

- 30 49-16-102, as last amended by Laws of Utah 2022, Chapter 171
- 31 49-16-701, as last amended by Laws of Utah 2011, Chapter 439
- 32 49-21-402, as last amended by Laws of Utah 2019, Chapter 349
- 33 49-21-406, as last amended by Laws of Utah 2019, Chapter 349
- 34 49-23-301, as last amended by Laws of Utah 2020, Chapter 437
- 35 49-23-601, as last amended by Laws of Utah 2012, Chapter 298



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section 49-11-613 is amended to read:

39 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**
 40 **reconsideration -- Judicial review -- Docketing abstract of final administrative order.**

41 (1) (a) A member, retiree, participant, alternative payee, covered individual, employer,
 42 participating employer, and covered employer shall inform themselves of their benefits, rights,
 43 obligations, and employment rights under this title.

44 (b) Subject to Subsection (8), any dispute regarding a benefit, right, obligation, or
 45 employment right under this title is subject to the procedures provided under this section.

46 (c) (i) A person who disputes a benefit, right, obligation, or employment right under
 47 this title shall request a ruling by the executive director who may delegate the decision to the
 48 deputy director.

49 (ii) A request for a ruling to the executive director under this section shall constitute
 50 the initiation of an action for purposes of the limitations periods described in Section
 51 49-11-613.5.

52 (d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any
 53 benefit, right, obligation, or employment right under this title may request a review of that
 54 claim by a hearing officer within the time period described in Section 49-11-613.5.

55 (e) (i) The executive director, on behalf of the board, may request that the hearing
 56 officer review a dispute regarding any benefit, right, obligation, or employment right under this
 57 title by filing a notice of board action and providing notice to all affected parties in accordance

58 with rules adopted by the board.

59 (ii) The filing of a notice of board action shall constitute the initiation of an action for
60 purposes of the limitations periods described in Section 49-11-613.5.

61 (2) The hearing officer shall:

62 (a) be hired by the executive director after consultation with the board;

63 (b) follow and enforce the procedures and requirements of:

64 (i) this title;

65 (ii) the rules adopted by the board in accordance with Subsection [~~(9)~~] (10); and

66 (iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically
67 modified under this title or the rules adopted by the board in accordance with Subsection [~~(9)~~]
68 (10);

69 (c) hear and determine all facts relevant to a decision, including facts pertaining to
70 applications for benefits under any system, plan, or program under this title and all matters
71 pertaining to the administration of the office; and

72 (d) make conclusions of law in determining the person's rights under any system, plan,
73 or program under this title and matters pertaining to the administration of the office.

74 (3) The board shall review and approve or deny all decisions of the hearing officer in
75 accordance with rules adopted by the board in accordance with Subsection [~~(9)~~] (10).

76 (4) The moving party in any proceeding brought under this section shall bear the
77 burden of proof.

78 (5) A party may file an application for reconsideration by the board upon any of the
79 following grounds:

80 (a) that the board acted in excess of the board's powers;

81 (b) that the order or the award was procured by fraud;

82 (c) that the evidence does not justify the determination of the hearing officer; or

83 (d) that the party has discovered new material evidence that could not, with reasonable
84 diligence, have been discovered or procured prior to the hearing.

85 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or

86 remand the application to the hearing officer for further consideration.

87 (7) A party aggrieved by the board's final decision under Subsection (6) may obtain
88 judicial review by complying with the procedures and requirements of:

89 (a) this title;

90 (b) rules adopted by the board in accordance with Subsection [~~(9)~~] (10); and

91 (c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically
92 modified under this title or the rules adopted by the board in accordance with Subsection [~~(9)~~]
93 (10).

94 (8) The program shall provide an appeals process for medical claims that complies
95 with federal law.

96 (9) (a) (i) Any interested party may file, in a district court of any county in the state, an
97 abstract of a final administrative order approved by the board in accordance with this section.

98 (ii) Upon receiving the filing of an abstract, the clerk of the district court shall:

99 (A) docket the abstract; and

100 (B) note the date of the abstract's receipt on the abstract and in the docket.

101 (b) (i) From the day on which an interested party files the abstract with a district court,
102 the final administrative order approved by the board is a lien upon the real property of the
103 obligor situated in that county.

104 (ii) Unless satisfied, the lien is for a period of eight years after the day on which the
105 board approves the final administrative order.

106 (c) The final administrative order approved by the board fixing the liability of the
107 obligor has the same effect as any other money judgment entered by a district court.

108 (d) (i) Except as provided in Subsection (9)(d)(ii), an attachment, a garnishment, or an
109 execution on a judgment included in or accruing under a final administrative order approved by
110 the board and filed and docketed in accordance with Subsection (9)(a) has the same manner
111 and same effect as an attachment, a garnishment, or an execution on a judgment of a district
112 court.

113 (ii) A writ of garnishment on earnings continues to operate, and to require the

114 garnishee to withhold the nonexempt portion of earnings at each succeeding earnings
 115 disbursement interval, until the office or a court releases the writ of garnishment in writing.

116 (e) The lien and enforcement remedies provided by this section are in addition to any
 117 other lien or remedy provided by law.

118 (f) A party may bring an action upon a final administrative order approved by the board
 119 within eight years after the day on which the board approves the final administrative order.

120 (g) A final administrative order may be renewed administratively by complying with
 121 the procedures and requirements provided in rule adopted by the board in accordance with
 122 Subsection (10).

123 ~~[(9)]~~ (10) (a) The board shall make rules to implement this section and to establish
 124 procedures and requirements for adjudicative proceedings.

125 (b) The rules shall be substantially similar to or incorporate provisions of the Utah
 126 Rules of Civil Procedure, the Utah Rules of Evidence, and Title 63G, Chapter 4,
 127 Administrative Procedures Act.

128 Section 2. Section **49-11-613.5** is amended to read:

129 **49-11-613.5. Limitation of actions -- Cause of action.**

130 (1) (a) Subject to the procedures provided in Section **49-11-613** and except as provided
 131 in Subsection (3), ~~an~~ a party may bring an action regarding a benefit, right, obligation, or
 132 employment right brought under this title ~~[may be commenced only]~~ within four years ~~[of]~~
 133 after the day on which the cause of action accrues.

134 (b) A person who is dissatisfied with an executive director's ruling under Section
 135 **49-11-613** and who seeks a review of that claim by a hearing officer shall file a request for
 136 board action within 30 days ~~[of]~~ after the day on which the ~~[hearing officer]~~ executive director
 137 issues the ruling.

138 (2) (a) A cause of action accrues under this title and the limitation period in this section
 139 runs from the day on which the aggrieved party became aware, or through the exercise of
 140 reasonable diligence should have become aware, of the facts giving rise to the cause of action,
 141 including when:

142 (i) a benefit, right, or employment right is or should have been granted;

143 (ii) a payment is or should have been made; or

144 (iii) an obligation is or should have been performed.

145 (b) If a claim involves a retirement service credit issue under this title:

146 (i) a cause of action specifically accrues at the time the requisite retirement
147 contributions relating to that retirement service credit are paid or should have been paid to the
148 office; and

149 (ii) the person is deemed to be on notice of the payment or nonpayment of those
150 retirement contributions.

151 (3) If an aggrieved party fails to discover the facts giving rise to the cause of action due
152 to misrepresentation, fraud, intentional nondisclosure, or other affirmative steps to conceal the
153 cause of action, a limitation period prescribed in this section does not begin to run until the
154 aggrieved party actually discovers the existence of the cause of action.

155 (4) The person claiming a benefit, right, obligation, or employment right arising under
156 this title has the burden of bringing the action within the period prescribed in this section.

157 (5) Nothing in this section relieves a member, retiree, participant, alternative payee,
158 covered individual, employer, participating employer, or covered employer of the obligations
159 under this title.

160 (6) The office is not required to bring a claim on behalf of a member, retiree,
161 participant, alternative payee, covered individual, employer, participating employer, or covered
162 employer.

163 (7) (a) A limitation period provided in this section does not apply to actions for which
164 a specific limit is otherwise specified in this title or by contract, including master policies or
165 other insurance contracts.

166 (b) For actions arising under this title, this section supersedes any applicable limitation
167 period provided in Title 78B, Chapter 2, Statutes of Limitations.

168 Section 3. Section **49-14-201** is amended to read:

169 **49-14-201. System membership -- Eligibility.**

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

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

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

178 (c) the date the public safety service employee is employed by the participating
179 employer and is eligible to perform public safety service, except that a public safety service
180 employee initially entering employment with a participating employer on or after July 1, 2011,
181 who does not have service credit accrued before July 1, 2011, in a Tier I system or plan
182 administered by the board, may not participate in this system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

218 (6) The Peace Officer Standards and Training Council shall comply with Title 63G,
219 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

220 (7) A public safety service employee who is transferred or promoted to an
221 administration position requiring the performance of duties that consist primarily of
222 management or supervision of public safety service employees shall continue to earn public
223 safety service credit in this system during the period in which the employee remains employed
224 in the same department.

225 (8) An employee of the Department of Corrections shall continue to earn public safety

226 service credit in this system if:

227 (a) the employee's position is no longer covered under this system for new employees
228 hired on or after July 1, 2015; and

229 (b) the employee:

230 (i) remains employed by the Department of Corrections;

231 (ii) meets the eligibility requirements of this system;

232 (iii) was hired into a position covered by this system before July 1, 2015; and

233 (iv) has not had a break in service on or after July 1, 2015.

234 (9) An employee who is reassigned to the Division of Technology Services or to the
235 Division of Human Resource Management, and who was a member of this system, is entitled
236 to remain a member of this system.

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

240 (i) except for a dispatcher, place the employee's life or personal safety at risk; and

241 (ii) complete training as provided in Section [53-6-303](#), [53-13-103](#), [53-13-104](#), or
242 [53-13-105](#).

243 (b) If a position satisfies the requirements of Subsection (10)(a), the office and the
244 Peace Officer Standards and Training Council shall consider whether or not the position
245 requires the employee to:

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

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

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

251 (11) If a subcommittee is used to recommend the determination of disputes to the
252 Peace Officer Standards and Training Council, the subcommittee shall comply with the
253 requirements of Subsection (10) in making the subcommittee's recommendation.

254 (12) A final order of the Peace Officer Standards and Training Council regarding a
255 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
256 Procedures Act.

257 (13) Except as provided under Subsection (14), if a participating employer's public
258 safety service employees are not covered by this system or under Chapter 15, Public Safety
259 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees
260 who may otherwise qualify for membership in this system shall, at the discretion of the
261 participating employer, remain in their current retirement system.

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

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

268 (i) shall be made at the time the employer elects to move the employer's public safety
269 service employees to a public safety retirement system;

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

271 (iii) is irrevocable.

272 (15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service
273 employee who is a dispatcher employed by:

274 (i) the state shall be eligible for service credit in this system; and

275 (ii) a participating employer other than the state shall be eligible for service credit in
276 this system if the dispatcher's participating employer elects to cover the participating
277 employer's dispatchers under this system.

278 (b) A participating employer's election to cover the participating employer's dispatchers
279 under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a
280 resolution adopted by the governing body of the participating employer in accordance with
281 rules made by the office.

282 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution
283 of a participating employer under Subsection (15)(b), is not eligible for service credit in this
284 system.

285 (16) Notwithstanding any other provision of this section, a person initially entering
286 employment with a participating employer on or after July 1, 2011, who does not have service
287 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may
288 not participate in this system.

289 Section 4. Section **49-16-102** is amended to read:

290 **49-16-102. Definitions.**

291 As used in this chapter:

292 (1) (a) "Compensation" means the total amount of payments that are includable as
293 gross income received by a firefighter service employee as base income for the regularly
294 scheduled work period. The participating employer shall establish the regularly scheduled
295 work period. Base income shall be determined prior to the deduction of member contributions
296 or any amounts the firefighter service employee authorizes to be deducted for salary deferral or
297 other benefits authorized by federal law.

298 (b) "Compensation" includes performance-based bonuses and cost-of-living
299 adjustments.

300 (c) "Compensation" does not include:

301 (i) overtime;

302 (ii) sick pay incentives;

303 (iii) retirement pay incentives;

304 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel,
305 or similar payments;

306 (v) a lump-sum payment or special payments covering accumulated leave; and

307 (vi) all contributions made by a participating employer under this system or under any
308 other employee benefit system or plan maintained by a participating employer for the benefit of
309 a member or participant.

310 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
311 under Section 401(a)(17), Internal Revenue Code.

312 (2) (a) "Disability" means the complete inability, due to objective medical impairment,
313 whether physical or mental, to perform firefighter service.

314 (b) "Disability" does not include the inability to meet an employer's required standards
315 or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined
316 under Subsection (2)(a).

317 (3) (a) "Final average salary" means the amount calculated by averaging the highest
318 three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), and
319 (d).

320 (b) Except as provided in Subsection (3)(c), the percentage increase in annual
321 compensation in any one of the years used may not exceed the previous year's compensation by
322 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
323 of the dollar during the previous year, as measured by a United States Bureau of Labor
324 Statistics Consumer Price Index average as determined by the board.

325 (c) In cases where the participating employer provides acceptable documentation to the
326 office, the limitation in Subsection [~~(3)(a)~~] (3)(b) may be exceeded if:

327 (i) the member has transferred from another agency; or

328 (ii) the member has been promoted to a new position.

329 (d) The annual compensation used to calculate final average salary shall be based on a
330 period, as determined by the board, consistent with the period used to determine years of
331 service credit in accordance with Subsection (13).

332 (4) (a) "Firefighter service" means employment normally requiring an average of 2,080
333 hours of regularly scheduled employment per year rendered by a member who is:

334 (i) a firefighter service employee trained in firefighter techniques and assigned to a
335 position of hazardous duty with a regularly constituted fire department; or

336 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire
337 marshal.

338 (b) "Firefighter service" does not include secretarial staff or other similar employees.

339 (5) (a) "Firefighter service employee" means an employee of a participating employer
340 who provides firefighter service under this chapter.

341 (b) "Firefighter service employee" does not include an employee of a regularly
342 constituted fire department who does not perform firefighter service.

343 (6) (a) "Line-of-duty death or disability" means a death or disability resulting from:

344 (i) external force, violence, or disease directly resulting from firefighter service; or

345 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
346 training or another strenuous activity required as an act of duty as a firefighter service
347 employee.

348 (b) "Line-of-duty death or disability" does not include a death or disability that:

349 (i) occurs during an activity that is required as an act of duty as a firefighter service
350 employee if the activity is not a strenuous activity, including an activity that is clerical,
351 administrative, or of a nonmanual nature;

352 (ii) occurs during the commission of a crime committed by the employee;

353 (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether
354 prescribed or nonprescribed, contributes to the employee's death or disability; or

355 (iv) occurs in a manner other than as described in Subsection (6)(a).

356 (c) "Line-of-duty death or disability" includes the death or disability of a paid
357 firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid
358 firefighter has five years of firefighter service credit.

359 (7) "Objective medical impairment" means an impairment resulting from an injury or
360 illness that is diagnosed by a physician or physician assistant and that is based on accepted
361 objective medical tests or findings rather than subjective complaints.

362 (8) "Participating employer" means an employer that meets the participation
363 requirements of Section [49-16-201](#).

364 (9) "Regularly constituted fire department" means a fire department that employs a fire
365 chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid

366 employment per year.

367 (10) (a) "Strenuous activity" means engagement involving a difficult, stressful, or
368 vigorous fire suppression, rescue, hazardous material response, emergency medical service,
369 physical law enforcement, prison security, disaster relief, or other emergency response activity.

370 (b) "Strenuous activity" includes participating in a participating employer sanctioned
371 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

372 (11) "System" means the Firefighters' Retirement System created under this chapter.

373 (12) (a) "Volunteer firefighter" means any individual who is not regularly employed as
374 a firefighter service employee, but who:

375 (i) has been trained in firefighter techniques and skills;

376 (ii) continues to receive regular firefighter training; and

377 (iii) is on the rolls of a legally organized volunteer fire department that provides
378 ongoing training and serves a political subdivision of the state.

379 (b) "Volunteer firefighter" does not include an individual who volunteers assistance but
380 does not meet the requirements of Subsection (12)(a).

381 (13) "Years of service credit" means the number of periods, each to consist of 12 full
382 months as determined by the board, whether consecutive or not, during which a firefighter
383 service employee was employed by a participating employer or received full-time pay while on
384 sick leave, including any time the firefighter service employee was absent in the service of the
385 United States on military duty.

386 Section 5. Section **49-16-701** is amended to read:

387 **49-16-701. Volunteer firefighters eligible for line-of-duty death and disability**
388 **benefits in Division A -- Computation of benefit.**

389 (1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty
390 disability benefits provided for firefighters enrolled in Division A, subject to Sections
391 [49-16-602](#) and [49-16-603](#).

392 (2) The lowest monthly compensation of firefighters of a city of the first class in this
393 state at the time of death or disability shall be considered to be the final average monthly salary

394 of a volunteer firefighter for purposes of computing these benefits.

395 (3) Each volunteer fire department shall maintain a current roll of all volunteer
396 firefighters [~~which~~] that meet the requirements of Subsection [~~49-16-102(11)] 49-16-102(12)~~
397 to determine eligibility for this benefit.

398 Section 6. Section ~~49-21-402~~ is amended to read:

399 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**
400 **Application for other benefits required.**

401 (1) A monthly disability benefit may be reduced, suspended, or terminated unless:

402 (a) the eligible employee [~~is under the~~] participates in ongoing care and treatment [~~of a~~
403 ~~physician or physician assistant other than the eligible employee; and~~] in accordance with
404 Subsection 49-21-406(3) or (4); and

405 (b) the eligible employee provides the information and documentation requested by the
406 office.

407 (2) (a) The monthly disability benefit shall be reduced or reimbursed by any amount
408 received by, or payable to, the eligible employee for the same injury or illness that is the basis
409 for the monthly disability benefit from the following sources:

410 (i) workers' compensation indemnity benefits, regardless of whether the amount is
411 received as an ongoing monthly benefit, as a lump sum, or in a settlement with a workers'
412 compensation indemnity carrier;

413 (ii) any money received by judgment, legal action, or settlement from a third party
414 liable to the employee for the monthly disability benefit;

415 (iii) automobile no-fault, medical payments, or similar insurance payments;

416 (iv) any money received by a judgment, settlement, or other payment as a result of a
417 claim against an employer; or

418 (v) annual leave or similar lump-sum payments.

419 (b) The monthly disability benefit shall be reduced or reimbursed by any amount
420 received by, or payable to, the eligible employee for the same period of time during which the
421 eligible employee is entitled to receive a monthly disability benefit from the following sources:

422 (i) social security disability benefits, including all benefits received by the eligible
423 employee, the eligible employee's spouse, and the eligible employee's children as determined
424 by the Social Security Administration;

425 (ii) unemployment compensation benefits;

426 (iii) sick leave benefits; or

427 (iv) compensation received for employment, including self-employment, except for
428 eligible amounts from approved rehabilitative employment in accordance with Section
429 [49-21-406](#).

430 (3) The monthly disability benefit shall be reduced by any amount in excess of
431 one-third of the eligible employee's regular monthly salary received by, or payable to, the
432 eligible employee from the following sources for the same period of time during which the
433 eligible employee is entitled to receive a monthly disability benefit:

434 (a) any retirement payment earned through or provided by public or private
435 employment; and

436 (b) any disability benefit, other than social security or workers' compensation
437 indemnity benefits, resulting from the disability for which benefits are being received under
438 this chapter.

439 (4) After the date of disability, cost-of-living increases to any of the benefits listed in
440 Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability
441 benefit.

442 (5) Any amounts payable to the eligible employee from one or more of the sources
443 under Subsection (2) are considered as amounts received whether or not the amounts were
444 actually received by the eligible employee.

445 (6) (a) An eligible employee shall first apply for all disability benefits from
446 governmental entities under Subsection (2) to which the eligible employee is or may be
447 entitled, and provide to the office evidence of the applications.

448 (b) If the eligible employee fails to make application under this Subsection (6), the
449 monthly disability benefit shall be suspended.

450 (7) During a period of total disability, an eligible employee has an affirmative duty to
451 keep the program informed regarding:

452 (a) the award or receipt of an amount from a source that could result in the monthly
453 disability benefit being reduced or reimbursed under this section within 10 days of the award or
454 receipt of the amount; and

455 (b) any employment, including self-employment, of the eligible employee and the
456 compensation for that employment within 10 days of beginning the employment or a material
457 change in the compensation from that employment.

458 (8) The program shall use commercially reasonable means to collect any amounts of
459 overpayments and reimbursements.

460 (9) (a) If the program is unable to reduce or obtain reimbursement for the required
461 amount from the monthly disability benefit for any reason, the employee will have received an
462 overpayment of monthly disability benefits.

463 (b) If an eligible employee receives an overpayment of monthly disability benefits, the
464 eligible employee shall repay to the office the amount of the overpayment, plus interest as
465 determined by the program, within 30 days from the date the overpayment is received by:

466 (i) the eligible employee; or

467 (ii) a third party related to the eligible employee.

468 (c) The executive director may waive the interest on an overpayment of monthly
469 disability benefits under Subsection (9)(b) if good cause is shown for the delay in repayment of
470 the overpayment of monthly disability benefits.

471 Section 7. Section **49-21-406** is amended to read:

472 **49-21-406. Rehabilitative employment -- Interview by disability specialist --**
473 **Maintaining eligibility -- Additional treatment and care.**

474 (1) (a) If an eligible employee, during a period of total disability for which the monthly
475 disability benefit is payable, engages in approved rehabilitative employment, the monthly
476 disability benefit otherwise payable shall be reduced:

477 (i) by an amount equal to 50% of the income to which the eligible employee is entitled

478 for the employment during the month; and

479 (ii) so that the combined amount received from the rehabilitative employment and the
480 monthly disability payment does not exceed 100% of the eligible employee's monthly salary
481 prior to the employee's disability.

482 (b) This rehabilitative benefit is payable for up to two years or to the end of the
483 maximum benefit period, whichever occurs first.

484 (2) (a) The office shall review an eligible employee's total disability at least one time
485 each year.

486 (b) [~~Each~~] The office shall interview each eligible employee receiving a monthly
487 disability benefit [~~shall be interviewed by the office~~].

488 [~~(b)~~] (c) The office may refer the eligible employee to a rehabilitative or vocational
489 specialist for a review of the eligible employee's condition and a written rehabilitation plan and
490 return to work assistance.

491 (3) If an eligible employee receiving a monthly disability benefit fails to participate in
492 an office-approved rehabilitation program within the limitations set forth by a physician or
493 physician assistant, the monthly disability benefit may be reduced, suspended, or terminated.

494 (4) The office may, as a condition of paying a monthly disability benefit, require that
495 the eligible employee receive medical care and treatment if that treatment is reasonable or usual
496 according to current medical practices.

497 Section 8. Section **49-23-301** is amended to read:

498 **49-23-301. Contributions.**

499 (1) Participating employers and members shall pay the certified contribution rates to
500 the office to maintain the defined benefit portion of this system on a financially and actuarially
501 sound basis in accordance with Subsection (2).

502 (2) (a) A participating employer shall pay up to 14% of compensation toward the
503 certified contribution rate to the office for the defined benefit portion of this system.

504 (b) Except as provided in Subsection (2)(c), a member shall pay to the office the
505 amount, if any, of the certified contribution rate for the defined benefit portion of this system

506 that exceeds the percent of compensation paid by the participating employer under Subsection
507 (2)(a).

508 (c) A participating employer may elect to pay all or part of the required member
509 contribution under Subsection (2)(b) on behalf of the member as an employer pick up under 26
510 U.S.C. Sec. 414(h)(2), in addition to the required participating employer contribution under
511 Subsection (2)(a).

512 (d) In addition to the percent specified under Subsection (2)(a), the participating
513 employer shall pay the corresponding Tier I system amortization rate of the employee's
514 compensation to the office to be applied to the employer's corresponding Tier I system liability.

515 (3) (a) A member contribution is credited by the office to the account of the individual
516 member.

517 (b) This amount, together with refund interest, is held in trust for the payment of
518 benefits to the member or the member's beneficiaries.

519 (c) A member contribution is vested and nonforfeitable.

520 (4) (a) Each member is considered to consent to payroll deductions of member
521 contributions.

522 (b) The payment of compensation less these payroll deductions is considered full
523 payment for services rendered by the member.

524 (5) Except as provided under Subsection (6), benefits provided under the defined
525 benefit portion of the Tier II hybrid retirement system created under this part:

526 (a) may not be increased unless the actuarial funded ratios of all systems under this title
527 reach 100%; and

528 (b) may be decreased only in accordance with the provisions of Section [49-23-309](#).

529 (6) (a) The Legislature authorizes increases to the death benefit provided to a Tier II
530 public safety service employee or firefighter member's surviving spouse effective on May 12,
531 2015, and July 1, 2020, as provided in Section [49-23-503](#).

532 (b) (i) The Legislature authorizes an increase to the multiplier for the calculation of the
533 retirement allowance provided to a member of the New Public Safety and Firefighter Tier II

534 hybrid retirement system effective July 1, 2020, as provided in Section [49-23-304](#).

535 (ii) The requirements of Section [~~49-22-310~~] [49-23-309](#) do not apply to the benefit
536 adjustment described in this Subsection (6)(b).

537 Section 9. Section **49-23-601** is amended to read:

538 **49-23-601. Long-term disability coverage.**

539 (1) A participating employer shall cover a public safety service employee who initially
540 enters employment on or after July 1, 2011, under Chapter 21, Public Employees' Long-Term
541 Disability Act, or a substantially similar long-term disability program.

542 (2) (a) A participating employer shall cover a firefighter service employee who initially
543 enters employment on or after July 1, 2011, under Chapter 21, Public Employees' Long-Term
544 Disability Act.

545 (b) In accordance with this section, a participating employer shall provide long-term
546 disability benefit coverage for a volunteer firefighter as provided under Section [49-16-701](#).

547 (c) The office shall ensure that the cost of the long-term disability benefit coverage
548 provided under Subsections (2)(a) and (b) is funded with revenue received under Section
549 [49-11-901.5](#).