

1 **UTAH RETIREMENT SYSTEMS REVISIONS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Walt Brooks**

5 Senate Sponsor: Wayne A. Harper

6 

---

---

  
7 **LONG TITLE**

8 **Committee Note:**

9 The Retirement and Independent Entities Interim Committee recommended this bill.

10 Legislative Vote: 10 voting for 0 voting against 5 absent

11 **General Description:**

12 This bill amends the Utah State Retirement and Insurance Benefit Act (the Act).

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ authorizes the docketing of an abstract of a final administrative order with the court
- 16 for purposes of creating a lien and other collection remedies against a person who
- 17 owes money under the Act;
- 18 ▶ clarifies whose decision triggers the time period for a person to request a review of
- 19 a decision related to a benefit, right, obligation, or employment right under the Act;
- 20 ▶ updates terminology to reflect defined terms;
- 21 ▶ creates review and compliance requirements for an individual receiving a long-term
- 22 disability benefit; and
- 23 ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 [49-11-613](#), as last amended by Laws of Utah 2021, Chapter 193
- 31 [49-11-613.5](#), as last amended by Laws of Utah 2021, Chapter 193
- 32 [49-14-201](#), as last amended by Laws of Utah 2022, Chapter 171
- 33 [49-16-102](#), as last amended by Laws of Utah 2022, Chapter 171
- 34 [49-16-701](#), as last amended by Laws of Utah 2011, Chapter 439
- 35 [49-21-402](#), as last amended by Laws of Utah 2019, Chapter 349
- 36 [49-21-406](#), as last amended by Laws of Utah 2019, Chapter 349
- 37 [49-23-301](#), as last amended by Laws of Utah 2020, Chapter 437
- 38 [49-23-601](#), as last amended by Laws of Utah 2012, Chapter 298

39 

---

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

41 Section 1. Section [49-11-613](#) is amended to read:

42 **[49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board](#)**  
43 **[reconsideration -- Judicial review -- Docketing abstract of final administrative order.](#)**

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

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

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

52 (ii) A request for a ruling to the executive director under this section shall constitute  
53 the initiation of an action for purposes of the limitations periods described in Section  
54 [49-11-613.5](#).

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

58 (e) (i) The executive director, on behalf of the board, may request that the hearing

59 officer review a dispute regarding any benefit, right, obligation, or employment right under this  
60 title by filing a notice of board action and providing notice to all affected parties in accordance  
61 with rules adopted by the board.

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

64 (2) The hearing officer shall:

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

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

67 (i) this title;

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

69 (iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically  
70 modified under this title or the rules adopted by the board in accordance with Subsection [~~(9)~~]  
71 (10);

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

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

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

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

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

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

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

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

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

88 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or  
89 remand the application to the hearing officer for further consideration.

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

- 92 (a) this title;
- 93 (b) rules adopted by the board in accordance with Subsection [~~(9)~~] (10); and
- 94 (c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically  
95 modified under this title or the rules adopted by the board in accordance with Subsection [~~(9)~~]  
96 (10).

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

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

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

102 (A) docket the abstract; and

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

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

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

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

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

116 (ii) A writ of garnishment on earnings continues to operate, and to require the  
117 garnishee to withhold the nonexempt portion of earnings at each succeeding earnings  
118 disbursement interval, until the office or a court releases the writ of garnishment in writing.

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

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

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

126 ~~[(9)]~~ (10) (a) The board shall make rules to implement this section and to establish  
127 procedures and requirements for adjudicative proceedings.

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

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

132 **49-11-613.5. Limitation of actions -- Cause of action.**

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

137 (b) A person who is dissatisfied with an executive director's ruling under Section  
138 **49-11-613** and who seeks a review of that claim by a hearing officer shall file a request for  
139 board action within 30 days ~~[of]~~ after the day on which the ~~[hearing officer]~~ executive director  
140 issues the ruling.

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

- 145 (i) a benefit, right, or employment right is or should have been granted;  
146 (ii) a payment is or should have been made; or  
147 (iii) an obligation is or should have been performed.

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

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

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

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

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

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

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

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

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

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

172 **49-14-201. System membership -- Eligibility.**

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

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

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

181 (c) the date the public safety service employee is employed by the participating  
182 employer and is eligible to perform public safety service, except that a public safety service

183 employee initially entering employment with a participating employer on or after July 1, 2011,  
184 who does not have service credit accrued before July 1, 2011, in a Tier I system or plan  
185 administered by the board, may not participate in this system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

228 (8) An employee of the Department of Corrections shall continue to earn public safety  
229 service credit in this system if:

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

232 (b) the employee:

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

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

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

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

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

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

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

244 (ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or

245 53-13-105.

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

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

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

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

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

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

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

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

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

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

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

274 (iii) is irrevocable.

275 (15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service

276 employee who is a dispatcher employed by:

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

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

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

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

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

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

293 **49-16-102. Definitions.**

294 As used in this chapter:

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

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

303 (c) "Compensation" does not include:

304 (i) overtime;

305 (ii) sick pay incentives;

306 (iii) retirement pay incentives;

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

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

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

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

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

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

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

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

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

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

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

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

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

337 (i) a firefighter service employee trained in firefighter techniques and assigned to a

338 position of hazardous duty with a regularly constituted fire department; or  
339 (ii) the state fire marshal appointed under Section [53-7-103](#) or a deputy state fire  
340 marshal.

341 (b) "Firefighter service" does not include secretarial staff or other similar employees.  
342 (5) (a) "Firefighter service employee" means an employee of a participating employer  
343 who provides firefighter service under this chapter.

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

346 (6) (a) "Line-of-duty death or disability" means a death or disability resulting from:  
347 (i) external force, violence, or disease directly resulting from firefighter service; or  
348 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
349 training or another strenuous activity required as an act of duty as a firefighter service  
350 employee.

351 (b) "Line-of-duty death or disability" does not include a death or disability that:  
352 (i) occurs during an activity that is required as an act of duty as a firefighter service  
353 employee if the activity is not a strenuous activity, including an activity that is clerical,  
354 administrative, or of a nonmanual nature;

355 (ii) occurs during the commission of a crime committed by the employee;  
356 (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether  
357 prescribed or nonprescribed, contributes to the employee's death or disability; or  
358 (iv) occurs in a manner other than as described in Subsection (6)(a).

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

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

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

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

369 employment per year.

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

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

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

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

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

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

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

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

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

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

390 **49-16-701. Volunteer firefighters eligible for line-of-duty death and disability**  
391 **benefits in Division A -- Computation of benefit.**

392 (1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty  
393 disability benefits provided for firefighters enrolled in Division A, subject to Sections  
394 [49-16-602](#) and [49-16-603](#).

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

398 (3) Each volunteer fire department shall maintain a current roll of all volunteer  
399 firefighters [~~which~~] that meet the requirements of Subsection [~~49-16-102(11)~~] [49-16-102\(12\)](#)

400 to determine eligibility for this benefit.

401 Section 6. Section **49-21-402** is amended to read:

402 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**

403 **Application for other benefits required.**

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

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

408 (b) the eligible employee provides the information and documentation requested by the  
409 office.

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

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

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

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

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

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

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

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

428 (ii) unemployment compensation benefits;

429 (iii) sick leave benefits; or

430 (iv) compensation received for employment, including self-employment, except for

431 eligible amounts from approved rehabilitative employment in accordance with Section  
432 49-21-406.

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

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

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

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

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

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

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

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

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

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

461 (8) The program shall use commercially reasonable means to collect any amounts of

462 overpayments and reimbursements.

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

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

- 469 (i) the eligible employee; or
- 470 (ii) a third party related to the eligible employee.

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

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

475 **49-21-406. Rehabilitative employment -- Interview by disability specialist --**  
476 **Maintaining eligibility -- Additional treatment and care.**

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

480 (i) by an amount equal to 50% of the income to which the eligible employee is entitled  
481 for the employment during the month; and

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

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

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

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

491 [~~(b)~~] (c) The office may refer the eligible employee to a rehabilitative or vocational  
492 specialist for a review of the eligible employee's condition and a written rehabilitation plan and

493 return to work assistance.

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

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

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

501 **49-23-301. Contributions.**

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

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

507 (b) Except as provided in Subsection (2)(c), a member shall pay to the office the  
508 amount, if any, of the certified contribution rate for the defined benefit portion of this system  
509 that exceeds the percent of compensation paid by the participating employer under Subsection  
510 (2)(a).

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

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

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

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

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

523 (4) (a) Each member is considered to consent to payroll deductions of member

524 contributions.

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

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

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

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

532 (6) (a) The Legislature authorizes increases to the death benefit provided to a Tier II  
533 public safety service employee or firefighter member's surviving spouse effective on May 12,  
534 2015, and July 1, 2020, as provided in Section [49-23-503](#).

535 (b) (i) The Legislature authorizes an increase to the multiplier for the calculation of the  
536 retirement allowance provided to a member of the New Public Safety and Firefighter Tier II  
537 hybrid retirement system effective July 1, 2020, as provided in Section [49-23-304](#).

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

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

541 **49-23-601. Long-term disability coverage.**

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

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

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

550 (c) The office shall ensure that the cost of the long-term disability benefit coverage  
551 provided under Subsections (2)(a) and (b) is funded with revenue received under Section  
552 [49-11-901.5](#).