

49-11-602 Participating employer to maintain records -- Time limit -- Penalties for failure to comply.

- (1) A participating employer shall:
 - (a) maintain records necessary to calculate benefits under this title and other records necessary for proper administration of this title as required by the office; and
 - (b) maintain records that indicate whether an employee is receiving:
 - (i) a benefit under state or federal law that, under Subsection 49-12-102(1)(b)(vi) or (vii), is excluded from the definition of benefits normally provided for purposes of Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, or Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
 - (ii) a benefit under a benefit package generally offered to similarly situated employees.
- (2) A participating employer shall maintain the records required under Subsection (1) until the earliest of:
 - (a) three years after the date of retirement of the employee from a system or plan;
 - (b) three years after the date of death of the employee; or
 - (c) 65 years from the date of employment with the participating employer.
- (3) A participating employer shall be liable to the office for:
 - (a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to members, resulting from the participating employer's failure to maintain records under this section; and
 - (b) a penalty equal to 1% of the participating employer's last month's contributions.
- (4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.
- (5) The executive director may estimate the length of service, compensation, or age of any member, if that information is not contained in the records.
- (6)
 - (a) A participating employer shall enroll an employee, make reports, submit contributions, and provide other requested information electronically in a manner approved by the office.
 - (b) A participating employer shall treat any information provided electronically or otherwise by the office as subject to the confidentiality provisions of this title.

Amended by Chapter 109, 2013 General Session