

Part 4 Service Credits

49-11-401 Transfer of service credit -- Eligibility for service credit -- Computation of service credit -- Retirement from most recent system.

- (1)
 - (a) The office shall make the transfer of service credit, together with related member and participating employer contributions, from one system to another upon terms and conditions established by the board.
 - (b) The terms and conditions may not result in a loss of accrued benefits.
- (2) Transfer of employment from a position covered by one system to a position covered by another system does not cause the employee to lose active member status.
- (3) In the accrual of service credit, the following provisions apply:
 - (a) A person employed and compensated by a participating employer who meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan shall receive service credit for the term of the employment provided that all required contributions are paid to the office.
 - (b) An allowance or other benefit may not accrue under this title which is based upon the same period of employment as has been the basis for any retirement benefits under some other public retirement system.
 - (c) The board shall fix the minimum time per day, per month, and per year upon the basis of which one year of service and proportionate parts of a year shall be credited toward qualification for retirement. Service may be computed on a fiscal or calendar year basis and portions of years served shall be accumulated and counted as service. In any event, all of the service rendered in any one fiscal or calendar year may not count for more than one year.
 - (d) Service credit shall be accrued on a fiscal or calendar year basis as determined by the participating employer.
 - (e) A member may not accrue more than one year of service credit per fiscal or calendar year as determined by the office.
 - (f) Fractions of years of service credit shall be accumulated and counted in proportion to the work performed.
- (4) The office may estimate the amount of service credit, compensation, or age of any member, participant, or alternate payee, if information is not contained in the records.
- (5) A member shall retire from the system which most recently covered the member.
- (6)
 - (a) Under no circumstances may service credit earned by a member under Chapter 22, New Public Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act, be transferable to any other system or plan under this title.
 - (b) Under no circumstances may service credit earned by a member under one of the following systems be transferable to the system created under Chapter 22, New Public Employees' Tier II Contributory Retirement Act, or under Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act:
 - (i) Chapter 12, Public Employees' Contributory Retirement Act;
 - (ii) Chapter 13, Public Employees' Noncontributory Retirement Act;
 - (iii) Chapter 14, Public Safety Contributory Retirement Act;
 - (iv) Chapter 15, Public Safety Noncontributory Retirement Act;

- (v) Chapter 16, Firefighters' Retirement Act; or
- (vi) Chapter 19, Utah Governors' and Legislators' Retirement Act.

Amended by Chapter 266, 2010 General Session

49-11-402 Purchase of military service credit.

- (1) Except as provided under Subsection (7), a member who is absent from employment with a participating employer by reason of an official call to full-time United States military service may receive service credit for that military service as follows:
 - (a) the member, the participating employer, or the member and participating employer jointly shall make the required payments, as determined by the office, to the system in which the member participated at the time of the official call, according to the law governing that particular system;
 - (b) prior to a member's retirement date, the required payments shall be made:
 - (i) during the period of full-time United States military service;
 - (ii) after the military service, but within a period not to exceed three times the period of military service up to a maximum of five years; or
 - (iii) as otherwise allowed by federal law;
 - (c) required payments shall be based on the member's compensation at the time of the official military call;
 - (d) if a required payment is not made within the time allowed under Subsection (1)(b), the member or participating employer may purchase the service credit as allowed in Subsection (2); and
 - (e) the member shall return to employment with the participating employer upon receiving an honorable discharge from military service and there may not be intervening employment outside of the employment with the participating employer.
- (2)
 - (a) A member, a participating employer, or a member and a participating employer jointly, may purchase service credit for full-time United States military service, resulting from an official call to duty, if the member has four or more years of service credit and the military service does not otherwise qualify for service credit under this title.
 - (b) Payment to the office for a military service credit purchase shall be made to the system under which the member is currently covered in an amount determined by the office based on a formula recommended by the actuary and adopted by the board.
 - (c) The purchase shall be made through payroll deductions or through a lump sum deposit based upon the present value of future payments.
 - (d) If total payment is not completed prior to retirement, service credit shall be prorated in accordance with the amount paid.
- (3) For purposes of Subsection (2), full-time United States military service does not include any regularly scheduled or annual military service that is required by a reserve unit, National Guard unit, or any other United States military unit.
- (4)
 - (a) If any of the factors used to determine the cost of a service credit purchase change at or before the member's retirement date, the cost of the purchase shall be recalculated.
 - (b) If the recalculated cost exceeds the amount paid for the purchase, the member may:
 - (i) pay the increased cost, plus interest, to receive the full amount of service credit; or
 - (ii) not pay the increased cost and have the purchased service credit prorated.

- (5) If the recalculated cost under Subsection (4) is less than the amount paid for the purchase, the office shall refund the excess payment to the member or participating employer who paid for the purchase.
- (6)
 - (a) The board may adopt rules under which a member may make the necessary payments to the office for purchases under this title as permitted by federal law.
 - (b) The office may reject any payments if the office determines the tax status of the system, plans, or programs would be jeopardized by allowing the payment.
- (7) Notwithstanding the provisions under Subsection (1), a member may receive service credit for military service covered under the provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. Sec. 4301 et seq., under the terms and conditions provided under that law.

Amended by Chapter 243, 2015 General Session

49-11-403 Purchase of public service credit not otherwise qualifying for benefit.

- (1) A member, a participating employer, or a member and a participating employer jointly may purchase service credit equal to the period of the member's employment in the following:
 - (a) United States federal employment;
 - (b) employment in a private school based in the United States, if the member received an employer paid retirement benefit for the employment;
 - (c) public employment in another state or territory of the United States which qualifies the member for membership in the public plan or system covering the employment, but only if the member does not qualify for any retirement benefits based on the employment;
 - (d) forfeited service credit in this state if the member does not qualify for an allowance based on the service credit;
 - (e) full-time public service while on an approved leave of absence;
 - (f) the period of time for which disability benefits were paid if:
 - (i) the member was receiving:
 - (A) long-term disability benefits;
 - (B) short-term disability benefits; or
 - (C) worker's compensation disability benefits; and
 - (ii) the member's employer had not entered into a benefit protection contract under Section 49-11-404 during the period the member had a disability due to sickness or accident;
 - (g) employment covered by a retirement plan offered by a public or private system, organization, or company designated by the State Board of Regents, if the member forfeits any retirement benefit from that retirement plan for the period of employment to be purchased under this Subsection (1)(g);
 - (h) employment in a charter school located within the state if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(h); or
 - (i) employment with a participating employer that is exempt from coverage under this title under a written request for exemption with the office, if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(i).
- (2) A member shall:
 - (a) have at least four years of service credit before a purchase can be made under this section; and

- (b) forfeit service credit and any defined contribution balance based on employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.
- (3)
 - (a) To purchase credit under this section, the member, a participating employer, or a member and a participating employer jointly shall make payment to the system under which the member is currently covered.
 - (b) The amount of the payment shall be determined by the office based on a formula that is:
 - (i) recommended by the actuary; and
 - (ii) adopted by the board.
- (4) The purchase may be made through payroll deductions or through a lump sum deposit based upon the present value of future payments.
- (5) Total payment must be completed prior to the member's effective date of retirement or service credit will be prorated in accordance with the amount paid.
- (6)
 - (a) For a purchase made before July 1, 2010, if any of the factors used to determine the cost of a service credit purchase change at or before the member's retirement date, the cost of the purchase shall be recalculated at the time of retirement.
 - (b) For a purchase made before July 1, 2010, if the recalculated cost exceeds the amount paid for the purchase, the member, a participating employer, or a member and a participating employer jointly may:
 - (i) pay the increased cost, plus interest, to receive the full amount of service credit; or
 - (ii) not pay the increased cost and have the purchased service credit prorated.
 - (c) For a purchase made on or after July 1, 2010:
 - (i) the purchase shall be made in accordance with rules:
 - (A) adopted by the board based on recommendations by the board's actuary; and
 - (B) in effect at the time the purchase is completed; and
 - (ii) the cost of the service credit purchase shall not be recalculated at the time of retirement.
- (7) If the recalculated cost under Subsection (6)(a) is less than the amount paid for the purchase, the office shall refund the excess payment to the member or participating employer who paid for the purchase.
- (8)
 - (a) The board may adopt rules under which a member may make the necessary payments to the office for purchases under this title as permitted by federal law.
 - (b) The office may reject any payments if the office determines the tax status of the system, plans, or programs would be jeopardized by allowing the payment.
- (9) An employee who elects to participate exclusively in the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, may not purchase service credit for that period of employment.

Amended by Chapter 243, 2015 General Session

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

- (1)
 - (a) A participating employer may establish a salary protection program under which its employees are paid during periods of disability.
 - (b) If a salary protection program is established, a participating employer may enter into benefit protection contracts with the office.

- (c) A salary protection program shall:
 - (i) pay benefits based on the rate of compensation of the member with a disability at the time of disability;
 - (ii) pay benefits over the period of the disability;
 - (iii) not include settlement or lump sum payments of any type;
 - (iv) be substantially equivalent to the long-term disability programs offered under Chapter 21, Public Employees' Long-Term Disability Act; and
 - (v) comply with requirements adopted by the board.
- (2) A benefit protection contract shall allow:
 - (a) the member with a disability to be considered an active member in a system and continue to accrue service credit and salary credit based on the member's rate of pay in effect at the time disability commences;
 - (b) the office to require participating employer contributions to be paid before granting service credit and salary credit to the member;
 - (c) the member with a disability to remain eligible during the contract period for any benefits provided by the system that covers the member; and
 - (d) the benefit for the member with a disability to be improved by the annual cost-of-living increase factor applied to retired members of the system that covered the member on the date the member is eligible to receive benefits under a benefit protection contract.
- (3)
 - (a) The office shall establish the manner and times when employer contributions are paid.
 - (b) A failure to make the required payments is cause for the office to cancel a contract.
 - (c) Service credit and salary credit granted and accrued up to the time of cancellation may not be forfeited.
- (4) For an employee covered under Chapter 22, New Public Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act, a benefit protection contract shall allow:
 - (a) for the defined benefit portion for a member covered under Chapter 22, Part 3, Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System:
 - (i) the member with a disability to be considered an active member in a system and continue to accrue service credit and salary credit based on the member's rate of pay in effect at the time disability commences;
 - (ii) the office to require participating employer contributions to be paid before granting service credit and salary credit to the member;
 - (iii) the member with a disability to remain eligible during the contract period for any benefits provided by the system that covers the member; and
 - (iv) the benefit for the member with a disability to be improved by the annual cost-of-living increase factor applied to retired members of the system that covered the member on the date the member is eligible to receive benefits under a benefit protection contract; and
 - (b) for the defined contribution portion for a member covered under Chapter 22, Part 3, Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System, or for a participant covered under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, the office to require participating employers to continue making the nonelective contributions on behalf of the member with a disability or participant in the amounts specified in Subsection 49-22-303(1)(a), 49-22-401(1), 49-23-302(1)(a), or 49-23-401(1).
- (5) A participating employer that has entered into a benefit protection contract under this section shall submit an annual report to the office which identifies:

- (a) the employees receiving long-term disability benefits under policies initiated by the participating employer and approved under the benefit protection contract;
 - (b) the employees that have applied for long-term disability benefits and who are waiting approval; and
 - (c) the insurance carriers that are actively providing long-term disability benefits.
- (6) If an employer fails to provide the annual report required under Subsection (5), the benefits that would have accrued under the benefit protection contract shall be forfeited.
- (7) The board may adopt rules to implement and administer this section.

Amended by Chapter 366, 2011 General Session

49-11-405 Service credit from different systems or plans -- Eligibility and calculation of service credit.

- (1)
- (a) A member who has service credit from two or more systems or one or more systems and the Utah Governors' and Legislators' Retirement Plan may combine service credit for purposes of determining eligibility for retirement.
 - (b) The provisions of Subsection (1)(a) do not apply to concurrent service.
- (2) To be eligible for the calculation under Subsection (3), the member's service credit earned under the different systems or the Utah Governors' and Legislators' Retirement Plan shall at least equal the minimum amount of service credit required to retire from the system which most recently covered the member.
- (3) If a member meets the requirements of Subsection (2), the office shall calculate the member's allowance using all service credit earned from any system or the Utah Governors' and Legislators' Retirement Plan, with no actuarial reduction applied to the allowance, except the service credit used to calculate the benefit shall be increased or decreased to reflect the value of the assets transferred.
- (4) The office shall establish the standards used for calculating any increase or decrease in the service credit.
- (5) This section does not apply to a retiree who is subject to Section 49-11-504 and Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

Amended by Chapter 310, 2016 General Session

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

- (1) As used in this section:
- (a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.
 - (b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the House, or the president of the Senate and filed with the Department of Human Resource Management and the Utah State Retirement Office.
- (2) In accordance with this section and subject to federal law, 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:

- (a) the state auditor;
 - (b) the state treasurer;
 - (c) an appointed executive under Subsection 67-22-2(1)(a);
 - (d) an employee in the Governor's Office;
 - (e) senior staff in the Governor's Office of Management and Budget;
 - (f) senior staff in the Governor's Office of Economic Development;
 - (g) senior staff in the Commission on Criminal and Juvenile Justice;
 - (h) a legislative employee appointed under Subsection 36-12-7(3)(a);
 - (i) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority leader;
or
 - (j) senior staff of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.
- (3) An election made under Subsection (2):
- (a) is final, and no right exists to make any further election;
 - (b) is considered a request to be exempt from coverage under a defined benefits system; and
 - (c) shall be made on forms provided by the office.
- (4) The board shall adopt rules to implement and administer this section.

Amended by Chapter 310, 2013 General Session

49-11-407 Service credit purchases by active employees only.

Notwithstanding any other provision of this title, only an active member may purchase service credit under this title.

Enacted by Chapter 439, 2011 General Session