

Wyoming Administrative Rules

Retirement System

Volunteer Firefighter & EMT Plan

Chapter 1: Rules Governing the Volunteer Firefighter and EMT Pension Account Board

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RULES GOVERNING THE VOLUNTEER FIREFIGHTER AND EMT PENSION ACCOUNT BOARD

CHAPTER 1

GENERAL PROVISIONS

Section 1. Authority. These rules are promulgated under the authority of W.S. §§ 35-9-624(b)(ii), 35-9-617(f), 35-9-620(a), 35-9-621(e, j and k), 35-9-624(b)(iv), 35-9-627, and 16-3-102(a).

Section 2. Benefits for Members and Retirees of Pre-existing Plans.

(a) For retirees and beneficiaries of either the Volunteer Firemen's Pension Account created pursuant to W.S. §§ 35-9-601 through 35-9-615 (repealed by Laws 2015, Ch. 32 § 3), or the Volunteer EMT Pension Fund created pursuant to §§ W.S. 35-29-101 through 35-29-112 (repealed by Laws 2015, Ch. 32 § 3), receiving a benefit from one of those plans on or before June 30, 2015, the Wyoming Retirement System shall recalculate the benefit using the methodology authorized by the Volunteer Firefighter and EMT Pension Account in W.S. § 35-9-621 and compare that amount to the current benefit. The retiree or beneficiary shall be entitled to the higher of the two benefits.

(b) For members with service prior to July 1, 2015 in either the Volunteer Firemen's Pension Account created pursuant to W.S. §§ 35-9-601 through 35-9-615, or the Volunteer EMT Pension Fund created pursuant to §§ W.S. 35-29-101 through 35-29-112, the Wyoming Retirement System shall, upon the member's application for benefits, calculate the benefit using both the methodology authorized by the Volunteer Firefighter and EMT Pension Account in W.S. § 35-9-621 and the methodology that would have been used under the pre-existing plan. The member shall be entitled to the higher of the two benefits.

(c) For members beginning service on or after July 1, 2015, benefits shall be calculated using the methodology authorized by the Volunteer Firefighter and EMT Pension Account in W.S. § 35-9-621.

Section 3. Military Service Credit.

(a) In accordance with the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq., and the Wyoming Military Service Relief Act, W.S. §§ 19-11-101 through 19-11-124, any participating member called to active duty in the armed forces of the United States or in the Wyoming

National Guard shall not be required to withdraw contributions and interest while on active duty, whether contributing to the fund or not.

(i) Any participating member may elect to continue to make the required contributions to the fund during a period of active military service. The member shall notify his *volunteer fire department or volunteer EMT ambulance service* of his election to continue to make the required contributions at the time he enters active military service and arrange to submit timely contributions. The *department* shall remit the contributions to the retirement system with the regular monthly member contributions.

(ii) Any participating member who elects not to make pension contributions during active military service, and who rejoins the regular rolls of a duly constituted volunteer fire department or volunteer EMT ambulance service in Wyoming within the time frame outlined in federal law, shall be permitted to make a lump-sum payment to the fund equal to the amount of the missed contributions without interest. Upon such payment, the member shall be credited with service as though no break in service occurred.

(iii) Any participating member who elects not to make pension contributions during active military service, and who rejoins the regular rolls of a duly constituted volunteer fire department or volunteer EMT ambulance service in Wyoming after the time frame outlined in federal law, shall be permitted up to five (5) years from the date of rejoining the regular rolls to make a lump-sum payment to the fund equal to the amount of the missed contributions with interest. Upon such payment, the member shall be credited with service as though no break in service occurred.

Section 4. Contributions.

(a) Contributions for participating members are due monthly to the Wyoming Retirement System.

(b) A participating member who withdraws from the pension account is entitled to the account balance together with interest.

(c) For a member with less than five (5) years of active participation in the pension account who ceases contributions but does not withdraw, the member's account shall be designated as delinquent if no contribution has been received three (3) months following the close of the calendar month for which the contribution was due.

(d) A member's account that remains delinquent for nine (9) months shall be closed and the associated funds shall revert into the pension account.

(e) A member whose account was closed pursuant to this section and who subsequently reenrolls in the plan shall be entitled to a refund of the amount that had previously reverted into the pension account but shall be deemed to have forfeited any prior service credit.

(f) A member with at least five (5) years of active participation in the pension account who terminates active service as a member and does not withdraw may leave their account on deposit and be eligible to receive the applicable benefit upon reaching retirement age.

(g) Upon discovery that contributions have been submitted on behalf of a member during a period of time in which the member did not qualify for participation in the plan, for any reason, the Board may authorize that the contributions be returned through the contributing agency and the member's account be amended to reflect accurate service credit accrual.

(i) A member with at least five (5) years of active participation in the pension account who leaves service without withdrawing his account and later returns to service as a volunteer shall be entitled to resume participation in the plan and begin accruing service credit after his account has been amended to reflect accurate prior service credit accrual if contributions continued during a period of time in which the member did not qualify for participation in the plan.

(ii) A member with less than five (5) years of active participation in the pension account who leaves service without withdrawing his account and who later returns to service as a volunteer shall be entitled to a refund of his account pursuant to this section after his account has been amended to reflect accurate prior service credit accrual if contributions continued during a period of time in which the member did not qualify for participation in the plan.

(h) A member with ten (10) or more years of active participation in the pension account may choose to remove himself from active service as a volunteer firefighter or EMT and continue to contribute to the pension account for an amount of time not to exceed the total number of years the member was an active participant in the pension account.

(i) Any member who was enrolled in the Volunteer Firemen's Pension Fund on or before June 30, 2015, and had not refunded his contributions to

that plan, and had begun to make continuing contributions after terminating active service as a volunteer fireman pursuant to the terms of that plan, shall be permitted to continue to make those contributions until the member reaches retirement age.

(ii) A service purchase made pursuant to Section 6(a) of these rules shall not qualify as years of active participation in the pension account required for a member to continue contributions to the pension account after withdrawing from active service as a volunteer.

Section 5. Termination of Active Service due to Disability.

The Board may permit a disabled member to continue contributing to the fund if termination as a volunteer firefighter or EMT is due to disability, regardless of the member's years of service. Application for disability shall be made to the Board and supported by at least one medical doctor attesting that the member's disability prevents the member from continuing to serve as an active volunteer firefighter or EMT.

Section 6. Purchase of Service Credit.

(a) A member with at least five (5) years of active participation in the pension account may elect to make a one-time purchase of up to five (5) years of service credit pursuant to W.S. 35-9-627. Such purchase may be made through direct rollover contributions in accordance with Chapter 2 of the Wyoming Retirement Board's administrative rules and regulations related to direct rollovers.

(b) Pursuant to W.S. § 35-9-617(f), any member who was enrolled in the Volunteer Firemen's Pension Fund on or before June 30, 2015, and had not refunded his contributions to that plan, and not made a service purchase under the terms of that plan, may elect to make a one-time purchase of either up to five (5) years of service credit pursuant to subsection (a) of this section or an amount equal to the time of actual service as a volunteer fireman in Wyoming prior to enrollment in that plan, whichever is greater.

(c) A service purchase under subsection (a) of this section shall not qualify as years of active participation in the pension account required for a member to continue contributions to the pension account after withdrawing from active service as a volunteer.

Section 7. Board Governance.

(a) The Board shall annually elect a chair and a vice chair to preside over Board meetings. The Executive Director of the Wyoming Retirement System shall serve as a non-voting liaison to the Board.

(b) The Board shall review member qualification material, including meeting attendance logs, licenses and certifications, submitted by participating agencies on a schedule of the Board's determination in order to verify membership qualification.

Section 8. Contested Case Practice and Procedure.

(a) Any member who receives notification from the Board or the Wyoming Retirement System of a decision which adversely affects the member shall be entitled to a hearing before the Board or before a hearing officer designated by the Board, if the member requests a hearing in writing within thirty (30) days from the date of receipt of such notice.

(b) The Uniform Rules for Contested Case Practice and Procedure adopted by the Wyoming Office of Administrative Hearings shall govern all contested case proceedings.

Section 9. Incorporation by Reference.

(a) The following codes, standards, rules or regulations are hereby incorporated by reference:

(i) Chapter 2 - Uniform Rules for Contested Case Practice and Procedure, adopted by the Wyoming Office of Administrative Hearings and effective on October 17, 2014, found at <http://soswy.state.wy.us/Rules/RULES/9644.pdf>.

(ii) Chapter 2 - Direct Rollovers, adopted by the Wyoming Retirement Board and effective on July 24, 2014, found at <http://soswy.state.wy.us/Rules/RULES/9583.pdf>.

(b) No later amendments to codes, standards, rules or regulations listed in subsection (a) are incorporated by reference.

Rules Governing the Volunteer Firefighter and EMT Pension Account Board Intent to Adopt New Administrative Rules and Repeal Superseded Chapters

AMENDED STATEMENT OF PRINCIPAL REASONS

Pursuant to the authority granted by W.S. 35-9-624(b)(ii), the Volunteer Firefighter and EMT Pension Account Board (Board) has decided to adopt new administrative rules to govern the pension account it administers. The Board is also proposing to repeal Chapter 1 of the Volunteer Firemen's Pension Fund's current rules and regulations and Chapters 1 through 3 of the Volunteer Emergency Medical Technician Pension Plan's current rules and regulations. Emergency rules are currently in effect until regular rules can be promulgated.

The Wyoming State Legislature created the new pension account during the 2015 legislative session and the new plan went into effect July 1, 2015. The new plan replaced the Volunteer Firemen's Pension Fund (Wyo. Stat. §§ 35-9-601 through 35-9-615; repealed) and the Volunteer EMT Pension Fund (Wyo. Stat. §§ 35-29-101 through 35-29-112; repealed). A new board of trustees was created to replace the two boards associated with the old plans. Because the old plans and the administrative rules chapters associated with each have now been superseded by the new plan, new administrative rules are required to enable WRS and the Board to administer the new plan appropriately. Further, the current rules and regulations associated with those repealed plans are no longer applicable.

These are new administrative rules. Because the Board did not have administrative rules in place to administer the pension account, the Board adopted emergency rules, which became effective Oct. 1, 2015.

While WRS did not receive any substantive comment from the public during the public comment period, the Legislative Services Office proposed several formatting changes to be made to Chapter 1 prior to finalizing the rule. Additionally, WRS staff suggested an amendment to the rule language that would better clarify how service purchases are to be treated in the plan.

LSO made the following editing recommendations which have been incorporated into the rule:

- Page 1-3, Section 3(g)(i) & (ii): were indented properly to delineate between the sections.
- Page 1-3, Section 3(h)(i) & (ii): were indented properly to delineate between the sections.
- Page 1-4, Section 6(b): added a dash between the 9 and 6 on Wyoming Statute 35-9-617(f).
- Page 1-5, Section 9(a)(ii): website reference was added for Chapter 2 – Direct Rollovers, adopted by the Wyoming Retirement Board.
- Page 1-5, Section 9(b): the unnecessary “a” was removed prior to the word “codes.” The text was amended to read: “No later amendments **to codes**, standards, rules or regulations listed in subsection (a) are incorporated by reference.”

WRS staff made the following clarifications:

- Page 1-4, Section 4(h)(ii): text was amended to read: “A service purchase made pursuant to **Section 6(a)** of these rules shall not qualify as years of active participation in the pension account required for a member to continue contributions to the pension account after withdrawing from active service as a volunteer.” This change is a reflection of the changes made to Section 6(b) & (c).
- Page 1-4, Section 6(b): the text was amended to read: “Pursuant to W.S. § 35-9-617(f), any member who was enrolled in the Volunteer Firemen’s Pension Fund on or before June 30, 2015, and had not refunded his contributions to that plan, and not made a service purchase under the terms of that plan, may elect to make a one-time purchase of either up to five (5) years of service credit pursuant to **subsection (a) of this section** or an amount equal to the time of actual service as a volunteer fireman in Wyoming prior to enrollment in that plan, whichever is greater.”
- Page 1-4, Section 6(c): the text was amended to read: “A service purchase under **subsection (a) of this section** shall not qualify as years of active participation in the pension account required for a member to continue contributions to the pension account after withdrawing from active service as a volunteer.”

Explanation of staff recommendation: The limitation articulated in Section 6(c) that precludes service purchases from counting towards the 10 year requirement in Section 4(h) should only apply to service purchases made in accordance with the provisions articulated in Section 6(a), not to service purchases made of actual service time articulated in Section 6(b). The changes made to the language in Sections 4(h)(ii), 6(b) and 6(c) are a logical outgrowth of the originally proposed rule language. The changes clarify that members who participated in the old Volunteer Fire Plan and had actual demonstrable service as a volunteer prior to joining the plan and purchase service up to an amount equal to that actual service, can apply that purchased service to the 10 year provision articulated in Section 4(h). Members purchasing up to five years of “air time” are not entitled to apply that purchased time to the 10 year provision. These changes do not negatively impact any member of the plan or public, are in character with the original scheme, and are in keeping with the statutory requirements of the new Volunteer Plan.

Proposed new rules:

Chapter 1 – Rules Governing the Volunteer Firefighter and EMT Pension Account Board.

- **Section 1 – Authority.** These rules are promulgated under the authority of Wyo. Stat. 35-9-624(b)(ii).
- **Section 2 – Benefits for Members and Retirees of Pre-existing Plans.** These provisions are proposed to address the various situations and benefits that apply to members of the two pre-existing plans that have been replaced by the new plan.

- **Section 3 – Military Service Credit.** These provisions are proposed to address the rights and benefits of members of the plan that leave for qualified military service.
- **Section 4 – Contributions.** These provisions are proposed to address how contributions are to be received by WRS, when members must withdraw funds upon termination, when members can leave accounts on deposit after termination and when members can continue making contributions after termination.
- **Section 5 – Termination of Active Service Due to Disability.** This provision is proposed to address circumstances related to a member who leaves service as a volunteer due to disability.
- **Section 6 – Purchase of Service Credit.** These provisions are proposed to address the circumstances related to a member who elects to make a service purchase.
- **Section 7 – Board Governance.** These provisions are proposed to establish that a board chair and vice chair should be elected annually by the Board and that the Board is responsible for reviewing member qualification information from the various participating employers of the plan.
- **Section 8 – Contested Case Practice and Procedure.** This section is proposed to address the circumstances in which a member is entitled to appeal a decision of the Board.
- **Section 9 – Incorporation by Reference.** This section is proposed to identify that the Board intends to incorporate by reference the Uniform Rules for Contested Case Practice and Procedure adopted by the Wyoming Office of Administrative Hearings and the direct rollover rules adopted by the Wyoming Retirement Board.

Proposed rules to be repealed:

Chapter 1 – Volunteer Firemen’s Pension Fund - General Provisions: This chapter of the rules is proposed to be repealed because the Volunteer Firemen’s Pension Fund has been legislatively repealed. The fund and the board that administered the fund have been superseded by the Volunteer Firefighter and EMT Pension Account Fund and board.

Chapters 1 through 3 – Volunteer Emergency Medical Technician Pension Plan – General Provisions; Member Account Records; Rules of Practice and Procedures for Contested Cases: This chapter of the rules is proposed to be repealed because the Volunteer Firemen’s Pension Fund has been legislatively repealed. The fund and the board that administered the fund have been superseded by the Volunteer Firefighter and EMT Pension Account Fund and board.

Rules Governing Volunteer Firefighter and EMT Pension Account Board

Summary of Comments

Pursuant to the authority granted by W.S. 35-9-624(b)(ii), the Volunteer Firefighter and EMT Pension Account Board (Board) has decided to adopt new administrative rules to govern the pension account it administers. The Board is also proposing to repeal Chapter 1 of the Volunteer Firemen's Pension Fund's current rules and regulations and Chapters 1 through 3 of the Volunteer Emergency Medical Technician Pension Plan's current rules and regulations. Emergency rules are currently in effect until regular rules can be promulgated. A public comment period of 47 days was held from October 19th 2015 through December 4th 2015. This document serves as a summary for the public comment requests.

There were no public comments received.

While WRS did not receive any substantive comment from the public during the public comment period, the Legislative Services Office proposed several formatting changes to be made to Chapter 1 prior to finalizing the rule. Additionally, WRS staff suggested an amendment to the rule language that would better clarify how service purchases are to be treated in the plan.

LSO made the following editing recommendations which have been incorporated into the rule:

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