

Wyoming Administrative Rules

Retirement System

Volunteer Firefighter, EMT and Search and Rescue Plan

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

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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. Definitions.

(a) “Board” means the volunteer firefighter, EMT and search and rescue pension account board created pursuant to W.S. § 35-9-623(a).

(b) “Pension account” means the volunteer firefighter, EMT and search and rescue pension account created pursuant to W.S. § 35-9-617(a).

(c) “Spouse” means the lawful spouse of a participating member pursuant to W.S. § 35-9-616(a)(vii).

(i) For purposes of death benefits payable to a member’s surviving spouse pursuant to W.S. 35-9-621(b), the member’s current spouse shall be deemed, by this special action of the board, the surviving spouse.

(A) Nothing contained in these rules shall be deemed to require the board to provide increased benefits or provide any type, form, option, or amount of benefit not otherwise provided by the plan rules or Wyoming Retirement System.

(B) In the event that any decree of divorce awards a member’s death benefit to a former spouse, such decree shall supersede this provision.

(ii) In the event an individual other than the member’s surviving spouse claims to be the member’s spouse eligible for death benefits under the plan, the claim may be brought before the Board for determination through special action pursuant to W.S. 35-9-616(a)(vii).

Section 3. Pension account participation.

(a) Eligibility for participation in the pension account requires any “volunteer emergency medical technician” as defined by W.S. § 35-9-616(a)(viii), “volunteer firefighter” as defined by W.S. § 35-9-616(a)(x), and “volunteer search and rescue person” as defined by W.S. § 35-9-616(a)(xiii) to devote less than the individual’s “entire time of employment” to the volunteer EMT ambulance service, volunteer fire department or county search and rescue organization to which the individual provides services.

(b) Pursuant to the authority granted by W.S. § 35-9-624, the Board may investigate claims and make determinations regarding eligibility for participation in the pension account.

Section 4. 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 5. 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, volunteer EMT ambulance service or county search and rescue organization 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, volunteer EMT ambulance service or county search and rescue organization 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, volunteer EMT ambulance service or county search and rescue organization 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 6. 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 pension account 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 pension account 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 pension account.

(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 pension account.

(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, EMT or search and rescue person 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 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 7. Termination of Active Service due to Disability.

The Board may permit a disabled member to continue contributing to the pension account if termination as a volunteer firefighter, EMT or search and rescue person 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, EMT or search and rescue person.

Section 8. 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. § 35-9617(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 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 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 9. 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 10. 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 11. 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.

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