

ORIGINAL HOUSE
BILL NO. 0088

ENROLLED ACT NO. 30, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

AN ACT relating to public retirement plans; generally amending provisions to comply with internal revenue code qualified plan requirements; specifying distribution limits and qualified rollovers; providing for distribution upon program termination; amending obsolete provisions and conforming provisions to federal requirements; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 9-3-402(a) by creating new paragraphs (xxvii) and (xxviii), 9-3-407(c)(vi), 9-3-415(d), 9-3-417(c), 9-3-418 by creating a new subsection (f), 9-3-424(a), 9-3-428(a)(ii) and by creating new subsections (b) and (c), 9-3-430(c), 9-3-431 by creating a new subsection (h), 9-3-432 by creating a new subsection (n), 9-3-436(a), 9-3-602(a) by creating new paragraphs (xix) and (xx), 9-3-609(c), 9-3-610 by creating a new subsection (f), 9-3-617(d), 9-3-707 by creating a new subsection (d), 15-5-204 by creating a new subsection (h), 15-5-404 by creating a new subsection (d), 15-5-409 by creating a new subsection (c), 35-9-608 by creating a new subsection (m), 35-29-101(a) by creating new paragraphs (viii) and (ix), 35-29-106 by creating a new subsection (k) and 35-29-112 are amended to read:

9-3-402. Definitions.

(a) As used in this article:

(xxvii) "Eligible retirement plan" means:

(A) An annuity contract described in section 403(b) of the Internal Revenue Code;

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(B) An eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state;

(C) An individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income; or

(D) A qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code.

(xxviii) "Rollover contribution" means the transfer of funds from an eligible retirement plan, in an amount eligible to be rolled over to a qualified trust in accordance with applicable law and for which the member provides evidence satisfactory to the system that such amount qualifies for rollover treatment.

9-3-407. Retirement board; control and management of account containing assets of retirement system; payments from account.

(c) From the retirement account shall be paid:

(vi) Reasonable administrative expenses under this article.

9-3-415. When retirement permitted; service credit.

(d) Any vested member may elect to make a one-time purchase of up to five (5) years of service credit as authorized and limited by section 415(c) and 415(n) of the Internal Revenue Code and established in rules promulgated

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by the board. Any member electing to purchase service credit shall pay into the account a single lump-sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit computed on the basis of actuarial assumptions approved by the board and the individual's attained age and the benefit structure of the appropriate plan. A member may purchase service credit with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the system in the form of a direct rollover, the rollover contribution shall be paid to the system on or before sixty (60) days after the date it was received by the member. Service credit purchased under this subsection shall qualify as service credit defined in W.S. 9-3-402(a)(xxi), 9-3-602(a)(iii), 9-3-702(a)(iii) and 15-5-402(a)(iv).

9-3-417. Determination of eligibility for retirement; board to determine equivalent of years of service; credit for military service.

(c) Credit shall be allowed for any period of time after commencement of participation in the retirement program which a member spends in active military or other emergency service of the United States in accordance with rules adopted by the board pursuant to the ~~Veterans' Reemployment Rights Act (38 U.S.C. 4321, et seq. P.L. 93-508)~~ the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq. In accordance with rule and regulation of the board, until June 30, 2018 up to two (2) years of credit allowed under this subsection may be provided at no cost to the member. After June 30, 2010, each state agency, department or institution, including the University of Wyoming and the community colleges shall estimate the amount required for provision of credits under this subsection for the next biennium and shall include the

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estimate in the agency's biennial budget request. Provision for payment of employer's contributions under this subsection shall be as provided in W.S. 9-3-414.

9-3-418. Amount of service retirement benefit; firefighter members excluded.

(f) Benefits shall not be payable under the system to the extent that they exceed the limitations imposed by section 415(b) of the United States Internal Revenue Code. The board shall provide any benefits in excess of the limitations under special pay plans authorized under W.S. 9-3-405(b) to the extent the benefits can be provided and the system retain qualified plan status under the Internal Revenue Code.

9-3-424. Refund of contributions upon termination of employment; procedure; redeposit; limitation on refund.

(a) Except as provided in subsection (b) of this section, any member covered by this article, including an at-will contract employee under W.S. 9-2-1022(a)(xi)(F)(III) or (IV), who terminates his employment or any employee of the agricultural extension service of the University of Wyoming who has not elected to continue to be covered by this article is entitled to a refund of his account. In addition, any member who is entitled to a refund who is an at-will contract employee under W.S. 9-2-1022(a)(xi)(F)(III), shall be entitled to a refund of all contributions made to his account plus any employer matching contributions made by that member. In addition, any member who is entitled to a refund who is an at-will contract employee under W.S. 9-2-1022(a)(xi)(F)(IV), shall be entitled to a refund of all contributions made to his account including any employer matching contributions made by that member. The

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refunds shall be made only upon written request to the board. A member may elect, at the time and in the manner prescribed by the system, to have the refund of his account paid directly to an eligible retirement plan as specified by the member. Any member who withdraws from the system under this section shall forfeit all rights to further benefits, employer matching contributions and service credit under the system. Any person who later returns to service covered by this article may redeposit the amount of the contributions withdrawn, in lump sum, together with regular interest, and upon earning not less than two (2) years service credit, may reestablish his service credits as of the time of withdrawal of his contributions. For service prior to July 1, 2002, any law enforcement member covered under W.S. 9-3-432 may redeposit the amount of contributions withdrawn for service covered under W.S. 9-3-432, in a lump sum, together with regular interest and the actuarial equivalent of the difference between the benefit provided under W.S. 9-3-415 through 9-3-419 and the benefit provided under W.S. 9-3-432, and upon earning not less than two (2) years service credit, may reestablish his service credit as of the time of withdrawal of his contributions. Any redeposit payment pursuant to this subsection shall be made not later than seven (7) years following the date of reemployment or prior to retirement, whichever first occurs. A member may make a redeposit under this subsection with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the system in the form of a direct rollover, the rollover contribution shall be paid to the system on or before sixty (60) days after the date it was received by the member. Unless otherwise permitted by section 401(a)(8) of the Internal Revenue Code, forfeitures shall not be applied to increase the benefits that any employee would otherwise receive under the system.

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9-3-428. Construction of article; limitation of liability of state; termination of system.

(a) Nothing in this article shall be construed to:

(ii) Constitute a contract or binding obligation of any kind whatsoever or, except as provided in subsection (b) of this section to create or grant any vested right or interest in any individual, corporation or body politic.

(b) If the system is terminated, all affected members have a nonforfeitable interest in their benefits that were accrued and funded to date. The value of the accrued benefits to be credited to the account of each affected member shall be calculated as of the date of termination.

(c) Subject to subsection (a) of this section and W.S. 9-3-429(b), the legislature declares its intent that the system is intended to be a permanent system and has not been created for the purpose of income tax benefits.

9-3-430. Application for benefits; benefit payment effective dates; minimum distribution rules.

(c) Benefit payments under the system shall begin by the later of April 1 of the calendar year following the year in which the member reaches age seventy and one-half (70 1/2) years or retires. The member's entire interest in the system shall be distributed over the life of the member or the lives of the member and a designated beneficiary, over a period not extending beyond the life expectancy of the member or the life expectancy of the member and designated beneficiary. If a member dies after distribution of benefits has begun, the remaining portion

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of the member's interest shall be distributed at least as rapidly as under the method of distribution prior to the member's death. If a member dies before distribution of benefits has begun, the entire interest of the member shall be distributed within five (5) years of the member's death. The five (5) year payment rule shall not apply to any portion of the member's interest which is payable to a designated beneficiary over the life or life expectancy of the beneficiary and which begins within one (1) year after the date of the member's death. The five (5) year payment rule shall not apply to any portion of the member's interest which is payable to a surviving spouse payable over the life or life expectancy of the spouse which begins not later than the date the member would have reached age seventy and one-half (70 1/2) years. The board may by rule and regulation modify distributions under this section in order to provide minimum distributions required by section 401(a)(9) of the Internal Revenue Code or as otherwise necessary to retain qualified plan status under the Internal Revenue Code.

9-3-431. Firefighter members; contributions; benefit eligibility; service and disability retirement benefits; termination of benefits upon failure to make timely contribution payments.

(h) Benefits shall not be payable under the system to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code. The board shall provide any benefits in excess of the limitations under special pay plans authorized under W.S. 9-3-405(b) to the extent the benefits can be provided and the system retain qualified plan status under the Internal Revenue Code.

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9-3-432. Law enforcement officers; contributions; benefit eligibility; service and disability benefits; death benefits; benefit options.

(n) Benefits shall not be payable under the system to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code. The board shall provide any benefits in excess of the limitations under special pay plans authorized under W.S. 9-3-405(b) to the extent the benefits can be provided and the system retain qualified plan status under the Internal Revenue Code.

9-3-436. Establishment of trust.

(a) Except as otherwise provided in subsection (b) of this section, all assets of a retirement system are held in trust for the exclusive benefit of the members, retirees and beneficiaries of the system, including reasonable administrative expenses. The trustee has the exclusive authority, subject to this act, to invest and manage those assets.

9-3-602. Definitions.

(a) As used in this article:

(xix) "Eligible retirement plan" means as defined in W.S. 9-3-402(a)(xxvii);

(xx) "Rollover contribution" means as defined in W.S. 9-3-402(a)(xxviii).

9-3-609. Determination of years of service by board; credit for time spent in military service.

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(c) Credit shall be allowed for any period of time after commencement of participation in the retirement program which an employee spends in active military or other emergency service of the United States ~~approved in accordance with rules adopted~~ by the retirement board, ~~if the employee does not withdraw his accumulated contributions and makes payments equal to the deductions which would have been made during his absence within such time as the board prescribes after his return to service. In the absence of payments instead of deductions, the period of time shall be credited for the purpose of eligibility for retirement allowances under W.S. 9-3-607 and 9-3-608, but not for the purpose of the computation of those allowances under W.S. 9-3-610~~ pursuant to the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq.

9-3-610. Amount of benefit.

(f) Benefits and allowances shall not be payable under this article to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code.

9-3-617. Refund of contributions upon termination of employment; redeposit of withdrawn contributions; purchase of service credits.

(d) Any employee may elect to purchase up to five (5) years of service credit for full-time employment in law enforcement which is performed for another state or political subdivision of another state, the federal government or for any public law enforcement agency in Wyoming as authorized and limited by section 415(c) and 415(n) of the Internal Revenue Code and if the employee does not vest in any retirement plan of the agency for

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which the prior service being purchased was earned. Any employee electing to purchase service credit shall pay into the account a single lump-sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit computed on the basis of actuarial assumptions approved by the board and the individual's attained age and average salary for the highest three (3) continuous years of covered service. The lump sum may be paid with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the retirement program in the form of a direct rollover, the rollover contribution shall be paid to the program on or before sixty (60) days after the date it was received by the member. Service credit purchased under this subsection shall not be used to determine vested eligibility to receive benefits under this article.

9-3-707. Amount of benefit; adjustments.

(d) Benefits shall not be payable under the program to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code. The board shall provide any benefits in excess of the limitations under special pay plans authorized under W.S. 9-3-405(b) to the extent the benefits can be provided and the program retain qualified plan status under the Internal Revenue Code.

15-5-204. Pensions; amounts; qualifications; when paid; disability benefits; disqualifications; examinations; disallowance; actions; adjustment.

(h) The board shall adopt rules to allow service for any period of time, after commencement of participation under this article, which an employee spends in active military or other emergency service of the United States as

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required by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq.

15-5-404. Vesting rights; return to service.

(d) The board shall adopt rules to allow service for any period of time, after commencement of participation under this article, which an employee spends in active military or other emergency service of the United States as required by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq.

15-5-409. Amount of service pension.

(c) Benefits shall not be payable under the pension system to the extent that they exceed the limitations imposed by section 415(b) of the Internal Revenue Code.

35-9-608. Benefits enumerated; death of participant or spouse; amount and payment of contributions; withdrawal from plan.

(m) The board shall adopt rules to allow service for any period of time, after commencement of participation in this pension program, which an employee spends in active military or other emergency service of the United States as required by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq.

35-29-101. Definitions.

(a) As used in this article:

(viii) "Eligible retirement plan" means as defined in W.S. 9-3-402(a)(xxvii);

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(ix) "Rollover contribution" means as defined in W.S. 9-3-402(a)(xxviii).

35-29-106. Benefits enumerated; death of participant or spouse; amount and payment of contributions; withdrawal from plan.

(k) The board shall adopt rules to allow service for any period of time, after commencement of participation under this article, which an employee spends in active military or other emergency service of the United States as required by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq.

35-29-112. Purchase of service credit.

Any member who has been a participating member for at least five (5) years may elect to make a one (1) time purchase of up to five (5) years of service credit as authorized and limited by section 415(c) and 415(n) of the Internal Revenue Code and as established in rules promulgated by the board. Any member electing to purchase service credit shall pay into the account a single lump sum amount equal to the actuarial equivalent of the benefits to be derived from the service credit computed on the basis of actuarial assumptions approved by the board, the individual's attained age and the benefit structure at the time of purchase. A member may purchase service credit with personal funds or, subject to rules and regulations established by the board, through rollover contributions. Unless received by the fund in the form of a direct rollover, the rollover contribution shall be paid to the fund on or before sixty (60) days after the date it was received by the member.

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Section 2. This act is effective July 1, 2010.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk