

## Part 2 Membership Eligibility

### **49-16-201 System membership -- Eligibility.**

- (1) A firefighter service employee who performs firefighter service for an employer participating in this system is eligible for service credit in this system upon the earliest of:
  - (a) July 1, 1971, if the firefighter service employee was employed by the participating employer on July 1, 1971, and the participating employer was participating in this system on that date;
  - (b) the date the participating employer begins participating in this system if the firefighter service employee was employed by the participating employer on that date; or
  - (c) the date the firefighter service employee is hired to perform firefighter services for a participating employer, if the firefighter:
    - (i) initially enters employment before July 1, 2011; or
    - (ii) has service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board.
- (2)
  - (a)
    - (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll the dual purpose employees in the system in which the greatest amount of time is actually worked.
    - (ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.
  - (b)
    - (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.
    - (ii) The office may request documentation to verify the appropriateness of the transfer.
- (3)
  - (a) A person hired by a regularly constituted fire department on or after July 1, 1971, who does not perform firefighter service is not eligible for service credit in this system.
  - (b) The nonfirefighter service employee shall become a member of the system for which the nonfirefighter service employee qualifies for service credit.
  - (c) The service credit exclusion under this Subsection (3) may not be interpreted to prohibit the assignment of a firefighter with a disability or partial disability to a nonfirefighter service position.
  - (d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for service credit in this system.
- (4) An allowance or other benefit may not be granted under this system that is based upon the same service for benefits received under some other system.
- (5) Service as a volunteer firefighter is not eligible for service credit in this system.
- (6) An employer is eligible to participate in this system if the employer:
  - (a) maintains a regularly constituted fire department; or
  - (b) is the Department of Public Safety created in Section 53-1-103 that employs the state fire marshal appointed under Section 53-7-103.
- (7) Beginning July 1, 2011, a person who is initially entering employment with a participating employer and who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board may not participate in this system.

Amended by Chapter 254, 2015 General Session

**49-16-202 Participation of employers -- Full participation in system -- Supplemental programs authorized.**

- (1) An employer that employs firefighter service employees and is required by Section 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory Retirement System or the Public Employees' Noncontributory Retirement System shall cover all of its firefighter service employees under one of the following systems or plans:
  - (a) Chapter 12, Public Employees' Contributory Retirement Act;
  - (b) Chapter 13, Public Employees' Noncontributory Retirement Act;
  - (c) Chapter 16, Firefighters' Retirement Act; or
  - (d) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.
- (2) Any employer that covers its firefighter service employees under Subsection (1)(c) is a participating employer in this system.
- (3) If a participating employer under Subsection (1) covers any of its firefighter service employees under the Firefighters' Retirement System, that participating employer shall cover all of its firefighter service employees under that system, except for a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011.
- (4)
  - (a) Until June 30, 2011, an employer that is not participating in this system may, by resolution of its governing body submitted to the board, apply for coverage of its firefighter service employees by this system.
  - (b) Upon approval of the board, the employer shall become a participating employer in this system subject to this title.
- (5) A participating employer may not withdraw from this system.
- (6) In addition to their participation in the system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their firefighter service employees.

Amended by Chapter 266, 2010 General Session

**49-16-203 Exemption of certain employees from coverage -- Exception.**

- (1) A firefighter service employee serving as the chief of any fire department or district is excluded from coverage under this system if that firefighter service employee files a formal written request seeking exemption.
- (2) The chief of any fire department or district who retires from that position shall comply with the provisions of Section 49-11-504 and Chapter 11, Part 12, Postretirement Reemployment Restrictions Act, upon reemployment by the participating employer.

Amended by Chapter 310, 2016 General Session