

LINE-OF-DUTY DEATH AND DISABILITY AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions relating to line-of-duty death and disability benefits.

Highlighted Provisions:

This bill:

- ▶ provides that a line-of-duty death for a public safety service or firefighter service employee includes a death that results from strenuous activity, including a heart attack or stroke, that occurs during training or another activity required by an act of duty as a public safety service or firefighter service employee;
- ▶ clarifies that a line-of-duty death for a public safety service or firefighter service employee does not include certain deaths;
- ▶ provides that a line-of-duty disability for a firefighter service employee includes a physical or mental disability that results from strenuous activity, including a heart attack or stroke, that occurs during training or another activity required by an act of duty as a firefighter service employee;
- ▶ clarifies that a line-of-duty disability for a firefighter service employee does not include certain physical or mental disabilities; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **49-14-102**, as last amended by Laws of Utah 2011, Chapter 200

33 **49-15-102**, as last amended by Laws of Utah 2011, Chapter 200

34 **49-16-102**, as last amended by Laws of Utah 2005, Chapter 116

35 **49-16-601.5**, as enacted by Laws of Utah 2005, Chapter 116

36 **49-20-406**, as last amended by Laws of Utah 2003, Chapters 142 and 240

37 **49-23-102**, as last amended by Laws of Utah 2011, Chapter 200

38 **49-23-503**, as enacted by Laws of Utah 2010, Chapter 266

39

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

41 Section 1. Section **49-14-102** is amended to read:

42 **49-14-102. Definitions.**

43 As used in this chapter:

44 (1) (a) "Compensation" means the total amount of payments that are includable in
45 gross income which are received by a public safety service employee as base income for the
46 regularly scheduled work period. The participating employer shall establish the regularly
47 scheduled work period. Base income shall be determined prior to the deduction of member
48 contributions or any amounts the public safety service employee authorizes to be deducted for
49 salary deferral or other benefits authorized by federal law.

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

52 (c) "Compensation" does not include:

53 (i) overtime;

54 (ii) sick pay incentives;

55 (iii) retirement pay incentives;

56 (iv) the monetary value of remuneration paid in kind, including a residence, use of
57 equipment or uniform, travel, or similar payments;

58 (v) a lump-sum payment or special payments covering accumulated leave; and
59 (vi) all contributions made by a participating employer under this system or under any
60 other employee benefit system or plan maintained by a participating employer for the benefit of
61 a member or participant.

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

64 (2) "Final average salary" means the amount computed by averaging the highest three
65 years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

66 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
67 compensation in any one of the years used may not exceed the previous year's compensation by
68 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
69 of the dollar during the previous year, as measured by a United States Bureau of Labor
70 Statistics Consumer Price Index average as determined by the board.

71 (b) In cases where the participating employer provides acceptable documentation to the
72 office, the limitation in Subsection (2)(a) may be exceeded if:

- 73 (i) the public safety service employee has transferred from another agency; or
- 74 (ii) the public safety service employee has been promoted to a new position.

75 (3) (a) "Line-of-duty death" means a death resulting from:

76 (i) external force, violence, or disease occasioned by an act of duty as a public safety
77 service employee[-]; or

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

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

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

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

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

88 (iv) occurs in a manner other than as described in Subsection (3)(a).

89 (4) "Participating employer" means an employer which meets the participation
90 requirements of Section 49-14-201.

91 (5) (a) "Public safety service" means employment normally requiring an average of
92 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

93 (i) law enforcement officer in accordance with Section 53-13-103;

94 (ii) correctional officer in accordance with Section 53-13-104;

95 (iii) special function officer approved in accordance with Sections 49-14-201 and
96 53-13-105; and

97 (iv) full-time member of the Board of Pardons and Parole created under Section
98 77-27-2.

99 (b) Except as provided under Subsection (5)(a)(iv), "public safety service" also requires
100 that in the course of employment the employee's life or personal safety is at risk.

101 (c) Except for the minimum hour requirement, Subsections (5)(a) and (b) do not apply
102 to any person who was eligible for service credit in this system before January 1, 1984.

103 (6) "Public safety service employee" means an employee of a participating employer
104 who performs public safety service under this chapter.

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

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

110 [~~(7)~~] (8) "System" means the Public Safety Contributory Retirement System created
111 under this chapter.

112 [~~(8)~~] (9) "Years of service credit" means the number of periods, each to consist of 12
113 full months as determined by the board, whether consecutive or not, during which a public

114 safety service employee was employed by a participating employer, including time the public
115 safety service employee was absent in the service of the United States government on military
116 duty.

117 Section 2. Section **49-15-102** is amended to read:

118 **49-15-102. Definitions.**

119 As used in this chapter:

120 (1) (a) "Compensation" means the total amount of payments that are includable in
121 gross income received by a public safety service employee as base income for the regularly
122 scheduled work period. The participating employer shall establish the regularly scheduled
123 work period. Base income shall be determined prior to the deduction of any amounts the
124 public safety service employee authorizes to be deducted for salary deferral or other benefits
125 authorized by federal law.

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

128 (c) "Compensation" does not include:

129 (i) overtime;

130 (ii) sick pay incentives;

131 (iii) retirement pay incentives;

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

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

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

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

140 (2) "Final average salary" means the amount computed by averaging the highest three
141 years of annual compensation preceding retirement subject to Subsections (2)(a) and (b).

142 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
143 compensation in any one of the years used may not exceed the previous year's compensation by
144 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
145 of the dollar during the previous year, as measured by a United States Bureau of Labor
146 Statistics Consumer Price Index average as determined by the board.

147 (b) In cases where the participating employer provides acceptable documentation to the
148 office, the limitation in Subsection (2)(a) may be exceeded if:

- 149 (i) the public safety service employee has transferred from another agency; or
- 150 (ii) the public safety service employee has been promoted to a new position.

151 (3) (a) "Line-of-duty death" means a death resulting from:

152 (i) external force, violence, or disease occasioned by an act of duty as a public safety
153 service employee[-]; or

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

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

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

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

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

164 (iv) occurs in a manner other than as described in Subsection (3)(a).

165 (4) "Participating employer" means an employer which meets the participation
166 requirements of Section 49-15-201.

167 (5) (a) "Public safety service" means employment normally requiring an average of
168 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

- 169 (i) law enforcement officer in accordance with Section 53-13-103;

170 (ii) correctional officer in accordance with Section 53-13-104;
171 (iii) special function officer approved in accordance with Sections 49-15-201 and
172 53-13-105; and
173 (iv) full-time member of the Board of Pardons and Parole created under Section
174 77-27-2.

175 (b) Except as provided under Subsection (5)(a)(iv), "public safety service" also requires
176 that in the course of employment the employee's life or personal safety is at risk.

177 (6) "Public safety service employee" means an employee of a participating employer
178 who performs public safety service under this chapter.

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

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

184 [~~7~~] (8) "System" means the Public Safety Noncontributory Retirement System created
185 under this chapter.

186 [~~8~~] (9) "Years of service credit" means the number of periods, each to consist of 12
187 full months as determined by the board, whether consecutive or not, during which a public
188 safety service employee was employed by a participating employer, including time the public
189 safety service employee was absent in the service of the United States government on military
190 duty.

191 Section 3. Section **49-16-102** is amended to read:

192 **49-16-102. Definitions.**

193 As used in this chapter:

194 (1) (a) "Compensation" means the total amount of payments that are includable as
195 gross income which are received by a firefighter service employee as base income for the
196 regularly scheduled work period. The participating employer shall establish the regularly
197 scheduled work period. Base income shall be determined prior to the deduction of member

198 contributions or any amounts the firefighter service employee authorizes to be deducted for
199 salary deferral or other benefits authorized by federal law.

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

202 (c) "Compensation" does not include:

203 (i) overtime;

204 (ii) sick pay incentives;

205 (iii) retirement pay incentives;

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

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

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

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

214 (2) (a) "Disability" means a physical or mental condition that, in the judgment of the
215 office, is total and presumably permanent, and prevents a member from performing firefighter
216 service.

217 (b) The determination of disability is based upon medical and other evidence
218 satisfactory to the office.

219 (3) "Final average salary" means the amount computed by averaging the highest three
220 years of annual compensation preceding retirement subject to Subsections (3)(a) and (b).

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

226 (b) In cases where the participating employer provides acceptable documentation to the
227 office the limitation in Subsection (3)(a) may be exceeded if:

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

230 (4) "Firefighter service" means employment normally requiring an average of 2,080
231 hours of regularly scheduled employment per year rendered by a member who is a firefighter
232 service employee trained in firefighter techniques and assigned to a position of hazardous duty
233 with a regularly constituted fire department, but does not include secretarial staff or other
234 similar employees.

235 (5) "Firefighter service employee" means an employee of a participating employer who
236 provides firefighter service under this chapter. An employee of a regularly constituted fire
237 department who does not perform firefighter service is not a firefighter service employee.

238 (6) (a) "Line-of-duty death or disability" means a death or any physical or mental
239 disability resulting from:

- 240 (i) external force, violence, or disease directly resulting from firefighter service[-]; or

241 [~~(a) A paid firefighter who has five years of firefighter service credit is eligible for a~~
242 ~~line-of-duty death or disability resulting from heart disease, lung disease, or respiratory tract~~
243 ~~condition.]~~

244 [~~(b) A paid firefighter who receives a service connected disability benefit for more than~~
245 ~~six months due to violence or illness other than heart disease, lung disease, or respiratory tract~~
246 ~~condition, and then returns to paid firefighter service, may not be eligible for a line-of-duty~~
247 ~~death or disability benefit due to heart disease, lung disease, or respiratory tract condition for~~
248 ~~two years after the firefighter returned to work unless clear and convincing evidence is~~
249 ~~presented that the heart disease, lung disease, or respiratory tract condition was directly a result~~
250 ~~of firefighter service.]~~

- 251 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
252 training or another strenuous activity required as an act of duty as a firefighter service
253 employee.

254 (b) "Line-of-duty death or disability" does not include a death or any physical or mental
255 disability that:

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

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

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

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

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

266 (7) "Participating employer" means an employer which meets the participation
267 requirements of Section 49-16-201.

268 (8) "Regularly constituted fire department" means a fire department that employs a fire
269 chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid
270 employment per year.

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

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

276 [~~9~~] (10) "System" means the Firefighters' Retirement System created under this
277 chapter.

278 [~~10~~] (11) (a) "Volunteer firefighter" means any individual that is not regularly
279 employed as a firefighter service employee, but who:

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

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

282 (iii) is on the rolls of a legally organized volunteer fire department which provides
283 ongoing training and serves a political subdivision of the state.

284 (b) An individual that volunteers assistance but does not meet the requirements of
285 Subsection [~~(10)~~] (11)(a) is not a volunteer firefighter for purposes of this chapter.

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

291 Section 4. Section **49-16-601.5** is amended to read:

292 **49-16-601.5. Line-of-duty disability benefit -- Benefits -- Monthly allowance.**

293 (1) An active member of this system who is unable to perform firefighter service due to
294 a physical or mental condition incurred in the line-of-duty may apply to the office for a
295 disability retirement benefit under this section.

296 (2) If the condition is classified by the office as a line-of-duty disability, the member
297 shall be granted a disability retirement benefit subject to Section 49-16-602.

298 (3) A paid firefighter who has five years of firefighter service credit is eligible for a
299 line-of-duty disability benefit resulting from heart disease, lung disease, or a respiratory tract
300 condition.

301 (4) A paid firefighter who receives a service connected disability benefit for more than
302 six months due to violence or illness other than heart disease, lung disease, or respiratory tract
303 condition, and then returns to paid firefighter service, may not be eligible for a line-of-duty
304 disability benefit due to heart disease, lung disease, or respiratory tract condition for two years
305 after the firefighter returned to work unless clear and convincing evidence is presented that the
306 heart disease, lung disease, or respiratory tract condition was directly a result of firefighter
307 service.

308 [~~(3)~~] (5) The monthly disability retirement benefit is 50% of the member's final average
309 salary.

310 Section 5. Section **49-20-406** is amended to read:

311 **49-20-406. Insurance benefits for employees' beneficiaries.**

312 (1) As used in this section:

313 (a) "Children" includes stepchildren and legally adopted children.

314 (b) (i) "Line-of-duty death" means a death resulting from:

315 (A) external force or violence occasioned by an act of duty as an employee[-]; or

316 (B) strenuous activity, including a heart attack or stroke, that occurs during strenuous
317 training or another strenuous activity required as an act of duty as an employee.

318 (ii) "Line-of-duty death" does not include a death that:

319 (A) occurs during an activity that is required as an act of duty as an employee if the
320 activity is not a strenuous activity, including an activity that is clerical, administrative, or of a
321 nonmanual nature contributes to the employee's death;

322 (B) occurs during the commission of a crime committed by the employee;

323 (C) the employee's intoxication or use of alcohol or drugs, whether prescribed or
324 nonprescribed, contributes to the employee's death; or

325 (D) occurs in a manner other than as described in Subsection (1)(b)(i).

326 (c) (i) "Strenuous activity" means engagement involving a difficult, stressful, or
327 vigorous fire suppression, rescue, hazardous material response, emergency medical service,
328 physical law enforcement, prison security, disaster relief, or other emergency response activity.

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

331 (2) The beneficiary of a covered individual who is employed by the state and who has a
332 line-of-duty death shall receive:

333 (a) the proceeds of a \$50,000 group term life insurance policy paid for by the state and
334 administered and provided as part of the group life insurance program under this chapter; and

335 (b) group health coverage paid for by the state that covers the covered individual's:

336 (i) surviving spouse until remarriage or becoming eligible for Medicare, whichever
337 comes first; and

338 (ii) unmarried children up to the age of 26.

339 (3) A covered employer not required to provide the benefits under Subsection (2) may
340 provide either or both of the benefits under Subsection (2) by paying rates established by the
341 program.

342 (4) The benefit provided under Subsection (2)(a) is subject to the same terms and
343 conditions as the group life insurance program provided under this chapter.

344 Section 6. Section **49-23-102** is amended to read:

345 **49-23-102. Definitions.**

346 As used in this chapter:

347 (1) (a) "Compensation" means the total amount of payments that are includable in
348 gross income received by a public safety service employee or a firefighter service employee as
349 base income for the regularly scheduled work period. The participating employer shall
350 establish the regularly scheduled work period. Base income shall be determined prior to the
351 deduction of any amounts the public safety service employee or firefighter service employee
352 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

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

355 (c) "Compensation" does not include:

356 (i) overtime;

357 (ii) sick pay incentives;

358 (iii) retirement pay incentives;

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

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

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

365 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed

366 under Internal Revenue Code Section 401(a)(17).

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

369 (3) "Final average salary" means the amount computed by averaging the highest five
370 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
371 (d).

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

377 (b) In cases where the participating employer provides acceptable documentation to the
378 office, the limitation in Subsection (3)(a) may be exceeded if:

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

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

381 (c) If the member retires more than six months from the date of termination of
382 employment, the member is considered to have been in service at the member's last rate of pay
383 from the date of the termination of employment to the effective date of retirement for purposes
384 of computing the member's final average salary only.

385 (d) If the member has less than five years of service credit in this system, final average
386 salary means the average annual compensation paid to the member during the full period of
387 service credit.

388 (4) "Firefighter service" means employment normally requiring an average of 2,080
389 hours of regularly scheduled employment per year rendered by a member who is a firefighter
390 service employee trained in firefighter techniques and assigned to a position of hazardous duty
391 with a regularly constituted fire department, but does not include secretarial staff or other
392 similar employees.

393 (5) "Firefighter service employee" means an employee of a participating employer who

394 provides firefighter service under this chapter. An employee of a regularly constituted fire
395 department who does not perform firefighter service is not a firefighter service employee.

396 (6) (a) "Line-of-duty death" means a death resulting from:

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

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

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

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

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

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

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

410 ~~[(6)]~~ (7) "Participating employer" means an employer which meets the participation
411 requirements of:

412 (a) Sections 49-14-201 and 49-14-202;

413 (b) Sections 49-15-201 and 49-15-202;

414 (c) Sections 49-16-201 and 49-16-202; or

415 (d) Sections 49-23-201 and 49-23-202.

416 ~~[(7)]~~ (8) (a) "Public safety service" means employment normally requiring an average
417 of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

418 (i) law enforcement officer in accordance with Section 53-13-103;

419 (ii) correctional officer in accordance with Section 53-13-104;

420 (iii) special function officer approved in accordance with Sections 49-15-201 and
421 53-13-105; and

422 (iv) full-time member of the Board of Pardons and Parole created under Section
423 77-27-2.

424 (b) Except as provided under Subsection [~~(7)~~] (8)(a)(iv), "public safety service" also
425 requires that in the course of employment the employee's life or personal safety is at risk.

426 [~~(8)~~] (9) "Public safety service employee" means an employee of a participating
427 employer who performs public safety service under this chapter.

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

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

433 [~~(9)~~] (11) "System" means the New Public Safety and Firefighter Tier II Contributory
434 Retirement System created under this chapter.

435 [~~(10)~~] (12) (a) "Volunteer firefighter" means any individual that is not regularly
436 employed as a firefighter service employee, but who:

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

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

439 (iii) is on the rolls of a legally organized volunteer fire department which provides
440 ongoing training and serves a political subdivision of the state.

441 (b) An individual that volunteers assistance but does not meet the requirements of
442 Subsection [~~(10)~~] (12)(a) is not a volunteer firefighter for purposes of this chapter.

443 [~~(11)~~] (13) "Years of service credit" means:

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

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

450 Section 7. Section **49-23-503** is amended to read:

451 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

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

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

455 (a) If the member has accrued less than 20 years of public safety service or firefighter
456 service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an
457 allowance equal to 30% of the member's final average monthly salary.

458 (b) If the member has accrued 20 or more years of public safety service or firefighter
459 service credit, the member shall be considered to have retired with an Option One allowance
460 calculated without an actuarial reduction under Section 49-23-304 and the spouse at the time of
461 death shall receive the allowance that would have been payable to the member.

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

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

468 (c) Each volunteer fire department shall maintain a current roll of all volunteer
469 firefighters which meet the requirements of Subsection 49-23-102~~(10)~~(12) to determine the
470 eligibility for this benefit.

471 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are
472 payable under this section and the spouse at the time of death is not eligible for benefits under
473 Section 49-23-502.

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