

## Chapter 18 Judges' Noncontributory Retirement Act

### Part 1 General Provisions

#### 49-18-101 Title.

This chapter is known as the "Judges' Noncontributory Retirement Act."

Renumbered and Amended by Chapter 250, 2002 General Session

#### 49-18-102 Definitions.

As used in this chapter:

- (1)
- (a) "Compensation" means the total amount of payments which are currently includable in gross income made by a participating employer to a member of this system for services rendered to the participating employer.
  - (b) "Compensation" includes:
    - (i) performance-based bonuses;
    - (ii) cost-of-living adjustments;
    - (iii) payments subject to Social Security deductions;
    - (iv) any payments in excess of the maximum amount subject to deduction under Social Security law; and
    - (v) amounts which the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law.
  - (c) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).
  - (d) "Compensation" does not include:
    - (i) the monetary value of remuneration paid in kind, such as a residence or use of equipment;
    - (ii) all contributions made by a participating employer under a system or plan for the benefit of a member or participant;
    - (iii) salary paid to a temporary or exempt employee;
    - (iv) payments upon termination or any other special payments including early retirement inducements; or
    - (v) uniform, travel, or similar payments.
- (2) "Final average salary" means the amount calculated by averaging the highest two years of annual compensation preceding retirement, subject to Subsections (2)(a), (b), and (c).
- (a) Except as provided in Subsection (2)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
  - (b) In cases where the participating employer provides acceptable documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:
    - (i) the member has transferred from another agency; or
    - (ii) the member has been promoted to a new position.

- (c) The annual compensation used to calculate final average salary shall be based on the state's fiscal year.
- (3) "Judge" means a judge or justice of the courts of record as enumerated in Section 78A-1-101.
- (4) "Participating employer" means the state.
- (5) "System" means the Judges' Noncontributory Retirement System created under this chapter.
- (6) "Years of service credit" means the number of periods, each to consist of 12 full months or as determined by the board, whether consecutive or not, during which a judge was employed by a participating employer.

Amended by Chapter 227, 2016 General Session

**49-18-103 Creation of system.**

There is created for judges the "Judges' Noncontributory Retirement System."

Renumbered and Amended by Chapter 250, 2002 General Session

**49-18-104 Creation of trust fund.**

- (1) There is created the "Judges' Noncontributory Retirement Trust Fund" for the purpose of paying the benefits and costs of administering this system.
- (2) The fund shall consist of all money, including interest, and assets transferred to it under any terminated system, the money paid into it under this system, whether in the form of cash, securities, or other assets, and of all money received from any other source.
- (3) Custody, management, and investment of the fund shall be governed by Chapter 11, Utah State Retirement Systems Administration.

Renumbered and Amended by Chapter 250, 2002 General Session

**Part 2  
Membership Eligibility**

**49-18-201 System membership -- Eligibility.**

- (1) Judges appointed after July 1, 1997, are members of and are eligible for service credit in this system.
- (2)
  - (a) Any judge appointed prior to July 1, 1997, may either become a member of the Judges' Noncontributory Retirement System or remain a member of the Judges' Contributory Retirement System established under Chapter 17, Judges' Contributory Retirement Act, by following the procedures established by the board pursuant to this chapter.
  - (b) Judges may only elect to participate in this system under Subsection (2) prior to January 1, 1998.

Renumbered and Amended by Chapter 250, 2002 General Session

**Part 3  
Contributions**

**49-18-301 Contributions by employees and employers -- Retirement fees.**

- (1) In addition to the money paid to this system under Subsection (2), participating employers shall pay the certified contribution rates to the office to maintain this system on a financially and actuarially sound basis.
- (2) Fees collected under Subsection 78A-2-301(1)(j)(i) shall be paid monthly to the office to maintain this system and the system established under Chapter 17, Judges' Contributory Retirement Act.

Amended by Chapter 3, 2008 General Session

**Part 4  
Defined Benefit**

**49-18-401 Eligibility for an allowance -- Date of retirement -- Qualifications.**

- (1) A member is qualified to receive an allowance when:
  - (a) the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;
  - (b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and
  - (c) one of the following conditions is met as of the member's retirement date:
    - (i) the member has accrued at least six years of service credit and has attained an age of 70 years;
    - (ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;
    - (iii) the member has accrued at least 20 years of service credit and has attained an age of 55 years; or
    - (iv) the member has accrued at least 25 years of service credit.
- (2)
  - (a) The member's retirement date:
    - (i) shall be the 1st or the 16th day of the month, as selected by the member;
    - (ii) shall be on or after the date of termination; and
    - (iii) may not be more than 90 days before or after the date the application is received by the office.
  - (b) A member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

Amended by Chapter 15, 2014 General Session

**49-18-402 Calculation of retirement allowance.**

- (1) A retiree under this system shall receive an allowance equal to:
  - (a) 5% of the final average monthly salary multiplied by the number of years of service credit, limited to 10 years; plus
  - (b) 2.25% of the final average monthly salary multiplied by the number of years of service credit in excess of 10 years and up to and including 20 years; plus

- (c) 1% of the final average monthly salary multiplied by the number of years of service credit in excess of 20 years.
- (2)
  - (a) Except as modified by cost-of-living adjustments and except as provided under Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final average monthly salary.
  - (b) The allowance limitation under Subsection (2)(a) does not apply to a member who initially retires on or after July 1, 2010.
- (3) If the retiree has attained the age of 55 years and has 20 years or more but less than 25 years of service credit, the retiree shall receive an early retirement reduction to the allowance based on an actuarial calculation assuming a normal retirement age of 65 years.

Amended by Chapter 15, 2014 General Session

**49-18-403 Annual cost-of-living adjustment.**

- (1) The office shall make an annual cost-of-living adjustment to:
  - (a) an allowance paid under Section 49-18-402 and Part 5, Death Benefit, of this chapter if the benefit has been paid for at least one year; and
  - (b) a payment made to an alternate payee under a domestic relations order, if the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.
- (2)
  - (a) The allowance shall be increased by the annual increase in the Consumer Price Index up to a maximum of 4%.
  - (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated and used in subsequent adjustments when the increase in the Consumer Price Index is less than 4%.
- (3) The Consumer Price Index used in calculating adjustments shall be a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
- (4) The cost-of-living adjustment made under this section may not decrease the allowance.

Renumbered and Amended by Chapter 250, 2002 General Session

**Part 5  
Death Benefit**

**49-18-501 Death benefit for members before retirement -- Computation.**

- (1) Upon the receipt of acceptable proof of death of a member before the member's retirement date, the member's surviving spouse shall have the choice of the following death benefits:
  - (a) a refund of the member's member contributions, if any, plus 65% of the member's most recent 12 months' compensation prior to death; or
  - (b) an allowance equal to 65% of the allowance computed in accordance with Section 49-18-402, but disregarding early retirement reductions.
- (2) If there is no surviving spouse, member contributions shall be refunded to a beneficiary, in accordance with Sections 49-11-609 and 49-11-610.
- (3)

- (a) A surviving spouse who requests a benefit under this section shall apply in writing to the office.
- (b) The allowance shall begin on the first day of the month:
  - (i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or
  - (ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Amended by Chapter 84, 2016 General Session

**49-18-502 Benefits payable upon death of retired member.**

- (1) The death benefit payable to a retiree's surviving spouse is an allowance equal to 65% of the allowance which was being paid to the retiree at the time of death.
- (2)
  - (a) Notwithstanding the amount of the allowance under Subsection (1), at the time of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an allowance computed in accordance with Section 49-18-402.
  - (b) If an election is made under Subsection (2)(a), the member's allowance shall be reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to pay for the increased spousal death benefit above 65%.
- (3)
  - (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.
  - (b) The allowance shall begin on the first day of the month following the month in which the:
    - (i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or
    - (ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Amended by Chapter 84, 2016 General Session

**49-18-503 Surviving spouse includes certain former spouses -- Benefit calculation for former spouse.**

- (1) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.
- (2) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Enacted by Chapter 84, 2016 General Session

**Part 6  
Reserved**

**Part 7**  
**Early Retirement Incentive**

**49-18-701 Judges' mandatory retirement age.**

- (1) Except as provided in Subsection (2), a judge shall retire upon attaining the age of 75 years.
- (2) A judge serving on July 1, 1996, who is 75 years of age or older on July 1, 1996, or who attains 75 years of age prior to the judge's next retention election may not be a candidate in that retention election and shall retire on or before December 31 of the year in which the judge would have been subject to a retention election.

Renumbered and Amended by Chapter 250, 2002 General Session