

28 **49-14-201. System membership -- Eligibility.**

29 (1) Except as provided in Section 49-15-201, a public safety service employee of a
30 participating employer participating in this system is eligible for service credit in this system at
31 the earliest of:

32 (a) July 1, 1969, if the public safety service employee was employed by the
33 participating employer on July 1, 1969, and the participating employer was participating in this
34 system on that date;

35 (b) the date the participating employer begins participating in this system if the public
36 safety service employee was employed by the participating employer on that date; or

37 (c) the date the public safety service employee is employed by the participating
38 employer and is eligible to perform public safety service.

39 (2) (a) (i) A participating employer that has public safety service and firefighter service
40 employees that require cross-training and duty shall enroll those dual purpose employees in the
41 system in which the greatest amount of time is actually worked.

42 (ii) The employees shall either be full-time public safety service or full-time firefighter
43 service employees of the participating employer.

44 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
45 participating employer shall receive written permission from the office.

46 (ii) The office may request documentation to verify the appropriateness of the transfer.

47 (3) The board may combine or segregate the actuarial experience of participating
48 employers in this system for the purpose of setting contribution rates.

49 (4) (a) (i) Each participating employer participating in this system shall annually
50 submit to the office a schedule indicating the positions to be covered under this system in
51 accordance with this chapter.

52 (ii) The office may require documentation to justify the inclusion of any position under
53 this system.

54 (b) If there is a dispute between the office and a participating employer or employee
55 over any position to be covered, the disputed position shall be submitted to the Peace Officer
56 Standards and Training Council established under Section 53-6-106 for determination.

57 (c) (i) The Peace Officer Standards and Training Council's authority to decide
58 eligibility for public safety service credit is limited to claims for coverage under this system for

59 time periods after July 1, 1989.

60 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
61 to service credit earned in another system prior to July 1, 1989.

62 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
63 Standards and Training Council granting a position coverage under this system may only be
64 applied prospectively from the date of that decision.

65 (iv) A decision of the Peace Officer Standards and Training Council granting a position
66 coverage under this system may be applied retroactively only if:

67 (A) the participating employer covered other similarly situated positions under this
68 system during the time period in question; and

69 (B) the position otherwise meets all eligibility requirements for receiving service credit
70 in this system during the period for which service credit is to be granted.

71 (5) The Peace Officer Standards and Training Council may use a subcommittee to
72 provide a recommendation to the council in determining disputes between the office and a
73 participating employer or employee over a position to be covered under this system.

74 (6) The Peace Officer Standards and Training Council shall comply with Title 63,
75 Chapter 46b, Administrative Procedures Act, in resolving coverage disputes in this system.

76 (7) A public safety employee who is transferred or promoted to an administration
77 position not covered by this system shall continue to earn public safety service credit in this
78 system as long as the employee remains employed in the same department.

79 (8) Any employee who is transferred to the Division of Information Technology
80 Services from the Department of Public Safety prior to January 1, 1992, and who was a
81 member of this system, shall be entitled to remain a member of this system regardless of
82 whether or not the employee's current position is covered by this system.

83 (9) (a) To determine that a position is covered under this system, the office and, if a
84 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
85 position requires the employee to:

86 (i) place the employee's life or personal safety at risk; and

87 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

88 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace
89 Officer Standards and Training Council shall consider whether or not the position requires the

90 employee to:

91 (i) perform duties that consist primarily of actively preventing or detecting crime and
92 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

93 (ii) perform duties that consist primarily of providing community protection; and

94 (iii) respond to situations involving threats to public safety and make emergency
95 decisions affecting the lives and health of others.

96 (10) If a subcommittee is used to recommend the determination of disputes to the
97 Peace Officer Standards and Training Council, the subcommittee shall comply with the
98 requirements of Subsection (9) in making its recommendation.

99 (11) A final order of the Peace Officer Standards and Training Council regarding a
100 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative
101 Procedures Act.

102 (12) [H] Except as provided under Subsection (13), if a participating employer's public
103 safety service employees are not covered by this system or under Chapter 15, Public Safety
104 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees
105 who may otherwise qualify for membership in this system shall, at the discretion of the
106 participating employer, remain in their current retirement system.

107 (13) (a) A public safety service employee employed by an airport police department,
108 which elects to cover its public safety service employees under the Public Safety
109 Noncontributory Retirement System under Subsection (12), may elect to remain in the public
110 safety service employee's current retirement system.

111 (b) The public safety service employee's election to remain in the current retirement
112 system under Subsection (13)(a):

113 (i) shall be made at the time the employer elects to move its public safety service
114 employees to a public safety retirement system;

115 (ii) documented by written notice to the participating employer; and

116 (iii) is irrevocable.

117 Section 2. Section **49-15-201** is amended to read:

118 **49-15-201. System membership -- Eligibility.**

119 (1) (a) A public safety service employee employed by the state after July 1, 1989, is
120 eligible for service credit in this system.

121 (b) A public safety service employee employed by the state prior to July 1, 1989, may
122 either elect to receive service credit in this system or continue to receive service credit under
123 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
124 following the procedures established by the board under this chapter.

125 (2) (a) Public safety service employees of a participating employer other than the state
126 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
127 System shall be eligible only for service credit in that system.

128 (b) (i) A participating employer other than the state that elected on or before July 1,
129 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
130 service employee to elect to participate in either this system or the Public Safety Contributory
131 Retirement System.

132 (ii) Except as expressly allowed by this title, the election of the public safety service
133 employee is final and may not be changed.

134 (c) A public safety service employee hired by a participating employer other than the
135 state after July 1, 1989, shall become a member in this system.

136 (d) A public safety service employee of a participating employer other than the state
137 who began participation in this system after July 1, 1989, is only eligible for service credit in
138 this system.

139 (3) (a) (i) A participating employer that has public safety service and firefighter service
140 employees that require cross-training and duty shall enroll those dual purpose employees in the
141 system in which the greatest amount of time is actually worked.

142 (ii) The employees shall either be full-time public safety service or full-time firefighter
143 service employees of the participating employer.

144 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
145 participating employer shall receive written permission from the office.

146 (ii) The office may request documentation to verify the appropriateness of the transfer.

147 (4) The board may combine or segregate the actuarial experience of participating
148 employers in this system for the purpose of setting contribution rates.

149 (5) (a) (i) Each participating employer participating in this system shall annually
150 submit to the office a schedule indicating the positions to be covered under this system in
151 accordance with this chapter.

152 (ii) The office may require documentation to justify the inclusion of any position under
153 this system.

154 (b) If there is a dispute between the office and a participating employer or employee
155 over any position to be covered, the disputed position shall be submitted to the Peace Officer
156 Standards and Training Council established under Section 53-6-106 for determination.

157 (c) (i) The Peace Officer Standards and Training Council’s authority to decide
158 eligibility for public safety service credit is limited to claims for coverage under this system for
159 time periods after July 1, 1989.

160 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
161 to service credit earned in another system prior to July 1, 1989.

162 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
163 Standards and Training Council granting a position coverage under this system may only be
164 applied prospectively from the date of that decision.

165 (iv) A decision of the Peace Officer Standards and Training Council granting a position
166 coverage under this system may be applied retroactively only if:

167 (A) the participating employer covered other similarly situated positions under this
168 system during the time period in question; and

169 (B) the position otherwise meets all eligibility requirements for receiving service credit
170 in this system during the period for which service credit is to be granted.

171 (6) The Peace Officer Standards and Training Council may use a subcommittee to
172 provide a recommendation to the council in determining disputes between the office and a
173 participating employer or employee over a position to be covered under this system.

174 (7) The Peace Officer Standards and Training Council shall comply with Title 63,
175 Chapter 46b, Administrative Procedures Act, in resolving coverage disputes in this system.

176 (8) A public safety service employee who is transferred or promoted to an
177 administration position not covered by this system shall continue to earn public safety service
178 credit in this system as long as the employee remains employed in the same department.

179 (9) Any employee who is transferred to the Division of Information Technology
180 Services from the Department of Public Safety prior to January 1, 1992, and who was a
181 member in this system, shall be entitled to remain a member in this system regardless of
182 whether or not the employee's current position is covered by this system.

183 (10) (a) To determine that a position is covered under this system, the office and, if a
184 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
185 position requires the employee to:

- 186 (i) place the employee's life or personal safety at risk; and
- 187 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

188 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace
189 Officer Standards and Training Council shall consider whether the position requires the
190 employee to:

- 191 (i) perform duties that consist primarily of actively preventing or detecting crime and
192 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- 193 (ii) perform duties that consist primarily of providing community protection; and
- 194 (iii) respond to situations involving threats to public safety and make emergency
195 decisions affecting the lives and health of others.

196 (11) If a subcommittee is used to recommend the determination of disputes to the
197 Peace Officer Standards and Training Council, the subcommittee shall comply with the
198 requirements of Subsection (10) in making its recommendation.

199 (12) A final order of the Peace Officer Standards and Training Council regarding a
200 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative
201 Procedures Act.

202 (13) [H] Except as provided under Subsection (14), if a participating employer's public
203 safety service employees are not covered by this system under Chapter 14, Public Safety
204 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who
205 may otherwise qualify for membership in this system shall, at the discretion of the participating
206 employer, remain in their current retirement system.

207 (14) (a) A public safety service employee employed by an airport police department,
208 which elects to cover its public safety service employees under the Public Safety
209 Noncontributory Retirement System under Subsection (13), may elect to remain in the public
210 safety service employee's current retirement system.

211 (b) The public safety service employee's election to remain in the current retirement
212 system under Subsection (14)(a):

213 (i) shall be made at the time the employer elects to move its public safety service

214 employees to a public safety retirement system;
215 (ii) documented by written notice to the participating employer; and
216 (iii) is irrevocable.
217 **Section 3. Effective date.**
218 This bill takes effect on July 1, 2005.

Legislative Review Note
as of 1-12-05 1:52 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0130

Retirement for Airport Police

24-Jan-05

4:47 PM

State Impact

This bill allows employees of an airport police department to remain in the Public Safety Retirement System. The provision would only affect local governments and would have no impact on the State

Individual and Business Impact

This bill allows airport police employees some options in their retirement program.

Office of the Legislative Fiscal Analyst