 31A,
50 Insurance Code; and

51 (v) comply with requirements adopted by the board.

52 (2) A benefit protection contract shall allow:

53 (a) the member with a disability to be considered an active member in a system and
54 continue to accrue service credit and salary credit based on the member's rate of pay in effect at
55 the time disability commences;

56 (b) the office to require participating employer contributions to be paid before granting
57 service credit and salary credit to the member;

58 (c) the member with a disability to remain eligible during the contract period for any
59 benefits provided by the system that covers the member; and

60 (d) the benefit for the member with a disability to be improved by the annual
61 cost-of-living increase factor applied to retired members of the system that covered the member
62 on the date the member is eligible to receive benefits under a benefit protection contract.

63 (3) (a) The office shall establish the manner and times when employer contributions
64 are paid.

65 (b) A failure to make the required payments is cause for the office to cancel a contract.

66 (c) Service credit and salary credit granted and accrued up to the time of cancellation
67 may not be forfeited.

68 (4) For an employee covered under Chapter 22, New Public Employees' Tier II
69 Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II
70 Contributory Retirement Act, a benefit protection contract shall allow:

71 (a) for the defined benefit portion for a member covered under Chapter 22, Part 3, Tier
72 II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System:

73 (i) the member with a disability to be considered an active member in a system and
74 continue to accrue service credit and salary credit based on the member's rate of pay in effect at
75 the time disability commences;

76 (ii) the office to require participating employer contributions to be paid before granting
77 service credit and salary credit to the member;

78 (iii) the member with a disability to remain eligible during the contract period for any
79 benefits provided by the system that covers the member; and

80 (iv) the benefit for the member with a disability to be improved by the annual
81 cost-of-living increase factor applied to retired members of the system that covered the member
82 on the date the member is eligible to receive benefits under a benefit protection contract; and

83 (b) for the defined contribution portion for a member covered under Chapter 22, Part 3,
84 Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System, or
85 for a participant covered under Chapter 22, Part 4, Tier II Defined Contribution Plan, or

86 Chapter 23, Part 4, Tier II Defined Contribution Plan, the office to require participating
87 employers to continue making the nonelective contributions on behalf of the member with a
88 disability or participant in the amounts specified in Subsection [49-22-303\(1\)\(a\)](#), [49-22-401\(1\)](#),
89 [49-23-302\(1\)\(a\)](#), or [49-23-401\(1\)](#).

90 (5) A participating employer that has entered into a benefit protection contract under
91 this section shall submit an annual report to the office, which identifies:

92 (a) the employees receiving long-term disability benefits under policies initiated by the
93 participating employer and approved under the benefit protection contract;

94 (b) the employees that have applied for long-term disability benefits and who are
95 waiting approval; and

96 (c) the insurance carriers that are actively providing long-term disability benefits.

97 (6) If an employer fails to provide the annual report required under Subsection (5), the
98 benefits that would have accrued under the benefit protection contract shall be forfeited.

99 (7) The board may adopt rules to implement and administer this section.

100 Section 2. Section **49-14-602** is enacted to read:

101 **49-14-602. Benefit protection contract.**

102 (1) As used in this section:

103 (a) "Objective medical impairment" means the same as that term is defined in Section
104 [49-21-102](#).

105 (b) "Qualifying injury or illness" means a physical or mental objective medical
106 impairment resulting from external force or violence as a result of the performance of an
107 employment duty.

108 (2) (a) A participating employer shall provide a benefit protection contract described in
109 Section [49-11-404](#) for any public safety service employee who suffers a qualifying injury or
110 illness as determined in accordance with this section.

111 (b) A participating employer may elect to provide a benefit protection contract for any
112 other injury or illness of a public safety service employee in accordance with the requirements
113 for providing a benefit protection contract, including the provisions of Section [49-11-404](#).

114 (3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or
115 workers' compensation indemnity benefits shall determine if a public safety service employee
116 has suffered a qualifying injury or illness, including completing any appeals relating to that
117 determination in accordance with the applicable appeals procedures.

118 (b) In addition to the annual report requirements under Section [49-11-404](#):

119 (i) if there is final determination that a public safety service employee has suffered a
120 qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that
121 qualifying injury or illness, the participating employer shall immediately notify the office of the
122 employee's award of that ongoing monthly disability benefit; and

123 (ii) if the public safety service employee's monthly disability benefit is terminated for
124 any reason, the participating employer shall immediately notify the office of the termination of
125 the monthly disability benefit.

126 Section 3. Section **49-15-602** is enacted to read:

127 **49-15-602. Benefit protection contract.**

128 (1) As used in this section:

129 (a) "Objective medical impairment" means the same as that term is defined in Section
130 [49-21-102](#).

131 (b) "Qualifying injury or illness" means a physical or mental objective medical
132 impairment resulting from external force or violence as a result of the performance of an
133 employment duty.

134 (2) (a) A participating employer shall provide a benefit protection contract described in
135 Section [49-11-404](#) for any public safety service employee who suffers a qualifying injury or
136 illness as determined in accordance with this section.

137 (b) A participating employer may elect to provide a benefit protection contract for any
138 other injury or illness of a public safety service employee in accordance with the requirements
139 for providing a benefit protection contract, including the provisions of Section [49-11-404](#).

140 (3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or
141 workers' compensation indemnity benefits shall determine if a public safety service employee

142 has suffered a qualifying injury or illness, including completing any appeals relating to that
143 determination in accordance with the applicable appeals procedures.

144 (b) In addition to the annual report requirements under Section [49-11-404](#):

145 (i) if there is final determination that a public safety service employee has suffered a
146 qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that
147 qualifying injury or illness, the participating employer shall immediately notify the office of the
148 employee's award of that ongoing monthly disability benefit; and

149 (ii) if the public safety service employee's monthly disability benefit is terminated for
150 any reason, the participating employer shall immediately notify the office of the termination of
151 the monthly disability benefit.

152 Section 4. Section **49-23-602** is enacted to read:

153 **49-23-602. Benefit protection contract.**

154 (1) As used in this section:

155 (a) "Objective medical impairment" means the same as that term is defined in Section
156 [49-21-102](#).

157 (b) "Qualifying injury or illness" means a physical or mental objective medical
158 impairment resulting from external force or violence as a result of the performance of an
159 employment duty.

160 (2) (a) A participating employer shall provide a benefit protection contract described in
161 Section [49-11-404](#) for any public safety service employee or firefighter service employee who
162 suffers a qualifying injury or illness as determined in accordance with this section.

163 (b) A participating employer may elect to provide a benefit protection contract for any
164 other injury or illness of a public safety service employee or firefighter service employee in
165 accordance with the requirements for providing a benefit protection contract, including the
166 provisions of Section [49-11-404](#).

167 (3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or
168 workers' compensation indemnity benefits shall determine if a public safety service employee
169 or firefighter service employee has suffered a qualifying injury or illness, including completing

170 any appeals relating to that determination in accordance with the applicable appeals
171 procedures.

172 (b) In addition to the annual report requirements under Section [49-11-404](#):

173 (i) if there is final determination that a public safety service employee or firefighter
174 service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly
175 disability benefit based on that qualifying injury or illness, the participating employer shall
176 immediately notify the office of the employee's award of that ongoing monthly disability
177 benefit; and

178 (ii) if the public safety service employee's or firefighter service employee's monthly
179 disability benefit is terminated for any reason, the participating employer shall immediately
180 notify the office of the termination of the monthly disability benefit.

181 **Section 5. Effective date.**

182 This bill takes effect on July 1, 2022.