

FIREFIGHTER RETIREMENT REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas R. Welton

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill authorizes coverage of certified or licensed emergency medical service personnel in the firefighter retirement systems.

Highlighted Provisions:

This bill:

- ▶ modifies definitions related to the firefighter retirement systems;
- ▶ authorizes participating employers to elect to cover certified or licensed emergency medical service personnel who the participating employer employs under the firefighter retirement systems;
- ▶ provides which years of service are eligible for credit in the firefighter retirement systems; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-16-102, as last amended by Laws of Utah 2022, Chapter 171

49-16-201, as last amended by Laws of Utah 2015, Chapter 254

49-16-701, as last amended by Laws of Utah 2011, Chapter 439

49-23-102, as last amended by Laws of Utah 2022, Chapter 171

30 **49-23-201**, as last amended by Laws of Utah 2022, Chapter 171

31 **49-23-503**, as last amended by Laws of Utah 2020, Chapter 437

32

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

34 Section 1. Section **49-16-102** is amended to read:

35 **49-16-102. Definitions.**

36 As used in this chapter:

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

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

45 (c) "Compensation" does not include:

46 (i) overtime;

47 (ii) sick pay incentives;

48 (iii) retirement pay incentives;

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

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

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

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

57 (2) (a) "Disability" means the complete inability, due to objective medical impairment,

58 whether physical or mental, to perform firefighter service.

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

62 (3) "Emergency medical service personnel" means an individual who:

63 (a) is:

64 (i) a paramedic;

65 (ii) an advanced emergency medical services technician; or

66 (iii) an emergency medical services technician;

67 (b) is required to be licensed or certified under Section [26-8a-302](#); and

68 (c) has a primary job duty to provide emergency medical services as a first responder.

69 ~~[(3)]~~ (4) (a) "Final average salary" means the amount calculated by averaging the
70 highest three years of annual compensation preceding retirement subject to Subsections ~~[(3)(b)]~~
71 ~~(4)(b)~~, (c), and (d).

72 (b) Except as provided in Subsection ~~[(3)(c)]~~ (4)(c), the percentage increase in annual
73 compensation in any one of the years used may not exceed the previous year's compensation by
74 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
75 of the dollar during the previous year, as measured by a United States Bureau of Labor
76 Statistics Consumer Price Index average as determined by the board.

77 (c) In cases where the participating employer provides acceptable documentation to the
78 office the limitation in Subsection ~~[(3)(a)]~~ (4)(b) may be exceeded if:

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

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

81 (d) The annual compensation used to calculate final average salary shall be based on a
82 period, as determined by the board, consistent with the period used to determine years of
83 service credit in accordance with Subsection ~~[(13)]~~ (14).

84 ~~[(4)]~~ (5) (a) "Firefighter service" means employment normally requiring an average of
85 2,080 hours of regularly scheduled employment per year rendered by a member who is:

86 (i) a firefighter service employee trained in firefighter techniques and assigned to a
87 position of hazardous duty with a regularly constituted fire department; [~~or~~]

88 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire
89 marshal[~~;~~]; or

90 (iii) an emergency medical service personnel.

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

92 [~~(5)~~] (6) (a) "Firefighter service employee" means an employee of a participating
93 employer who provides firefighter service under this chapter.

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

96 [~~(6)~~] (7) (a) "Line-of-duty death or disability" means a death or disability resulting
97 from:

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

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

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

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

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

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

109 (iv) occurs in a manner other than as described in Subsection [~~(6)(a)~~] (7)(a).

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

113 [~~(7)~~] (8) "Objective medical impairment" means an impairment resulting from an

114 injury or illness that is diagnosed by a physician or physician assistant and that is based on
115 accepted objective medical tests or findings rather than subjective complaints.

116 ~~[(8)]~~ (9) "Participating employer" means an employer that meets the participation
117 requirements of Section 49-16-201.

118 ~~[(9)]~~ (10) "Regularly constituted fire department" means a fire department that employs
119 a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid
120 employment per year.

121 ~~[(10)]~~ (11) (a) "Strenuous activity" means engagement involving a difficult, stressful,
122 or vigorous fire suppression, rescue, hazardous material response, emergency medical service,
123 physical law enforcement, prison security, disaster relief, or other emergency response activity.

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

126 ~~[(11)]~~ (12) "System" means the Firefighters' Retirement System created under this
127 chapter.

128 ~~[(12)]~~ (13) (a) "Volunteer firefighter" means any individual who is not regularly
129 employed as a firefighter service employee, but who:

- 130 (i) has been trained in firefighter techniques and skills;
- 131 (ii) continues to receive regular firefighter training; and
- 132 (iii) is on the rolls of a legally organized volunteer fire department that provides
133 ongoing training and serves a political subdivision of the state.

134 (b) "Volunteer firefighter" does not include an individual who volunteers assistance but
135 does not meet the requirements of Subsection ~~[(12)(a)]~~ (13)(a).

136 ~~[(13)]~~ (14) "Years of service credit" means the number of periods, each to consist of 12
137 full months as determined by the board, whether consecutive or not, during which a firefighter
138 service employee was employed by a participating employer or received full-time pay while on
139 sick leave, including any time the firefighter service employee was absent in the service of the
140 United States on military duty.

141 Section 2. Section 49-16-201 is amended to read:

142 **49-16-201. System membership -- Eligibility.**

143 (1) A firefighter service employee who performs firefighter service for an employer
144 participating in this system is eligible for service credit in this system upon the earliest of:

145 (a) July 1, 1971, if the firefighter service employee was employed by the participating
146 employer on July 1, 1971, and the participating employer was participating in this system on
147 that date;

148 (b) the date the participating employer begins participating in this system if the
149 firefighter service employee was employed by the participating employer on that date; or

150 (c) the date the firefighter service employee is hired to perform firefighter services for a
151 participating employer, if the firefighter:

152 (i) initially enters employment before July 1, 2011; or

153 (ii) has service credit accrued before July 1, 2011, in a Tier I system or plan
154 administered by the board.

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

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

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

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

163 (3) (a) A person hired by a regularly constituted fire department on or after July 1,
164 1971, who does not perform firefighter service is not eligible for service credit in this system.

165 (b) The nonfirefighter service employee shall become a member of the system for
166 which the nonfirefighter service employee qualifies for service credit.

167 (c) The service credit exclusion under this Subsection (3) may not be interpreted to
168 prohibit the assignment of a firefighter with a disability or partial disability to a nonfirefighter
169 service position.

170 (d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for
171 service credit in this system.

172 (4) An allowance or other benefit may not be granted under this system that is based
173 upon the same service for benefits received under some other system.

174 (5) Service as a volunteer firefighter is not eligible for service credit in this system.

175 (6) An employer is eligible to participate in this system if the employer:

176 (a) maintains a regularly constituted fire department; ~~or~~

177 (b) is the Department of Public Safety created in Section 53-1-103 that employs the
178 state fire marshal appointed under Section 53-7-103~~[-]~~; or

179 (c) employs emergency medical service personnel and meets the requirements of
180 Subsections (7) and (8).

181 (7) (a) Subject to Subsection (9), beginning July 1, 2023, a firefighter service employee
182 who is an emergency medical service personnel employed by a participating employer shall be
183 eligible for service credit in this system if the emergency medical service personnel's
184 participating employer chooses to cover the participating employer's emergency medical
185 service personnel under this system.

186 (b) (i) A participating employer's election under Subsection (7)(a) to cover the
187 participating employer's emergency medical service personnel under this system is irrevocable.

188 (ii) A participating employer shall document an election under Subsection (7)(a) by a
189 resolution adopted by the governing body of the participating employer in accordance with
190 rules made by the office.

191 (c) (i) An emergency medical service personnel's service before July 1, 2023, is not
192 eligible for service credit in this system.

193 (ii) For an emergency medical service personnel employed by a participating employer,
194 the emergency medical service personnel's service before the date the participating employer
195 adopts a resolution described in Subsection (7)(b)(ii) is not eligible for service credit in this
196 system.

197 (8) (a) The fire chief, or if there is not a fire chief for the participating employer, the

198 emergency services director, shall verify that an individual meets the definition of emergency
199 medical service personnel.

200 (b) Each participating employer participating in this system that employs emergency
201 medical service personnel shall submit annually to the office a schedule indicating which
202 emergency medical service personnel positions are covered under this system under this
203 chapter.

204 ~~[(7)]~~ (9) Beginning July 1, 2011, a person who is initially entering employment with a
205 participating employer and who does not have service credit accrued before July 1, 2011, in a
206 Tier I system or plan administered by the board may not participate in this system.

207 Section 3. Section **49-16-701** is amended to read:

208 **49-16-701. Volunteer firefighters eligible for line-of-duty death and disability**
209 **benefits in Division A -- Computation of benefit.**

210 (1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty
211 disability benefits provided for firefighters enrolled in Division A, subject to Sections
212 [49-16-602](#) and [49-16-603](#).

213 (2) The lowest monthly compensation of firefighters of a city of the first class in this
214 state at the time of death or disability shall be considered to be the final average monthly salary
215 of a volunteer firefighter for purposes of computing these benefits.

216 (3) Each volunteer fire department shall maintain a current roll of all volunteer
217 firefighters ~~[which]~~ that meet the requirements of Subsection ~~[[49-16-102\(11\)](#)]~~ [49-16-102\(13\)](#)
218 to determine eligibility for this benefit.

219 Section 4. Section **49-23-102** is amended to read:

220 **49-23-102. Definitions.**

221 As used in this chapter:

222 (1) (a) "Compensation" means the total amount of payments that are includable in
223 gross income received by a public safety service employee or a firefighter service employee as
224 base income for the regularly scheduled work period. The participating employer shall
225 establish the regularly scheduled work period. Base income shall be determined prior to the

226 deduction of any amounts the public safety service employee or firefighter service employee
227 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

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

230 (c) "Compensation" does not include:

231 (i) overtime;

232 (ii) sick pay incentives;

233 (iii) retirement pay incentives;

234 (iv) the monetary value of remuneration paid in kind, as in a residence, use of
235 equipment or uniform, travel, or similar payments;

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

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

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

242 (2) "Corresponding Tier I system" means the system or plan that would have covered
243 the member if the member had initially entered employment before July 1, 2011.

244 (3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

245 (4) "Emergency medical service personnel" means an individual who:

246 (a) is:

247 (i) a paramedic;

248 (ii) an advanced emergency medical services technician; or

249 (iii) an emergency medical services technician;

250 (b) is required to be licensed or certified under Section 26-8a-302; and

251 (c) has a primary job duty to provide emergency medical services as a first responder.

252 [(4)] (5) (a) "Final average salary" means the amount calculated by averaging the
253 highest five years of annual compensation preceding retirement subject to Subsections [(4)(b)]

254 (5)(b), (c), (d), (e), and (f).

255 (b) Except as provided in Subsection [~~(4)(c)~~] (5)(c), the percentage increase in annual
256 compensation in any one of the years used may not exceed the previous year's compensation by
257 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
258 of the dollar during the previous year, as measured by a United States Bureau of Labor
259 Statistics Consumer Price Index average as determined by the board.

260 (c) In cases where the participating employer provides acceptable documentation to the
261 office, the limitation in Subsection [~~(4)(b)~~] (5)(b) may be exceeded if:

- 262 (i) the member has transferred from another agency; or
- 263 (ii) the member has been promoted to a new position.

264 (d) If the member retires more than six months from the date of termination of
265 employment, the member is considered to have been in service at the member's last rate of pay
266 from the date of the termination of employment to the effective date of retirement for purposes
267 of computing the member's final average salary only.

268 (e) If the member has less than five years of service credit in this system, final average
269 salary means the average annual compensation paid to the member during the full period of
270 service credit.

271 (f) The annual compensation used to calculate final average salary shall be based on a
272 period, as determined by the board, consistent with the period used to determine years of
273 service credit in accordance with Subsection [~~(14)~~] (15).

274 [~~(5)~~] (6) (a) "Firefighter service" means employment normally requiring an average of
275 2,080 hours of regularly scheduled employment per year rendered by a member who is:

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

278 (ii) the state fire marshal appointed under Section [53-7-103](#) or a deputy state fire
279 marshal; ~~or~~

280 (iii) a firefighter service employee who is:

281 (A) hired on or after July 1, 2021;

- 282 (B) trained in firefighter techniques;
- 283 (C) assigned to a position of hazardous duty; and
- 284 (D) employed by the state as a participating employer~~[-];~~ or
- 285 (iv) an emergency medical service personnel.

286 (b) "Firefighter service" does not include secretarial staff or other similar employees.
287 ~~[(6)]~~ (7) (a) "Firefighter service employee" means an employee of a participating
288 employer who provides firefighter service under this chapter.

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

291 ~~[(7)]~~ (8) (a) "Line-of-duty death" means a death resulting from:

292 (i) external force, violence, or disease occasioned by an act of duty as a public safety
293 service or firefighter service employee; or

294 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
295 training or another strenuous activity required as an act of duty as a public safety service or
296 firefighter service employee.

297 (b) "Line-of-duty death" does not include a death that:

298 (i) occurs during an activity that is required as an act of duty as a public safety service
299 or firefighter service employee if the activity is not a strenuous activity, including an activity
300 that is clerical, administrative, or of a nonmanual nature;

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

302 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or
303 nonprescribed, contributes to the employee's death; or

304 (iv) occurs in a manner other than as described in Subsection ~~[(7)(a)]~~ (8)(a).

305 ~~[(8)]~~ (9) "Participating employer" means an employer that meets the participation
306 requirements of:

307 (a) Sections [49-14-201](#) and [49-14-202](#);

308 (b) Sections [49-15-201](#) and [49-15-202](#);

309 (c) Sections [49-16-201](#) and [49-16-202](#); or

- 310 (d) Sections [49-23-201](#) and [49-23-202](#).
- 311 ~~[(9)]~~ [\(10\)](#) (a) "Public safety service" means employment normally requiring an average
312 of 2,080 hours of regularly scheduled employment per year rendered by a member who is:
- 313 (i) a law enforcement officer in accordance with Section [53-13-103](#);
 - 314 (ii) a correctional officer in accordance with Section [53-13-104](#);
 - 315 (iii) a special function officer approved in accordance with Sections [49-15-201](#) and
316 [53-13-105](#);
 - 317 (iv) a dispatcher who is certified in accordance with Section [53-6-303](#);
 - 318 (v) a full-time member of the Board of Pardons and Parole created under Section
319 [77-27-2](#);
 - 320 (vi) the commissioner of the Department of Public Safety; or
 - 321 (vii) the executive director of the Department of Corrections.
- 322 (b) Except for a position described in Subsection ~~[(9)(a)(iv)]~~ [\(10\)\(a\)\(iv\)](#), (v), (vi), or
323 (vii), "public safety service" also requires that, in the course of employment, the employee's life
324 or personal safety is at risk.
- 325 ~~[(10)]~~ [\(11\)](#) "Public safety service employee" means an employee of a participating
326 employer who performs public safety service under this chapter.
- 327 ~~[(11)]~~ [\(12\)](#) (a) "Strenuous activity" means engagement involving a difficult, stressful,
328 or vigorous fire suppression, rescue, hazardous material response, emergency medical service,
329 physical law enforcement, prison security, disaster relief, or other emergency response activity.
- 330 (b) "Strenuous activity" includes participating in a participating employer sanctioned
331 and funded training exercise that involves difficult, stressful, or vigorous physical activity.
- 332 ~~[(12)]~~ [\(13\)](#) "System" means the New Public Safety and Firefighter Tier II Contributory
333 Retirement System created under this chapter.
- 334 ~~[(13)]~~ [\(14\)](#) (a) "Volunteer firefighter" means any individual who is not regularly
335 employed as a firefighter service employee, but who:
- 336 (i) has been trained in firefighter techniques and skills;
 - 337 (ii) continues to receive regular firefighter training; and

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

340 (b) An individual that volunteers assistance but does not meet the requirements of
341 Subsection [~~(13)(a)~~] (14)(a) is not a volunteer firefighter for purposes of this chapter.

342 [~~(14)~~] (15) "Years of service credit" means:

343 (a) a period, consisting of 12 full months as determined by the board; or

344 (b) a period determined by the board, whether consecutive or not, during which a
345 regular full-time employee performed services for a participating employer, including any time
346 the regular full-time employee was absent on a paid leave of absence granted by a participating
347 employer or was absent in the service of the United States government on military duty as
348 provided by this chapter.

349 Section 5. Section **49-23-201** is amended to read:

350 **49-23-201. System membership -- Eligibility.**

351 (1) [~~Beginning~~] Except as provided in Subsections (3) and (4), beginning July 1, 2011,
352 a participating employer that employs public safety service employees or firefighter service
353 employees shall participate in this system.

354 (2) (a) A public safety service employee or a firefighter service employee initially
355 entering employment with a participating employer on or after July 1, 2011, who does not have
356 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
357 is eligible:

358 (i) as a member for service credit and defined contributions under the Tier II hybrid
359 retirement system established by Part 3, Tier II Hybrid Retirement System; or

360 (ii) as a participant for defined contributions under the Tier II defined contributions
361 plan established by Part 4, Tier II Defined Contribution Plan.

362 (b) A public safety service employee or a firefighter service employee initially entering
363 employment with a participating employer on or after July 1, 2011, shall:

364 (i) make an election to participate in the system created under this chapter:

365 (A) as a member for service credit and defined contributions under the Tier II hybrid

366 retirement system established by Part 3, Tier II Hybrid Retirement System; or

367 (B) as a participant for defined contributions under the Tier II defined contribution plan
368 established by Part 4, Tier II Defined Contribution Plan; and

369 (ii) electronically submit to the office notification of the member's election under
370 Subsection (2)(b)(i) in a manner approved by the office.

371 (c) An election made by a public safety service employee or firefighter service
372 employee initially entering employment with a participating employer under this Subsection (2)
373 is irrevocable beginning one year from the date of eligibility for accrual of benefits.

374 (d) If no election is made under Subsection (2)(b)(i), the public safety service employee
375 or firefighter service employee shall become a member eligible for service credit and defined
376 contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid
377 Retirement System.

378 (3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher
379 employed by:

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

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

384 (b) A participating employer's election to cover the participating employer's dispatchers
385 under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a
386 resolution adopted by the governing body of the participating employer in accordance with
387 rules made by the office.

388 (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution
389 of a participating employer under Subsection (3)(b), is not eligible for service credit in this
390 system.

391 (4) An employer is eligible to participate in this system if the employer employs
392 emergency medical service personnel and meets the requirements of Subsections (5) and (6).

393 (5) (a) Beginning July 1, 2023, a firefighter service employee who is an emergency

394 medical service personnel employed by a participating employer shall be eligible for service
395 credit in this system if the emergency medical service personnel's participating employer elects
396 to cover the participating employer's emergency service personnel under this system.

397 (b) (i) A participating employer's election under Subsection (5)(a) to cover the
398 participating employer's emergency medical service personnel under this system is irrevocable.

399 (ii) A participating employer shall document an election under Subsection (5)(a) by a
400 resolution adopted by the governing body of the participating employer in accordance with
401 rules made by the office.

402 (c) (i) An emergency medical service personnel's service before July 1, 2023, is not
403 eligible for service credit in this system.

404 (ii) For an emergency medical service personnel employed by a participating employer,
405 the emergency medical service personnel's service before the date the participating employer
406 adopts a resolution described in Subsection (5)(b)(ii) is not eligible for service credit in this
407 system.

408 (6) (a) The fire chief, or if there is not a fire chief for the participating employer, the
409 emergency services director, shall verify that an individual meets the definition of emergency
410 medical service personnel.

411 (b) (i) Each participating employer participating in this system that employs emergency
412 medical service personnel shall submit annually to the office a schedule indicating which
413 emergency medical service personnel positions are covered under this system under this
414 chapter.

415 (ii) The office may require documentation to justify the inclusion of any position under
416 this section.

417 ~~[(4)]~~ (7) A public safety service employee who is transferred or promoted to an
418 administration position requiring the performance of duties that consist primarily of
419 management or supervision of public safety service employees shall continue to earn public
420 safety service credit in this system during the period in which the employee remains employed
421 in the same department.

422 Section 6. Section **49-23-503** is amended to read:

423 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

424 If an active member of this system dies, benefits are payable as follows:

425 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as
426 follows:

427 (a) If the member has accrued less than 20 years of public safety service or firefighter
428 service credit, the surviving spouse shall receive:

429 (i) a lump sum equal to six months of the active member's final average salary; and

430 (ii) the greater of:

431 (A) an allowance equal to 30% of the member's final average monthly salary; or

432 (B) an allowance equal to 2% of the member's final average monthly salary multiplied
433 by the years of service credit accrued by the member.

434 (b) If the member has accrued 20 or more years of public safety service or firefighter
435 service credit, the member shall be considered to have retired with an Option One allowance
436 calculated without an actuarial reduction under Section [49-23-304](#) and the surviving spouse
437 shall receive the allowance that would have been payable to the member.

438 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this
439 section if the death results from external force, violence, or disease directly resulting from
440 firefighter service.

441 (b) The lowest monthly compensation of firefighters of a city of the first class in this
442 state at the time of death shall be considered to be the final average monthly salary of a
443 volunteer firefighter for purposes of computing these benefits.

444 (c) Each volunteer fire department shall maintain a current roll of all volunteer
445 firefighters ~~[which]~~ that meet the requirements of Subsection [~~49-23-102(13)~~] [49-23-102\(14\)](#)
446 to determine the eligibility for this benefit.

447 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are
448 payable under this section and the surviving spouse is not eligible for benefits under Section
449 [49-23-502](#).

450 (b) If the death is not classified as a line-of-duty death by the office, benefits are
451 payable in accordance with Section 49-23-502.

452 (4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall
453 apply in writing to the office.

454 (b) The allowance shall begin on the first day of the month following the month in
455 which the:

456 (i) member or participant died, if the application is received by the office within 90
457 days of the date of death of the member or participant; or

458 (ii) application is received by the office, if the application is received by the office
459 more than 90 days after the date of death of the member or participant.

460 Section 7. **Effective date.**

461 This bill takes effect on July 1, 2023.