

Effective 5/13/2014

49-13-202 Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements -- Service credit purchases.

- (1)
 - (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.
 - (b) In addition to their participation in this system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their employees.
- (2) The following employers may be excluded from participation in this system:
 - (a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:
 - (i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for its employees, except for Social Security; or
 - (ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;
 - (b) an employer that is a charter school authorized under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, and does not elect to participate in accordance with Section 53A-1a-512;
 - (c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (5);
 - (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (5); or
 - (e) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.
- (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).
- (4)
 - (a) An employer may, by resolution of its governing body, apply for admission to this system.
 - (b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.
- (5)
 - (a)
 - (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.
 - (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of

the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

- (iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make an election of nonparticipation as an employer for retirement programs under this chapter.
- (b) An election provided under Subsection (5)(a):
 - (i) is a one-time election made no later than the time specified under Subsection (5)(a);
 - (ii) shall be documented by a resolution adopted by the governing body of the employer;
 - (iii) is irrevocable; and
 - (iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all employees of that employer.
- (c) The employer making an election under Subsection (5)(a) may offer employee benefit plans for its employees:
 - (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or
 - (ii) under any other program.
- (6)
 - (a) If a participating employer purchases service credit on behalf of regular full-time employees for service rendered prior to the participating employer's admission to this system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered.
 - (b) For a purchase made under this Subsection (6), an employee is not required to:
 - (i) have at least four years of service credit before the purchase can be made; or
 - (ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Amended by Chapter 15, 2014 General Session

Amended by Chapter 201, 2014 General Session

Amended by Chapter 363, 2014 General Session