

49-11-404 Benefit protection contract authorized -- Annual report required.

- (1)
 - (a) A participating employer may establish a salary protection program under which its employees are paid during periods of disability.
 - (b) If a salary protection program is established, a participating employer may enter into benefit protection contracts with the office.
 - (c) A salary protection program shall:
 - (i) pay benefits based on the rate of compensation of the member with a disability at the time of disability;
 - (ii) pay benefits over the period of the disability;
 - (iii) not include settlement or lump sum payments of any type;
 - (iv) be substantially equivalent to the long-term disability programs offered under Chapter 21, Public Employees' Long-Term Disability Act; and
 - (v) comply with requirements adopted by the board.
- (2) A benefit protection contract shall allow:
 - (a) the member with a disability to be considered an active member in a system and continue to accrue service credit and salary credit based on the member's rate of pay in effect at the time disability commences;
 - (b) the office to require participating employer contributions to be paid before granting service credit and salary credit to the member;
 - (c) the member with a disability to remain eligible during the contract period for any benefits provided by the system that covers the member; and
 - (d) the benefit for the member with a disability to be improved by the annual cost-of-living increase factor applied to retired members of the system that covered the member on the date the member is eligible to receive benefits under a benefit protection contract.
- (3)
 - (a) The office shall establish the manner and times when employer contributions are paid.
 - (b) A failure to make the required payments is cause for the office to cancel a contract.
 - (c) Service credit and salary credit granted and accrued up to the time of cancellation may not be forfeited.
- (4) For an employee covered under Chapter 22, New Public Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act, a benefit protection contract shall allow:
 - (a) for the defined benefit portion for a member covered under Chapter 22, Part 3, Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System:
 - (i) the member with a disability to be considered an active member in a system and continue to accrue service credit and salary credit based on the member's rate of pay in effect at the time disability commences;
 - (ii) the office to require participating employer contributions to be paid before granting service credit and salary credit to the member;
 - (iii) the member with a disability to remain eligible during the contract period for any benefits provided by the system that covers the member; and
 - (iv) the benefit for the member with a disability to be improved by the annual cost-of-living increase factor applied to retired members of the system that covered the member on the date the member is eligible to receive benefits under a benefit protection contract; and
 - (b) for the defined contribution portion for a member covered under Chapter 22, Part 3, Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System, or for a participant covered under Chapter 22, Part 4, Tier II Defined Contribution Plan, or

Chapter 23, Part 4, Tier II Defined Contribution Plan, the office to require participating employers to continue making the nonelective contributions on behalf of the member with a disability or participant in the amounts specified in Subsection 49-22-303(1)(a), 49-22-401(1), 49-23-302(1)(a), or 49-23-401(1).

- (5) A participating employer that has entered into a benefit protection contract under this section shall submit an annual report to the office which identifies:
 - (a) the employees receiving long-term disability benefits under policies initiated by the participating employer and approved under the benefit protection contract;
 - (b) the employees that have applied for long-term disability benefits and who are waiting approval; and
 - (c) the insurance carriers that are actively providing long-term disability benefits.
- (6) If an employer fails to provide the annual report required under Subsection (5), the benefits that would have accrued under the benefit protection contract shall be forfeited.
- (7) The board may adopt rules to implement and administer this section.

Amended by Chapter 366, 2011 General Session