

RESOLUTION #2013-06 CLARIFICATION OF EMPLOYER-GIVEN CASH EQUIVALENTS AS COMPENSATION

October 10, 2013

WHEREAS, the term “compensation” is defined in Section 49-12-102(2) of the Public Employees’ Contributory Retirement Act, Section 49-13-102(2) of the Public Employee’s Noncontributory Retirement Act, Section 49-14-102(1) of the Public Safety Contributory Retirement Act, Section 49-15-102(1) of the Public Safety Noncontributory Retirement Act, Section 49-16-102(1) of the Firefighters’ Retirement Act, Section 49-17-102(1) of the Judges’ Contributory Retirement Act, Section 49-18-102(1) of the Judges’ Noncontributory Retirement Act, Section 49-22-102(2) of the New Public Employees’ Tier II Contributory Retirement Act, and Section 49-23-102(1) of the New Public Safety and Firefighter Tier II Contributory Retirement Act for the purpose of determining the amount of pay on which retirement contributions must be paid; and

WHEREAS, the term “compensation” is also included in the definition of “final average monthly salary” or “final average salary” as defined in Section 49-11-102(25) of the Utah State Retirement and Insurance Benefit Act, Section 49-12-102(3) of the Public Employees’ Contributory Retirement Act, Section 49-13-102(3) of the Public Employee’s Noncontributory Retirement Act, Section 49-14-102(2) of the Public Safety Contributory Retirement Act, Section 49-15-102(2) of the Public Safety Noncontributory Retirement Act, Section 49-16-102(3) of the Firefighters’ Retirement Act, Section 49-17-102(2) of the Judges’ Contributory Retirement Act, Section 49-18-102(2) of the Judges’ Noncontributory Retirement Act, Section 49-22-102(4) of the New Public Employees’ Tier II Contributory Retirement Act, and Section 49-23-102(3) of the New Public Safety and Firefighter Tier II Contributory Retirement Act for the purpose of calculating a retirement allowance; and

WHEREAS, none of the definitions of compensation specifically address employer-given gift cards, gift certificates, pre-paid debit cards, or other cash equivalents; and

WHEREAS, under the Utah State Retirement Act, Section 49-11-203(1)(k), the Utah State Retirement Board is authorized to “develop broad policy for the long-term operation of the various systems, plans, and programs under broad discretion and power to perform the board’s policy making functions, including the specific authority to interpret and define any provision or term under this title when the board or office provides written documentation which demonstrates that the interpretation or definition promotes uniformity in the administration of the systems or maintains the actuarial soundness of the systems, plans, or programs;” and

WHEREAS, participating employers are currently not uniform and use vastly different policies and practices in their handling and reporting of gift cards, gift certificates, pre-paid debit cards, or other cash equivalents provided to their respective employees; and

WHEREAS, the disparate treatment among participating employers is potentially unfair and harmful to some employees; and

WHEREAS, the Retirement Office has found it difficult to enforce the reporting of gift cards, gift certificates, pre-paid debit cards, or other cash equivalents as compensation; and

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(CONTINUED)**

WHEREAS, it is administratively burdensome to determine whether gift cards, gift certificates, pre-paid debit cards, and other cash equivalents qualify as compensation and to report them; and

WHEREAS, the value of gift cards, gift certificates, pre-paid debit cards, and other cash equivalents is relatively minimal and will not have a material effect on the calculation of retirement allowances; and

WHEREAS, clarification is needed on the issue of whether gift cards, gift certificates, pre-paid debit cards, or other cash equivalents are includable as compensation for the purpose of determining the amount of pay on which retirement contributions must be paid in each of the retirement systems included in Title 49 and for the determination of retirement allowances; and

WHEREAS, the Board desires to have a uniform rule governing the definition of “compensation” in an effort to treat members fairly and make administration of the systems more efficient;

NOW, THEREFORE, BE IT RESOLVED, that gift cards, gift certificates, pre-paid debit cards (except when used for the regular distribution of wages), and other cash equivalents may not be included as compensation for retirement purposes.

BE IT FURTHER RESOLVED, that members of the Utah Retirement Systems who retire shall not be able to use the value of gift cards, gift certificates, pre-paid debit cards (except when used for the regular distribution of wages), and other cash equivalents in their final average salary calculation.

This resolution is effective October 10, 2013.