

**Effective 5/12/2015**

**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