

Part 4 Defined Benefit

49-13-401 Eligibility for an allowance -- Date of retirement -- Qualifications.

- (1) A member is qualified to receive an allowance from this system when:
- (a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;
 - (b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and
 - (c) one of the following conditions is met as of the member's retirement date:
 - (i) the member has accrued at least four years of service credit and has attained an age of 65 years;
 - (ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;
 - (iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years;
 - (iv) the member has accrued at least 30 years of service credit; or
 - (v) the member has accrued at least 25 years of service credit, in which case the member shall be subject to the reduction under Subsection 49-13-402(2)(b).
- (2)
- (a) The member's retirement date:
 - (i) shall be the 1st or the 16th day of the month, as selected by the member;
 - (ii) shall be on or after the date of termination; and
 - (iii) may not be more than 90 days before or after the date the application is received by the office.
 - (b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).
- (3)
- (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.
 - (b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).
 - (c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Section 49-11-1202 for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Amended by Chapter 310, 2016 General Session

49-13-402 Service retirement plans -- Calculation of retirement allowance -- Social Security limitations.

(1)

- (a) Except as provided under Section 49-13-701, retirees of this system may choose from the six retirement options described in this section.
- (b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.
- (2) The Option One benefit is an allowance calculated as follows:
 - (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued.
 - (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which event no reduction is made to the allowance.
 - (c)
 - (i) Years of service include any fractions of years of service to which the retiree may be entitled.
 - (ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.
 - (d) An Option One allowance is only payable to the member during the member's lifetime.
- (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:
 - (a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.
 - (b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.
 - (c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.
 - (d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:
 - (i) spouse died, if the application is received by the office within 90 days of the spouse's death;
or
 - (ii) application is received by the office, if the application is received by the office more than 90 days after the spouse's death.
 - (e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:
 - (i) spouse died, if the application is received by the office within 90 days of the spouse's death;
or
 - (ii) application is received by the office, if the application is received by the office more than 90 days after the spouse's death.
- (4)
 - (a)

- (i) The final average salary is limited in the computation of that part of an allowance based on service rendered prior to July 1, 1967, during a period when the retiree received employer contributions on a portion of compensation from an educational institution toward the payment of the premium required on a retirement annuity contract with a public or private system, organization, or company designated by the State Board of Regents to \$4,800.
 - (ii) This limitation is not applicable to retirees who elected to continue in the Public Employees' Contributory Retirement System by July 1, 1967.
 - (b) Periods of employment which are exempt from this system as permitted under Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement only if all benefits from a public or private system, organization, or company designated by the State Board of Regents based on this period of employment are forfeited.
- (5)
- (a) If a retiree under Option One dies within 90 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.
 - (b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.
- (6) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

Amended by Chapter 15, 2014 General Session

49-13-403 Allowance payable by lump-sum payment.

- (1) If a retiree's allowance, as computed under Section 49-13-402, amounts to \$25 or less, the allowance may be settled by the office by making a lump-sum payment of an amount actuarially equivalent to the allowance.
- (2) A payment made under this section constitutes a full and complete settlement of the retiree's claim against this system.

Renumbered and Amended by Chapter 250, 2002 General Session

49-13-404 Lump-sum death benefit for retiree and spouse.

- (1)
 - (a) Upon retirement, a retiree may elect to have the office deduct an actuarially determined amount from the retiree's allowance to provide a lump-sum benefit payable to a beneficiary upon the death of the retiree.
 - (b) Upon retirement, a retiree may also elect to have an actuarially determined amount deducted from the retiree's allowance to provide a lump-sum death benefit payable to a beneficiary upon the death of the retiree's lawful spouse at the time of retirement.
 - (c) The board shall make rules for the administration of this lump-sum death benefit.
- (2)
 - (a) For a retiree who pays for a lump-sum death benefit under this section through a reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and 49-11-610.
 - (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death benefit is payable after the death of the retiree, the allowance shall be restored to its original amount.
- (3)
 - (a) A retiree whose retirement date is on or after July 1, 1995, may elect to cancel the lump-sum death benefit under this section.

- (b) The cancellation under this Subsection (3) is irrevocable.
- (c) Upon cancellation, the allowance shall be restored to its original amount and benefits under this section may not be paid.

Amended by Chapter 118, 2004 General Session

49-13-405 Death of married members -- Service retirement benefits to surviving spouse.

- (1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-13-402 without an actuarial reduction.
- (2) Upon the request of a deceased member's surviving spouse, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:
 - (a) the member has:
 - (i) 15 or more years of service credit;
 - (ii) attained age 62 with 10 or more years of service credit; or
 - (iii) attained age 65 with four or more years of service credit; and
 - (b) the member dies leaving a surviving spouse.
- (3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:
 - (a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or
 - (b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.
- (4) The allowance payable to a surviving spouse under Subsection (2) is:
 - (a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;
 - (b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;
 - (c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or
 - (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.
- (5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.
- (6) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-13-501 and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-13-501.
- (7) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Amended by Chapter 84, 2016 General Session

49-13-406 Exceptions for part-time elective or appointive service -- Computation of allowance -- Justice court judges.

- (1) Notwithstanding the provisions of Sections 49-11-401 and 49-13-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.
- (2)
 - (a) A justice court judge who has service with only one participating employer shall be considered part-time or full-time by the office as certified by the participating employer.
 - (b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of compensation actually received by the judge during the part-time and full-time periods of service.
- (3)
 - (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of service in which the judge is certified as full-time by:
 - (i) a participating employer; or
 - (ii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).
 - (b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.
 - (c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.
- (4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Amended by Chapter 241, 2015 General Session

49-13-407 Annual cost-of-living adjustment.

- (1) The office shall make an annual cost-of-living adjustment to:
 - (a) an original allowance paid under Section 49-13-402 or 49-13-405, if the allowance has been paid for at least one year; and
 - (b) an original payment made to an alternate payee under a domestic relations order, if the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.
- (2)
 - (a) The original allowance shall be increased by the annual increase in the Consumer Price Index up to a maximum of 4%.
 - (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated and used in subsequent adjustments when the annual increase in the Consumer Price Index is less than 4%.

- (3) The Consumer Price Index used in calculating adjustments shall be a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
- (4) The cost-of-living adjustment made under this section may not decrease the allowance.

Amended by Chapter 260, 2006 General Session

49-13-408 Purchase of service credit -- Conditions -- Cost -- Nondiscrimination policy.

- (1)
 - (a) A member may purchase or a member and a participating employer may jointly purchase a maximum of five years of service credit which cannot otherwise be purchased under this title.
 - (b) At a minimum, the years of service credit purchased shall be sufficient to allow the member to meet the retirement eligibility requirements of this system with no actuarial reduction.
 - (c) The member's retirement date shall be immediately after the purchase of years of service credit.
 - (d) The member shall pay at least 5% of the cost of the purchase.
 - (e) To qualify for a purchase of service credit under this section, the member shall:
 - (i) have at least five years of service credit; and
 - (ii) otherwise meet federal eligibility requirements.
- (2) The purchase price for the years of service credit shall be calculated and paid for as provided in Section 49-11-403.
- (3) Prior to making any purchase of years of service credit under this section, a participating employer shall adopt a purchase policy that includes nondiscriminatory participation standards for all regular full-time employees.
- (4) Only members retiring from this system may purchase service credit under this section.

Amended by Chapter 116, 2005 General Session