

LINE-OF-DUTY DEATH AND DISABILITY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Retirement and Independent Entities Interim Committee recommended this bill.

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions relating to line-of-duty death and disability benefits.

Highlighted Provisions:

This bill:

- ▶ provides that a line-of-duty death for a public safety service or firefighter service employee includes a death that results from strenuous activity, including a heart attack or stroke, that occurs during training or another activity required by an act of duty as a public safety service or firefighter service employee;
- ▶ clarifies that a line-of-duty death for a public safety service or firefighter service employee does not include certain deaths;
- ▶ provides that a line-of-duty disability for a firefighter service employee includes a physical or mental disability that results from strenuous activity, including a heart attack or stroke, that occurs during training or another activity required by an act of duty as a firefighter service employee;
- ▶ clarifies that a line-of-duty disability for a firefighter service employee does not include certain physical or mental disabilities; and
- ▶ makes technical changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **49-14-102**, as last amended by Laws of Utah 2011, Chapter 200

35 **49-15-102**, as last amended by Laws of Utah 2011, Chapter 200

36 **49-16-102**, as last amended by Laws of Utah 2005, Chapter 116

37 **49-16-601.5**, as enacted by Laws of Utah 2005, Chapter 116

38 **49-20-406**, as last amended by Laws of Utah 2003, Chapters 142 and 240

39 **49-23-102**, as last amended by Laws of Utah 2011, Chapter 200

40 **49-23-503**, as enacted by Laws of Utah 2010, Chapter 266



42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **49-14-102** is amended to read:

44 **49-14-102. Definitions.**

45 As used in this chapter:

46 (1) (a) "Compensation" means the total amount of payments that are includable in
47 gross income which are received by a public safety service employee as base income for the
48 regularly scheduled work period. The participating employer shall establish the regularly
49 scheduled work period. Base income shall be determined prior to the deduction of member
50 contributions or any amounts the public safety service employee authorizes to be deducted for
51 salary deferral or other benefits authorized by federal law.

52 (b) "Compensation" includes performance-based bonuses and cost-of-living
53 adjustments.

54 (c) "Compensation" does not include:

55 (i) overtime;

56 (ii) sick pay incentives;

57 (iii) retirement pay incentives;

58 (iv) the monetary value of remuneration paid in kind, including a residence, use of

59 equipment or uniform, travel, or similar payments;

60 (v) a lump-sum payment or special payments covering accumulated leave; and

61 (vi) all contributions made by a participating employer under this system or under any
62 other employee benefit system or plan maintained by a participating employer for the benefit of
63 a member or participant.

64 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
65 under Internal Revenue Code Section 401(a)(17).

66 (2) "Final average salary" means the amount computed by averaging the highest three
67 years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

68 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
69 compensation in any one of the years used may not exceed the previous year's compensation by
70 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
71 of the dollar during the previous year, as measured by a United States Bureau of Labor
72 Statistics Consumer Price Index average as determined by the board.

73 (b) In cases where the participating employer provides acceptable documentation to the
74 office, the limitation in Subsection (2)(a) may be exceeded if:

75 (i) the public safety service employee has transferred from another agency; or

76 (ii) the public safety service employee has been promoted to a new position.

77 (3) (a) "Line-of-duty death" means a death resulting from:

78 (i) external force, violence, or disease occasioned by an act of duty as a public safety
79 service employee[-]; or

80 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
81 training or another strenuous activity required as an act of duty as a public safety service
82 employee.

83 (b) "Line-of-duty death" does not include a death that:

84 (i) occurs during an activity that is required as an act of duty as a public safety service

85 employee if the activity is not ~~an~~ strenuous activity, including an activity that is
85a clerical, administrative, or

86 of a nonmanual nature;

87 (ii) occurs during the commission of a crime committed by the employee;

88 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or

89 nonprescribed, contributes to the employee's death; or

90 (iv) occurs in a manner other than as described in Subsection (3)(a).

91 (4) "Participating employer" means an employer which meets the participation
92 requirements of Section 49-14-201.

93 (5) (a) "Public safety service" means employment normally requiring an average of
94 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

95 (i) law enforcement officer in accordance with Section 53-13-103;

96 (ii) correctional officer in accordance with Section 53-13-104;

97 (iii) special function officer approved in accordance with Sections 49-14-201 and
98 53-13-105; and

99 (iv) full-time member of the Board of Pardons and Parole created under Section
100 77-27-2.

101 (b) Except as provided under Subsection (5)(a)(iv), "public safety service" also requires
102 that in the course of employment the employee's life or personal safety is at risk.

103 (c) Except for the minimum hour requirement, Subsections (5)(a) and (b) do not apply
104 to any person who was eligible for service credit in this system before January 1, 1984.

105 (6) "Public safety service employee" means an employee of a participating employer
106 who performs public safety service under this chapter.

106a **H→ (7)(a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous**
106b **fire suppression, rescue, hazardous material response, emergency medical service, physical law**
106c **enforcement, prison security, disaster relief, or other emergency response activity.**

106d **(b) "Strenuous activity" includes participating in a participating employer sanctioned**
106e **and funded training exercise that involves difficult, stressful, or vigorous physical**
106f **activity.**

107 [~~(7)~~] **(8) ←H** "System" means the Public Safety Contributory Retirement System
107a created under
108 this chapter.

109 **H→ [~~(8)~~] (9) ←H** "Years of service credit" means the number of periods, each to
109a consist of 12 full
110 months as determined by the board, whether consecutive or not, during which a public safety
111 service employee was employed by a participating employer, including time the public safety
112 service employee was absent in the service of the United States government on military duty.

113 Section 2. Section **49-15-102** is amended to read:

114 **49-15-102. Definitions.**

115 As used in this chapter:

116 (1) (a) "Compensation" means the total amount of payments that are includable in
117 gross income received by a public safety service employee as base income for the regularly
118 scheduled work period. The participating employer shall establish the regularly scheduled
119 work period. Base income shall be determined prior to the deduction of any amounts the
120 public safety service employee authorizes to be deducted for salary deferral or other benefits

121 authorized by federal law.

122 (b) "Compensation" includes performance-based bonuses and cost-of-living
123 adjustments.

124 (c) "Compensation" does not include:

125 (i) overtime;

126 (ii) sick pay incentives;

127 (iii) retirement pay incentives;

128 (iv) the monetary value of remuneration paid in kind, as in a residence, use of
129 equipment or uniform, travel, or similar payments;

130 (v) a lump-sum payment or special payment covering accumulated leave; and

131 (vi) all contributions made by a participating employer under this system or under any
132 other employee benefit system or plan maintained by a participating employer for the benefit of
133 a member or participant.

134 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
135 under Internal Revenue Code Section 401(a)(17).

136 (2) "Final average salary" means the amount computed by averaging the highest three
137 years of annual compensation preceding retirement subject to Subsections (2)(a) and (b).

138 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
139 compensation in any one of the years used may not exceed the previous year's compensation by
140 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
141 of the dollar during the previous year, as measured by a United States Bureau of Labor
142 Statistics Consumer Price Index average as determined by the board.

143 (b) In cases where the participating employer provides acceptable documentation to the
144 office, the limitation in Subsection (2)(a) may be exceeded if:

145 (i) the public safety service employee has transferred from another agency; or

146 (ii) the public safety service employee has been promoted to a new position.

147 (3) (a) "Line-of-duty death" means a death resulting from:

148 (i) external force, violence, or disease occasioned by an act of duty as a public safety
149 service employee[-]; or

150 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
151 training or another strenuous activity required as an act of duty as a public safety service

152 employee.

153 (b) "Line-of-duty death" does not include a death that:

154 (i) occurs during an activity that is required as an act of duty as a public safety service

155 employee if the activity is not ~~Ĥ→ a ←Ĥ~~ strenuous ~~Ĥ→ activity ←Ĥ~~ , including an activity that is
 155a clerical, administrative, or
 156 of a nonmanual nature;

157 (ii) occurs during the commission of a crime committed by the employee;

158 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or

159 nonprescribed, contributes to the employee's death; or

160 (iv) occurs in a manner other than as described in Subsection (3)(a).

161 (4) "Participating employer" means an employer which meets the participation
 162 requirements of Section 49-15-201.

163 (5) (a) "Public safety service" means employment normally requiring an average of
 164 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

165 (i) law enforcement officer in accordance with Section 53-13-103;

166 (ii) correctional officer in accordance with Section 53-13-104;

167 (iii) special function officer approved in accordance with Sections 49-15-201 and
 168 53-13-105; and

169 (iv) full-time member of the Board of Pardons and Parole created under Section
 170 77-27-2.

171 (b) Except as provided under Subsection (5)(a)(iv), "public safety service" also requires
 172 that in the course of employment the employee's life or personal safety is at risk.

173 (6) "Public safety service employee" means an employee of a participating employer
 174 who performs public safety service under this chapter.

174a ~~Ĥ→~~ **(7)(a)"Strenuous activity" means engagement involving a difficult, stressful, or vigorous**
 174b **fire suppression, rescue, hazardous material response, emergency medical service, physical law**
 174c **enforcement, prison security, disaster relief, or other emergency response activity.**

174d **(b)"Strenuous activity" includes participating in a participating employer sanctioned**
 174e **and funded training exercise that involves difficult, stressful, or vigorous physical activity.**

175 ~~[(7)]~~ **(8) ←Ĥ** "System" means the Public Safety Noncontributory Retirement System created
 176 under this chapter.

177 ~~Ĥ→~~ **[(8)] (9) ←Ĥ** "Years of service credit" means the number of periods, each to consist
 177a of 12 full

178 months as determined by the board, whether consecutive or not, during which a public safety

179 service employee was employed by a participating employer, including time the public safety
180 service employee was absent in the service of the United States government on military duty.

181 Section 3. Section **49-16-102** is amended to read:

182 **49-16-102. Definitions.**

183 As used in this chapter:

184 (1) (a) "Compensation" means the total amount of payments that are includable as
185 gross income which are received by a firefighter service employee as base income for the
186 regularly scheduled work period. The participating employer shall establish the regularly
187 scheduled work period. Base income shall be determined prior to the deduction of member
188 contributions or any amounts the firefighter service employee authorizes to be deducted for
189 salary deferral or other benefits authorized by federal law.

190 (b) "Compensation" includes performance-based bonuses and cost-of-living
191 adjustments.

192 (c) "Compensation" does not include:

193 (i) overtime;

194 (ii) sick pay incentives;

195 (iii) retirement pay incentives;

196 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel,
197 or similar payments;

198 (v) a lump-sum payment or special payments covering accumulated leave; and

199 (vi) all contributions made by a participating employer under this system or under any
200 other employee benefit system or plan maintained by a participating employer for the benefit of
201 a member or participant.

202 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
203 under Internal Revenue Code Section 401(a)(17).

204 (2) (a) "Disability" means a physical or mental condition that, in the judgment of the
205 office, is total and presumably permanent, and prevents a member from performing firefighter
206 service.

207 (b) The determination of disability is based upon medical and other evidence
208 satisfactory to the office.

209 (3) "Final average salary" means the amount computed by averaging the highest three
210 years of annual compensation preceding retirement subject to Subsections (3)(a) and (b).

211 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
212 compensation in any one of the years used may not exceed the previous year's compensation by
213 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power

214 of the dollar during the previous year, as measured by a United States Bureau of Labor
215 Statistics Consumer Price Index average as determined by the board.

216 (b) In cases where the participating employer provides acceptable documentation to the
217 office the limitation in Subsection (3)(a) may be exceeded if:

- 218 (i) the member has transferred from another agency; or
- 219 (ii) the member has been promoted to a new position.

220 (4) "Firefighter service" means employment normally requiring an average of 2,080
221 hours of regularly scheduled employment per year rendered by a member who is a firefighter
222 service employee trained in firefighter techniques and assigned to a position of hazardous duty
223 with a regularly constituted fire department, but does not include secretarial staff or other
224 similar employees.

225 (5) "Firefighter service employee" means an employee of a participating employer who
226 provides firefighter service under this chapter. An employee of a regularly constituted fire
227 department who does not perform firefighter service is not a firefighter service employee.

228 (6) (a) "Line-of-duty death or disability" means a death or any physical or mental
229 disability resulting from:

- 230 (i) external force, violence, or disease directly resulting from firefighter service[-]; or
- 231 [~~(a) A paid firefighter who has five years of firefighter service credit is eligible for a~~
- 232 ~~line-of-duty death or disability resulting from heart disease, lung disease, or respiratory tract~~
- 233 ~~condition.]~~

234 [~~(b) A paid firefighter who receives a service connected disability benefit for more than~~
235 ~~six months due to violence or illness other than heart disease, lung disease, or respiratory tract~~
236 ~~condition, and then returns to paid firefighter service, may not be eligible for a line-of-duty~~
237 ~~death or disability benefit due to heart disease, lung disease, or respiratory tract condition for~~
238 ~~two years after the firefighter returned to work unless clear and convincing evidence is~~
239 ~~presented that the heart disease, lung disease, or respiratory tract condition was directly a result~~
240 ~~of firefighter service.]~~

- 241 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
- 242 training or another strenuous activity required as an act of duty as a firefighter service
- 243 employee.

244 (b) "Line-of-duty death or disability" does not include a death or any physical or mental

245 disability that:

246 (i) occurs during an activity that is required as an act of duty as a firefighter service
 247 employee if the activity is not ~~Ĥ→ a ←Ĥ~~ strenuous ~~Ĥ→ activity ←Ĥ~~ , including an activity that is
 247a clerical, administrative, or
 248 of a nonmanual nature;

249 (ii) occurs during the commission of a crime committed by the employee;

250 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or
 251 nonprescribed, contributes to the employee's death; or

252 (iv) occurs in a manner other than as described in Subsection (6)(a).

253 (c) "Line-of-duty death or disability" includes the death of a paid firefighter resulting
 254 from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five
 255 years of firefighter service credit.

256 (7) "Participating employer" means an employer which meets the participation
 257 requirements of Section 49-16-201.

258 (8) "Regularly constituted fire department" means a fire department that employs a fire
 259 chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid
 260 employment per year.

260a ~~Ĥ→~~ **(9)(a)"Strenuous activity" means engagement involving a difficult, stressful, or vigorous**
 260b **fire suppression, rescue, hazardous material response, emergency medical service, physical law**
 260c **enforcement, prison security, disaster relief, or other emergency response activity.**

260d **(b)"Strenuous activity" includes participating in a participating employer sanctioned**
 260e **and funded training exercise that involves difficult, stressful, or vigorous physical activity.**

261 ~~(9)~~ **(10) ←Ĥ** "System" means the Firefighters' Retirement System created under this
 261a chapter.

262 ~~Ĥ→~~ ~~(10)~~ **(11) ←Ĥ** (a) "Volunteer firefighter" means any individual that is not regularly
 262a employed as

263 a firefighter service employee, but who:

264 (i) has been trained in firefighter techniques and skills;

265 (ii) continues to receive regular firefighter training; and

266 (iii) is on the rolls of a legally organized volunteer fire department which provides
 267 ongoing training and serves a political subdivision of the state.

268 (b) An individual that volunteers assistance but does not meet the requirements of
 269 Subsection ~~Ĥ→~~ ~~(10)~~ **(11) ←Ĥ** (a) is not a volunteer firefighter for purposes of this chapter.

270 (11) "Years of service credit" means the number of periods, each to consist of 12 full

271 months as determined by the board, whether consecutive or not, during which a firefighter
272 service employee was employed by a participating employer or received full-time pay while on
273 sick leave, including any time the firefighter service employee was absent in the service of the
274 United States on military duty.

275 Section 4. Section **49-16-601.5** is amended to read:

276 **49-16-601.5. Line-of-duty disability benefit -- Benefits -- Monthly allowance.**

277 (1) An active member of this system who is unable to perform firefighter service due to
278 a physical or mental condition incurred in the line-of-duty may apply to the office for a
279 disability retirement benefit under this section.

280 (2) If the condition is classified by the office as a line-of-duty disability, the member
281 shall be granted a disability retirement benefit subject to Section 49-16-602.

282 (3) A paid firefighter who has five years of firefighter service credit is eligible for a
283 line-of-duty disability benefit resulting from heart disease, lung disease, or a respiratory tract
284 condition.

285 (4) A paid firefighter who receives a service connected disability benefit for more than
286 six months due to violence or illness other than heart disease, lung disease, or respiratory tract
287 condition, and then returns to paid firefighter service, may not be eligible for a line-of-duty
288 disability benefit due to heart disease, lung disease, or respiratory tract condition for two years
289 after the firefighter returned to work unless clear and convincing evidence is presented that the
290 heart disease, lung disease, or respiratory tract condition was directly a result of firefighter
291 service.

292 [~~(3)~~] (5) The monthly disability retirement benefit is 50% of the member's final average
293 salary.

294 Section 5. Section **49-20-406** is amended to read:

295 **49-20-406. Insurance benefits for employees' beneficiaries.**

296 (1) As used in this section:

297 (a) "Children" includes stepchildren and legally adopted children.

298 (b) (i) "Line-of-duty death" means a death resulting from:

299 (A) external force or violence occasioned by an act of duty as an employee[-]; or

300 (B) strenuous activity, including a heart attack or stroke, that occurs during strenuous
301 training or another strenuous activity required as an act of duty as an employee.

302 (ii) "Line-of-duty death" does not include a death that:

303 (A) occurs during an activity that is required as an act of duty as an employee if the
304 activity is not ~~an~~ strenuous activity, including an activity that is clerical,
304a administrative, or of a nonmanual

305 nature contributes to the employee's death;

306 (B) occurs during the commission of a crime committed by the employee;

307 (C) the employee's intoxication or use of alcohol or drugs, whether prescribed or
 308 nonprescribed, contributes to the employee's death; or

309 (D) occurs in a manner other than as described in Subsection (1)(b)(i).

309a **Ĥ→ (c)(i) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous**
 309b **fire suppression, rescue, hazardous material response, emergency medical service, physical law**
 309c **enforcement, prison security, disaster relief, or other emergency response activity.**

309d **(ii) "Strenuous activity" includes participating in a participating employer sanctioned**
 309e **and funded training exercise that involves difficult, stressful, or vigorous physical**
 309f **activity.** ←Ĥ

310 (2) The beneficiary of a covered individual who is employed by the state and who has a
 311 line-of-duty death shall receive:

312 (a) the proceeds of a \$50,000 group term life insurance policy paid for by the state and
 313 administered and provided as part of the group life insurance program under this chapter; and

314 (b) group health coverage paid for by the state that covers the covered individual's:

315 (i) surviving spouse until remarriage or becoming eligible for Medicare, whichever
 316 comes first; and

317 (ii) unmarried children up to the age of 26.

318 (3) A covered employer not required to provide the benefits under Subsection (2) may
 319 provide either or both of the benefits under Subsection (2) by paying rates established by the
 320 program.

321 (4) The benefit provided under Subsection (2)(a) s subject to the same terms and
 322 conditions as the group life insurance program provided under this chapter.

323 Section 6. Section **49-23-102** is amended to read:

324 **49-23-102. Definitions.**

325 As used in this chapter:

326 (1) (a) "Compensation" means the total amount of payments that are includable in
 327 gross income received by a public safety service employee or a firefighter service employee as
 328 base income for the regularly scheduled work period. The participating employer shall
 329 establish the regularly scheduled work period. Base income shall be determined prior to the
 330 deduction of any amounts the public safety service employee or firefighter service employee
 331 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

332 (b) "Compensation" includes performance-based bonuses and cost-of-living
 333 adjustments.

334 (c) "Compensation" does not include:

335 (i) overtime;

336 (ii) sick pay incentives;

337 (iii) retirement pay incentives;

338 (iv) the monetary value of remuneration paid in kind, as in a residence, use of
339 equipment or uniform, travel, or similar payments;

340 (v) a lump-sum payment or special payment covering accumulated leave; and

341 (vi) all contributions made by a participating employer under this system or under any
342 other employee benefit system or plan maintained by a participating employer for the benefit of
343 a member or participant.

344 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
345 under Internal Revenue Code Section 401(a)(17).

346 (2) "Corresponding Tier I system" means the system or plan that would have covered
347 the member if the member had initially entered employment before July 1, 2011.

348 (3) "Final average salary" means the amount computed by averaging the highest five
349 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
350 (d).

351 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
352 compensation in any one of the years used may not exceed the previous year's compensation by
353 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
354 of the dollar during the previous year, as measured by a United States Bureau of Labor
355 Statistics Consumer Price Index average as determined by the board.

356 (b) In cases where the participating employer provides acceptable documentation to the
357 office, the limitation in Subsection (3)(a) may be exceeded if:

358 (i) the member has transferred from another agency; or

359 (ii) the member has been promoted to a new position.

360 (c) If the member retires more than six months from the date of termination of
361 employment, the member is considered to have been in service at the member's last rate of pay
362 from the date of the termination of employment to the effective date of retirement for purposes
363 of computing the member's final average salary only.

364 (d) If the member has less than five years of service credit in this system, final average
365 salary means the average annual compensation paid to the member during the full period of
366 service credit.

367 (4) "Firefighter service" means employment normally requiring an average of 2,080
368 hours of regularly scheduled employment per year rendered by a member who is a firefighter

369 service employee trained in firefighter techniques and assigned to a position of hazardous duty
 370 with a regularly constituted fire department, but does not include secretarial staff or other
 371 similar employees.

372 (5) "Firefighter service employee" means an employee of a participating employer who
 373 provides firefighter service under this chapter. An employee of a regularly constituted fire
 374 department who does not perform firefighter service is not a firefighter service employee.

375 (6) (a) "Line-of-duty death" means a death resulting from:

376 (i) external force, violence, or disease occasioned by an act of duty as a public safety
 377 service or firefighter service employee; or

378 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
 379 training or another strenuous activity required as an act of duty as a public safety service or
 380 firefighter service employee.

381 (b) "Line-of-duty death" does not include a death that:

382 (i) occurs during an activity that is required as an act of duty as a public safety service
 383 or firefighter service employee if the activity is not ~~an~~ strenuous activity ,
 383a including an activity that is

384 clerical, administrative, or of a nonmanual nature;

385 (ii) occurs during the commission of a crime committed by the employee;

386 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or
 387 nonprescribed, contributes to the employee's death; or

388 (iv) occurs in a manner other than as described in Subsection (6)(a).

389 [~~(6)~~] (7) "Participating employer" means an employer which meets the participation
 390 requirements of:

391 (a) Sections 49-14-201 and 49-14-202;

392 (b) Sections 49-15-201 and 49-15-202;

393 (c) Sections 49-16-201 and 49-16-202; or

394 (d) Sections 49-23-201 and 49-23-202.

395 [~~(7)~~] (8) (a) "Public safety service" means employment normally requiring an average
 396 of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

397 (i) law enforcement officer in accordance with Section 53-13-103;

398 (ii) correctional officer in accordance with Section 53-13-104;

399 (iii) special function officer approved in accordance with Sections 49-15-201 and

400 53-13-105; and

401 (iv) full-time member of the Board of Pardons and Parole created under Section
402 77-27-2.

403 (b) Except as provided under Subsection [~~(7)~~] (8)(a)(iv), "public safety service" also
404 requires that in the course of employment the employee's life or personal safety is at risk.

405 [~~(8)~~] (9) "Public safety service employee" means an employee of a participating
406 employer who performs public safety service under this chapter.

406a **Ĥ→ (10)(a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous**
406b **fire suppression, rescue, hazardous material response, emergency medical service, physical law**
406c **enforcement, prison security, disaster relief, or other emergency response activity.**

406d **(b) "Strenuous activity" includes participating in a participating employer sanctioned**
406e **and funded training exercise that involves difficult, stressful, or vigorous physical activity.** ←Ĥ

407 [~~(9)~~] **Ĥ→ [~~(10)~~] (11) ←Ĥ** "System" means the New Public Safety and Firefighter Tier II
407a Contributory
408 Retirement System created under this chapter.

409 [~~(10)~~] **Ĥ→ [~~(11)~~] (12) ←Ĥ** (a) "Volunteer firefighter" means any individual that is not
409a regularly
410 employed as a firefighter service employee, but who:

411 (i) has been trained in firefighter techniques and skills;

412 (ii) continues to receive regular firefighter training; and

413 (iii) is on the rolls of a legally organized volunteer fire department which provides
414 ongoing training and serves a political subdivision of the state.

415 (b) An individual that volunteers assistance but does not meet the requirements of
416 Subsection [~~(10)~~] **Ĥ→ [~~(11)~~] (12) ←Ĥ** (a) is not a volunteer firefighter for purposes of this chapter.

417 [~~(11)~~] **Ĥ→ [~~(12)~~] (13) ←Ĥ** "Years of service credit" means:

418 (a) a period, consisting of 12 full months as determined by the board; or

419 (b) a period determined by the board, whether consecutive or not, during which a
420 regular full-time employee performed services for a participating employer, including any time
421 the regular full-time employee was absent on a paid leave of absence granted by a participating
422 employer or was absent in the service of the United States government on military duty as
423 provided by this chapter.

424 Section 7. Section **49-23-503** is amended to read:

425 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

426 If an active member of this system dies, benefits are payable as follows:

427 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as
428 follows:

429 (a) If the member has accrued less than 20 years of public safety service or firefighter
430 service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an

431 allowance equal to 30% of the member's final average monthly salary.

432 (b) If the member has accrued 20 or more years of public safety service or firefighter
433 service credit, the member shall be considered to have retired with an Option One allowance
434 calculated without an actuarial reduction under Section 49-23-304 and the spouse at the time of
435 death shall receive the allowance that would have been payable to the member.

436 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this
437 section if the death results from external force, violence, or disease directly resulting from
438 firefighter service.

439 (b) The lowest monthly compensation of firefighters of a city of the first class in this
440 state at the time of death shall be considered to be the final average monthly salary of a
441 volunteer firefighter for purposes of computing these benefits.

442 (c) Each volunteer fire department shall maintain a current roll of all volunteer
443 firefighters which meet the requirements of Subsection 49-23-102[~~(10)~~] ~~H~~→ [(11)] (12) ←~~H~~ to
443a determine the
444 eligibility for this benefit.

445 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are
446 payable under this section and the spouse at the time of death is not eligible for benefits under
447 Section 49-23-502.

448 (b) If the death is not classified as a line-of-duty death by the office, benefits are
449 payable in accordance with Section 49-23-502.

Legislative Review Note
as of 11-14-12 12:09 PM

Office of Legislative Research and General Counsel