

ENROLLED ACT NO. 43, HOUSE OF REPRESENTATIVES

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

AN ACT relating to the Wyoming retirement system; establishing additional benefits and contributions for law enforcement officers as specified; expanding scope of covered law enforcement officers; defining and specifying eligibility; clarifying retirement system provisions accordingly; providing for transfer of eligible officers and expansion of benefits within specified time period; conditioning implementation upon receipt of required payments and transfer of covered officers as specified; specifying state responsibilities with respect to funding; providing an appropriation; providing for separate maintenance and administration as specified; and providing for an effective date.

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

Section 1. W.S. 9-3-432 is created to read:

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

(a) Each law enforcement officer shall pay into the account eight and six-tenths percent (8.6%) of his salary to fund benefits provided to law enforcement officers. Any contribution required under this subsection or subsection (b) of this section shall be paid by the employer from the source of funds used to pay officer salaries in order to be treated as employer contributions for the sole purpose of determining tax treatment under the United States Internal Revenue Code, § 414(h). These payments by the employer are subject to W.S. 9-3-412(c).

(b) Each employer of a law enforcement officer covered under this article shall pay into the account a

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contribution equal to eight and six-tenths percent (8.6%) of the salary paid to each of its law enforcement officers covered under this article and may pay into the account any amount of the officer's share of contributions under subsection (a) of this section. Payments under this subsection shall be made monthly to the account in accordance with W.S. 9-3-413 and are subject to the penalties imposed under W.S. 9-3-413 for delinquent contributions. No additional contribution shall be imposed upon the state, any city, town or county for benefits provided law enforcement officers under this article.

(c) Normal retirement benefits are payable under this section to any law enforcement officer who:

(i) Has at least four (4) years of service credit as a law enforcement officer and is at least sixty (60) years of age; or

(ii) Has at least twenty (20) years of service credit as a law enforcement officer regardless of age.

(d) Early retirement benefits are payable to any law enforcement officer who has at least four (4) years but less than twenty (20) years of service credit and is at least fifty (50) years of age.

(e) The normal retirement benefit for a law enforcement officer under this section is equal to two and one-half percent (2.5%) of the highest average salary multiplied by the years of the officer's service credit, as determined under W.S. 9-3-417. The benefit under this subsection shall not exceed seventy-five percent (75%) of the officer's highest average salary. Notwithstanding W.S. 9-3-402(a)(xix), "highest average salary" as used in this section means the average annual salary of a law

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enforcement officer for the highest paid five (5) continuous years of service.

(f) The early retirement benefit payable under subsection (d) of this section is equal to the normal retirement benefit payable under subsection (e) of this section reduced to an actuarial equivalent amount as prescribed by rule and regulation of the board.

(g) Notwithstanding W.S. 9-3-419(b) and on July 1 of each year, benefits provided under this section shall be increased by two percent (2%) for individuals who have been receiving benefits under this section or W.S. 15-5-301 through 15-5-314 for at least two (2) years, either alone or in combination with an officer, if the individual is a survivor.

(h) Notwithstanding W.S. 9-3-422, any law enforcement officer in service for which contributions have been paid because of illness or injury in the scope of employment or because of illness or injury outside of the scope of employment, may retire on account of a total or partial disability in accordance with rules and regulations adopted by the board. The board shall determine mental or physical incapacitation for disability retirement under this section in accordance with W.S. 9-3-422(a) and rules and regulation of the board, and the cost of any required examination or test shall be paid as provided by W.S. 9-3-422 and rule and regulation of the board. Any law enforcement officer receiving a disability benefit under this section is subject to reporting, evaluation and excess earnings deduction requirements imposed under W.S. 9-3-423 and rule and regulation of the board. Upon retirement for a disability as determined and for which a member qualifies under this section, a law enforcement officer shall for the

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life of the officer or until the officer is no longer disabled, receive:

(i) For a partial or total disability incurred in the scope of employment, a monthly retirement benefit for the period of qualified disability equal to sixty-two and one-half percent (62.5%) of his salary at the time the disability was incurred;

(ii) For a partial or total disability incurred outside of the scope of employment, a monthly retirement benefit for the period of qualified disability equal to fifty percent (50%) of his salary at the time the disability was incurred.

(j) Notwithstanding W.S. 9-3-421, any surviving spouse of an officer who dies in the scope of employment shall receive a monthly payment equal to sixty-two and one-half percent (62.5%) of the officer's salary at the time of death, plus six percent (6%) of that salary for each child under age eighteen (18), not to exceed one hundred percent (100%) of the officer's salary. Any surviving spouse of an officer who dies outside of the scope of employment shall receive a monthly payment equal to fifty percent (50%) of the officer's salary at the time of death, plus six percent (6%) of that salary for each child under age eighteen (18), not to exceed one hundred percent (100%) of the officer's salary. Notwithstanding any other provision in this subsection, any surviving spouse of any officer who retired under W.S. 15-5-301 through 15-5-314 shall receive a monthly pension equal to two-thirds (2/3) of the pension the retired police officer was receiving at the time of his death, plus sixty dollars (\$60.00) for each child under age eighteen (18), not to exceed one hundred percent (100%) of the officer's salary.

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(k) Except as provided by subsection (j) of this section, benefits specified under W.S. 9-3-421 apply to beneficiaries of a deceased officer covered under this article.

(m) Instead of the service retirement benefits provided under this section, any officer may elect one (1) of the forms of retirement benefits specified under W.S. 9-3-420. Unless otherwise provided by a benefit option selected by the officer under W.S. 9-3-420, if an officer receiving benefits or his beneficiary receiving benefits under this section dies before the total amount of benefits paid to either the member or his beneficiary or both equals the amount of the officer's account at retirement, then the excess, if any, shall be paid to any other named beneficiary, if any, or to the officer's estate.

Section 2. W.S. 9-3-402(a)(xviii), 9-3-405(a)(ii)(B) and (C), 9-3-412(a), 9-3-413, 9-3-415(a)(intro) and (b), 9-3-416, 9-3-417(a), 9-3-418(e), 9-3-419(b)(intro), 9-3-420(c), 9-3-422(a) and (b), 9-3-424(a) and 9-3-430 by creating a new subsection (d) are amended to read:

9-3-402. Definitions.

(a) As used in this article:

(xviii) "Law enforcement officer" or "officer" means any member who is a county sheriff, deputy county sheriff, municipal police officer, duly authorized investigator of the Wyoming livestock board meeting the specifications of W.S. 7-2-101(a)(iv)(E), Wyoming correctional officer, Wyoming law enforcement academy instructor, University of Wyoming campus police officer, jailer-detention officer or dispatcher for law enforcement agencies;

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9-3-405. Retirement board duties and powers.

(a) In addition to any other duties prescribed by law, the board shall:

(ii) At the request of any city, town or county not covered by the state retirement system, negotiate terms and conditions through which the city, town or county and its employees could become members of the state retirement system in accordance with the following terms and conditions:

(B) Liabilities for any city, town or county's employees' service rendered prior to affiliation with the retirement system and credited by the local retirement program shall be ~~amortized over a period not to exceed thirty (30) years, payable by the city, town or county in level dollar payments. The liabilities shall be~~ determined according to procedures the board adopts after consultation with the system actuary;

(C) Excluding law enforcement officers, the service rendered by any city, town or county's employees prior to affiliation with the retirement system and which may be credited toward retirement under the retirement system shall not exceed ten (10) years and shall be the shorter of ten (10) years or the period from July 1, 1971 to the entry date of the political subdivision into the retirement system. Service rendered by any city, town or county law enforcement officer prior to affiliation with the retirement system and which may be credited toward retirement under W.S. 9-3-432 shall include all years served as a law enforcement officer with that city, town or county. Effective July 1, 2002, any city, town or county that elects to have its law enforcement officers covered

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under W.S. 9-3-432, if such law enforcement officers were not participating in a pension fund pursuant to W.S. 15-5-301 prior to July 1, 2002, shall be subject to the following:

(I) The city, town or county shall contribute funds in an amount equivalent to one-half (1/2) the cost of each officer's prior service credits with the city, town or county;

(II) The city, town or county may require the officer to contribute the amount specified in subdivision (I) of this subparagraph as a condition of participation in the election to be covered under W.S. 9-3-432;

(III) The state shall contribute funds in an amount equivalent to one-half (1/2) the cost of each officer's prior service with the city, town or county.

9-3-412. Members' contributions; payroll deductions; employer authorized to pay employee's share.

(a) Except as otherwise provided in this section and W.S. 9-3-431 and 9-3-432, every member covered under this article and firefighter members, shall pay into the account five and fifty-seven hundredths percent (5.57%) of his salary. Payments shall be deducted each pay period from each member's salary by the chief fiscal officer of each participating employer.

9-3-413. Employer's contributions; payable monthly; transfer to account; interest imposed upon delinquent contributions; recovery.

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Except as provided by W.S. 9-2-1022(a)(xi)(F)(III) or (IV), ~~and W.S. 9-3-431~~ and 9-3-432, each employer including employers of firefighter members, shall on a monthly basis, pay into the account a contribution equal to five and sixty-eight hundredths percent (5.68%) of the salary paid to each of its members covered under this article and may on a monthly basis, pay into the account any amount of the members' share of retirement contributions. Employer contributions for any month, together with the members' contributions for that month, if any, shall be transferred to the board not later than the twelfth day of the following month. These contributions shall be credited to the account in a manner as directed by the board. Any employer failing to transfer contributions under this section in sufficient time for the board to receive the contributions by the twenty-fifth day of the month due shall be assessed interest at the rate of eight percent (8%) per annum. Interest imposed under this section shall be payable not later than the twelfth day of the next succeeding month. If the contributions and any interest imposed under this section are not transferred to the board when due, they may be recovered, together with court costs, in an action brought for that purpose in the first judicial district court in Laramie County, Wyoming.

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

(a) Except as provided under subsection (f) of this section, ~~and W.S. 9-3-431~~ and 9-3-432, normal retirement benefits under the system are payable to a member who:

(b) Except as provided under W.S. 9-3-432, early retirement benefits are payable to a member who has at least four (4) years of service and is at least fifty (50) but not yet sixty (60) years of age or has at least twenty-five (25) years of service and is not yet fifty (50)

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years of age. The early retirement benefit amount is equal to the normal retirement benefit amount otherwise payable reduced on an actuarial equivalent basis under rules established by the board.

9-3-416. Members leaving service without withdrawing accumulated contributions eligible for retirement.

Except for law enforcement officers, any member who has left service without withdrawing his accumulated contributions and who has a minimum of four (4) years of service is eligible to receive a retirement benefit computed according to the terms of this article, at the age specified in W.S. 9-3-415(a) or (b). Law enforcement officers leaving service without withdrawing accumulated contributions and who have a minimum of four (4) years of service may receive a retirement benefit amount in accordance with W.S. 9-3-432.

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

(a) The board shall determine the total years of service creditable to each member for the purpose of determining eligibility for retirement under this article including law enforcement officers for retirement under W.S. 9-3-432. It may require members to file detailed statements of all service as a covered member and to give other necessary information as a condition to the receipt of benefits under this article.

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

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(e) This section does not apply to any firefighter member covered and vested under W.S. 9-3-431 or any law enforcement member covered and vested under W.S. 9-3-432.

9-3-419. Retirement benefit adjustments.

(b) Effective July 1, 2001 and on each July 1 thereafter, and except as provided for law enforcement officers under W.S. 9-3-432, any retirement benefit, survivor benefit or disability benefit received by eligible individuals under this article shall be adjusted as follows:

9-3-420. Option as to form of benefit; beneficiary designations.

(c) The retirement benefits payable under optional forms available under this section shall be the actuarial equivalent amount of the normal benefit form under W.S. 9-3-415 and, if applicable, 9-3-431, ~~if applicable and 9-3-432.~~

9-3-422. Disability retirement; board determination; reports and examinations; amount; options as to form of benefit.

(a) Except as specified for law enforcement officers under W.S. 9-3-432, any member in service who has ten (10) or more years of service credit during which contributions have been paid because of illness or injury outside of or in the scope of employment, ~~or any law enforcement officer in service for whom contributions have been paid because of injury in the scope of employment,~~ or any firefighter member in service for whom contributions have been paid because of injury in the scope of employment, may retire on account of a total or partial disability in accordance with

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rules and regulations adopted by the board. In determining mental or physical incapacitation for disability retirement under this section, the board may require physician reports, medical examinations, functional capacity evaluations, vocational examinations and other necessary reports and examinations for purposes of this section. The costs of any functional capacity evaluation, vocational examination or other specialized test required under this subsection shall be paid from the retirement account.

(b) Upon retirement for a total disability and except as provided under W.S. 9-3-431(f) and 9-3-432(h), a member shall receive a monthly disability retirement benefit for the period of his disability equal to one hundred percent (100%) of his service retirement benefit under this article as if the member was eligible for normal retirement benefits. Upon retirement for a partial disability, a member shall receive a monthly disability retirement benefit for the period of his disability equal to fifty percent (50%) of the normal retirement benefit payable to the member as if the member were eligible for normal retirement benefits. Disability benefits are payable for the life of the member or until the member is no longer disabled.

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

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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 refunds shall be made only upon written request to the board. 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.

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

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(d) This section applies to benefits payable under W.S. 9-3-432.

Section 3. W.S. 9-3-412(d) and 9-3-415(f) are repealed.

Section 4.

(a) Except for the city of Cheyenne as provided under subsection (b) of this section, each city, town or county with law enforcement officers covered under the Wyoming retirement system or under a police pension fund established pursuant to W.S. 15-5-301 through 15-5-314 shall on or before June 30, 2003 transfer the covered officers for coverage under W.S. 9-3-432 or ensure retirement system coverage for its officers under W.S. 9-3-432, as applicable, as of the date of entry or expansion of coverage. In addition, all assets of any police pension fund shall be transferred by the city, town or county to the retirement system not later than the date of entry into the system.

(b) Notwithstanding subsection (a) of this section, the police pension fund of the city of Cheyenne shall be transferred to the retirement system on or before June 30, 2004, for purposes of W.S. 9-3-432 and 9-3-401 through 9-3-431, as applicable, provided the city pays for any liability created under W.S. 15-5-301 through 15-5-314 and for coverage of officers under the retirement system prior to the date of transfer.

(c) Coverage of Wyoming law enforcement academy instructors, investigators of the Wyoming livestock board and Wyoming correctional officers under W.S. 9-3-432 as created by section 1 of this act, and the transfer of law enforcement officers covered under a police pension fund of

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a city, town or county to coverage under W.S. 9-3-432, as created by section 1 of this act, shall not be implemented by the Wyoming retirement board until funds payable to the Wyoming retirement system are received as required by this section for deposit into the retirement account, as necessary for maintaining the actuarial integrity of the account and funding all liability arising under this act, for years of service prior to the date of entry or expansion of coverage.

(d) In addition to subsection (c) of this section, W.S. 9-3-432, as created by section 1 of this act, shall not be implemented by the Wyoming retirement board until funds necessary for maintaining the actuarial integrity of the account and funding any liability arising under this act, are deposited into the Wyoming retirement account, and contributions required under W.S. 9-3-432(a) and (b), as created under section 1 of this act, are paid to the Wyoming retirement system for deposit into the retirement account for at least two (2) months of covered service following the date of entry or expansion of coverage, as applicable.

Section 5. It is the intention of the legislature because the benefits of the law enforcement pension account are mandated by state law, that the state of Wyoming fund the unfunded accrued liability of the account. The unfunded liability shall be amortized over a twenty (20) year period with annual payments by the state to be in an actuarially determined amount.

Section 6. For purposes of this act, five million five hundred thousand dollars (\$5,500,000.00) is appropriated from the general fund to the Wyoming retirement account for the fiscal biennium beginning July 1, 2002.

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Section 7. For purposes of this act, the Wyoming retirement system shall be separated into two (2) systems for accounting and actuarial purposes. There is created the Wyoming Law Enforcement Retirement System for purposes of benefits and funding created by this act which shall be maintained and administered separately from the Wyoming retirement system.

Section 8. This act is effective July 1, 2002.

(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