

28 Section 1. Section **49-14-201** is amended to read:

29 **49-14-201. System membership -- Eligibility.**

30 (1) Except as provided in Section 49-15-201, a public safety service employee of a
31 participating employer participating in this system is eligible for service credit in this system at
32 the earliest of:

33 (a) July 1, 1969, if the public safety service employee was employed by the
34 participating employer on July 1, 1969, and the participating employer was participating in this
35 system on that date;

36 (b) the date the participating employer begins participating in this system if the public
37 safety service employee was employed by the participating employer on that date; or

38 (c) the date the public safety service employee is employed by the participating
39 employer and is eligible to perform public safety service.

40 (2) (a) (i) A participating employer that has public safety service and firefighter service
41 employees that require cross-training and duty shall enroll those dual purpose employees in the
42 system in which the greatest amount of time is actually worked.

43 (ii) The employees shall either be full-time public safety service or full-time firefighter
44 service employees of the participating employer.

45 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
46 participating employer shall receive written permission from the office.

47 (ii) The office may request documentation to verify the appropriateness of the transfer.

48 (3) The board may combine or segregate the actuarial experience of participating
49 employers in this system for the purpose of setting contribution rates.

50 (4) (a) (i) Each participating employer participating in this system shall annually
51 submit to the office a schedule indicating the positions to be covered under this system in
52 accordance with this chapter.

53 (ii) The office may require documentation to justify the inclusion of any position under
54 this system.

55 (b) If there is a dispute between the office and a participating employer or employee
56 over any position to be covered, the disputed position shall be submitted to the Peace Officer
57 Standards and Training Council established under Section 53-6-106 for determination.

58 (c) (i) The Peace Officer Standards and Training Council's authority to decide

59 eligibility for public safety service credit is limited to claims for coverage under this system for
60 time periods after July 1, 1989.

61 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
62 to service credit earned in another system prior to July 1, 1989.

63 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
64 Standards and Training Council granting a position coverage under this system may only be
65 applied prospectively from the date of that decision.

66 (iv) A decision of the Peace Officer Standards and Training Council granting a position
67 coverage under this system may be applied retroactively only if:

68 (A) the participating employer covered other similarly situated positions under this
69 system during the time period in question; and

70 (B) the position otherwise meets all eligibility requirements for receiving service credit
71 in this system during the period for which service credit is to be granted.

72 (5) The Peace Officer Standards and Training Council may use a subcommittee to
73 provide a recommendation to the council in determining disputes between the office and a
74 participating employer or employee over a position to be covered under this system.

75 (6) The Peace Officer Standards and Training Council shall comply with Title 63,
76 Chapter 46b, Administrative Procedures Act, in resolving coverage disputes in this system.

77 (7) A public safety employee who is transferred or promoted to an administration
78 position not covered by this system shall continue to earn public safety service credit in this
79 system as long as the employee remains employed in the same department.

80 (8) Any employee who is transferred to the Division of Information Technology
81 Services from the Department of Public Safety prior to January 1, 1992, and who was a
82 member of this system, shall be entitled to remain a member of this system regardless of
83 whether or not the employee's current position is covered by this system.

84 (9) (a) To determine that a position is covered under this system, the office and, if a
85 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
86 position requires the employee to:

87 (i) place the employee's life or personal safety at risk; and

88 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

89 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace

90 Officer Standards and Training Council shall consider whether or not the position requires the
91 employee to:

92 (i) perform duties that consist primarily of actively preventing or detecting crime and
93 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

94 (ii) perform duties that consist primarily of providing community protection; and

95 (iii) respond to situations involving threats to public safety and make emergency
96 decisions affecting the lives and health of others.

97 (10) If a subcommittee is used to recommend the determination of disputes to the
98 Peace Officer Standards and Training Council, the subcommittee shall comply with the
99 requirements of Subsection (9) in making its recommendation.

100 (11) A final order of the Peace Officer Standards and Training Council regarding a
101 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative
102 Procedures Act.

103 (12) [Hf] Except as provided under Subsection (13), if a participating employer's public
104 safety service employees are not covered by this system or under Chapter 15, Public Safety
105 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees
106 who may otherwise qualify for membership in this system shall, at the discretion of the
107 participating employer, remain in their current retirement system.

108 (13) (a) A public safety service employee employed by an airport police department
109 which elects to cover its public safety service employees under the Public Safety Contributory
110 Retirement System under Subsection (12), may elect to remain in the public safety service
111 employee's current retirement system.

112 (b) The public safety service employee's election to remain in the current retirement
113 system under Subsection (13)(a):

114 (i) shall be made at the time the employer elects to move its public safety service
115 employees to a public safety retirement system;

116 (ii) documented by written notice to the participating employer; and

117 (iii) is irrevocable.

118 Section 2. Section **49-15-201** is amended to read:

119 **49-15-201. System membership -- Eligibility.**

120 (1) (a) A public safety service employee employed by the state after July 1, 1989, is

121 eligible for service credit in this system.

122 (b) A public safety service employee employed by the state prior to July 1, 1989, may
123 either elect to receive service credit in this system or continue to receive service credit under
124 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
125 following the procedures established by the board under this chapter.

126 (2) (a) Public safety service employees of a participating employer other than the state
127 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
128 System shall be eligible only for service credit in that system.

129 (b) (i) A participating employer other than the state that elected on or before July 1,
130 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
131 service employee to elect to participate in either this system or the Public Safety Contributory
132 Retirement System.

133 (ii) Except as expressly allowed by this title, the election of the public safety service
134 employee is final and may not be changed.

135 (c) A public safety service employee hired by a participating employer other than the
136 state after July 1, 1989, shall become a member in this system.

137 (d) A public safety service employee of a participating employer other than the state
138 who began participation in this system after July 1, 1989, is only eligible for service credit in
139 this system.

140 (3) (a) (i) A participating employer that has public safety service and firefighter service
141 employees that require cross-training and duty shall enroll those dual purpose employees in the
142 system in which the greatest amount of time is actually worked.

143 (ii) The employees shall either be full-time public safety service or full-time firefighter
144 service employees of the participating employer.

145 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
146 participating employer shall receive written permission from the office.

147 (ii) The office may request documentation to verify the appropriateness of the transfer.

148 (4) The board may combine or segregate the actuarial experience of participating
149 employers in this system for the purpose of setting contribution rates.

150 (5) (a) (i) Each participating employer participating in this system shall annually
151 submit to the office a schedule indicating the positions to be covered under this system in

152 accordance with this chapter.

153 (ii) The office may require documentation to justify the inclusion of any position under
154 this system.

155 (b) If there is a dispute between the office and a participating employer or employee
156 over any position to be covered, the disputed position shall be submitted to the Peace Officer
157 Standards and Training Council established under Section 53-6-106 for determination.

158 (c) (i) The Peace Officer Standards and Training Council's authority to decide
159 eligibility for public safety service credit is limited to claims for coverage under this system for
160 time periods after July 1, 1989.

161 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
162 to service credit earned in another system prior to July 1, 1989.

163 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
164 Standards and Training Council granting a position coverage under this system may only be
165 applied prospectively from the date of that decision.

166 (iv) A decision of the Peace Officer Standards and Training Council granting a position
167 coverage under this system may be applied retroactively only if:

168 (A) the participating employer covered other similarly situated positions under this
169 system during the time period in question; and

170 (B) the position otherwise meets all eligibility requirements for receiving service credit
171 in this system during the period for which service credit is to be granted.

172 (6) The Peace Officer Standards and Training Council may use a subcommittee to
173 provide a recommendation to the council in determining disputes between the office and a
174 participating employer or employee over a position to be covered under this system.

175 (7) The Peace Officer Standards and Training Council shall comply with Title 63,
176 Chapter 46b, Administrative Procedures Act, in resolving coverage disputes in this system.

177 (8) A public safety service employee who is transferred or promoted to an
178 administration position not covered by this system shall continue to earn public safety service
179 credit in this system as long as the employee remains employed in the same department.

180 (9) Any employee who is transferred to the Division of Information Technology
181 Services from the Department of Public Safety prior to January 1, 1992, and who was a
182 member in this system, shall be entitled to remain a member in this system regardless of

183 whether or not the employee's current position is covered by this system.

184 (10) (a) To determine that a position is covered under this system, the office and, if a
185 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
186 position requires the employee to:

187 (i) place the employee's life or personal safety at risk; and

188 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

189 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace
190 Officer Standards and Training Council shall consider whether the position requires the
191 employee to:

192 (i) perform duties that consist primarily of actively preventing or detecting crime and
193 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

194 (ii) perform duties that consist primarily of providing community protection; and

195 (iii) respond to situations involving threats to public safety and make emergency
196 decisions affecting the lives and health of others.

197 (11) If a subcommittee is used to recommend the determination of disputes to the
198 Peace Officer Standards and Training Council, the subcommittee shall comply with the
199 requirements of Subsection (10) in making its recommendation.

200 (12) A final order of the Peace Officer Standards and Training Council regarding a
201 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative
202 Procedures Act.

203 (13) ~~[H]~~ Except as provided under Subsection (14), if a participating employer's public
204 safety service employees are not covered by this system under Chapter 14, Public Safety
205 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who
206 may otherwise qualify for membership in this system shall, at the discretion of the participating
207 employer, remain in their current retirement system.

208 (14) (a) A public safety service employee employed by an airport police department
209 which elects to cover its public safety service employees under the Public Safety
210 Noncontributory Retirement System under Subsection (13), may elect to remain in the public
211 safety service employee's current retirement system.

212 (b) The public safety service employee's election to remain in the current retirement
213 system under Subsection (14)(a):

214 (i) shall be made at the time the employer elects to move its public safety service
215 employees to a public safety retirement system;
216 (ii) documented by written notice to the participating employer; and
217 (iii) is irrevocable.
218 Section 3. **Effective date.**
219 This bill takes effect on July 1, 2004.

Legislative Review Note
as of 2-23-04 1:14 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel