

Effective 5/12/2015

49-11-403 Purchase of public service credit not otherwise qualifying for benefit.

- (1) A member, a participating employer, or a member and a participating employer jointly may purchase service credit equal to the period of the member's employment in the following:
 - (a) United States federal employment;
 - (b) employment in a private school based in the United States, if the member received an employer paid retirement benefit for the employment;
 - (c) public employment in another state or territory of the United States which qualifies the member for membership in the public plan or system covering the employment, but only if the member does not qualify for any retirement benefits based on the employment;
 - (d) forfeited service credit in this state if the member does not qualify for an allowance based on the service credit;
 - (e) full-time public service while on an approved leave of absence;
 - (f) the period of time for which disability benefits were paid if:
 - (i) the member was receiving:
 - (A) long-term disability benefits;
 - (B) short-term disability benefits; or
 - (C) worker's compensation disability benefits; and
 - (ii) the member's employer had not entered into a benefit protection contract under Section 49-11-404 during the period the member had a disability due to sickness or accident;
 - (g) employment covered by a retirement plan offered by a public or private system, organization, or company designated by the State Board of Regents, if the member forfeits any retirement benefit from that retirement plan for the period of employment to be purchased under this Subsection (1)(g);
 - (h) employment in a charter school located within the state if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(h); or
 - (i) employment with a participating employer that is exempt from coverage under this title under a written request for exemption with the office, if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(i).
- (2) A member shall:
 - (a) have at least four years of service credit before a purchase can be made under this section; and
 - (b) forfeit service credit and any defined contribution balance based on employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.
- (3)
 - (a) To purchase credit under this section, the member, a participating employer, or a member and a participating employer jointly shall make payment to the system under which the member is currently covered.
 - (b) The amount of the payment shall be determined by the office based on a formula that is:
 - (i) recommended by the actuary; and
 - (ii) adopted by the board.
- (4) The purchase may be made through payroll deductions or through a lump sum deposit based upon the present value of future payments.
- (5) Total payment must be completed prior to the member's effective date of retirement or service credit will be prorated in accordance with the amount paid.

- (6)
 - (a) For a purchase made before July 1, 2010, 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 at the time of retirement.
 - (b) For a purchase made before July 1, 2010, if the recalculated cost exceeds the amount paid for the purchase, the member, a participating employer, or a member and a participating employer jointly 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.
 - (c) For a purchase made on or after July 1, 2010:
 - (i) the purchase shall be made in accordance with rules:
 - (A) adopted by the board based on recommendations by the board's actuary; and
 - (B) in effect at the time the purchase is completed; and
 - (ii) the cost of the service credit purchase shall not be recalculated at the time of retirement.
- (7) If the recalculated cost under Subsection (6)(a) 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.
- (8)
 - (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.
- (9) An employee who elects to participate exclusively in the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, may not purchase service credit for that period of employment.

Amended by Chapter 243, 2015 General Session