

Killeen Firefighter's Relief and Retirement Fund

**Board of Trustees Rules for Credit
for Military Service Under the Uniformed Services
Employment and Re-Employment Rights Act (USERRA)**

I. General Provisions

- A. The Board of Trustees (Board) may designate an Administrator to implement these Board of Trustees Rules (Rules). If there is no Administrator, the Board will act as the Administrator and administer the Rules.
- B. These rules supplement the Plan Effective July 1, 2007 or any predecessor or subsequent plan (Plan) governing the Killeen Firefighter's Relief and Retirement Fund (Fund).
- C. These rules apply only to the establishment of service credit for military duty performed during a leave of absence if the member is eligible for such service credit under the Uniformed Services Employment and Re-Employment Rights Act (USERRA), 38 United States Code Section 4301 et seq, as amended.
- D. USERRA does not permit double credit in two retirement systems for the same military leave. Therefore, a firefighter is not entitled to purchase credit in the Plan if the firefighter receives credit in any other public retirement system, with the exception of Social Security.
- E. These rules do not apply to establishment of service credit related to military duty governed by the Veteran's Re-Employment Rights Act (VRRA), which was effective for re-employments initiated before the end of the 60-day period beginning on October 13, 1994.
- F. "Military Duty" means the performance of duty on a voluntary or involuntary basis in a "Uniformed Service", subject to USERRA, and includes:
 - 1. active duty,
 - 2. active duty for training,
 - 3. initial active duty for training,
 - 4. inactive duty training,
 - 5. full-time National Guard duty,
 - 6. a period of absence for the purpose of examination to determine fitness for these types of duty, and
 - 7. a period of absence for performing funeral honors duty as authorized by 10 U.S.C. Section 12503 or 32 U.S.C. Section 115.

G. "Uniformed Service" means the following:

1. Armed Forces,
2. Army National Guard,
3. Air National Guard,
4. Commissioned corps of the Public Health Service, and
5. Any other category of individuals designated by the President in time of war or national emergency.

H. Notwithstanding any provisions of these rules to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with the Internal Revenue Code (IRC) Section 414(u) and as required by USERRA.

I. If a firefighter sustains an injury while on military leave under the terms of USERRA, the firefighter may be eligible to receive disability benefits, subject to the applicable disability benefit provisions described in the Plan. In the event of a firefighter's death while on military leave under the terms of USERRA, death benefits may be paid to eligible survivors, subject to the applicable death benefit provisions described in the Plan.

J. Contributions, benefits and service credit with respect to qualified military service shall not be established under Texas State Law if it can be established under federal law (IRC Section 414(u) and USERRA).

II. Eligibility

A. In order to be eligible for service credit, a firefighter who takes a leave of absence for military duty must:

1. provide documentation of the period of military duty and proof of an honorable discharge,
2. not exceed the maximum military duty period described in USERRA, and
3. return to active service in the Killeen Fire Department (Department) or apply for re-employment with the Department:

(a) within thirty-one (31) days of discharge if the firefighter was on military duty for less than ninety (90) days, or

(b) within ninety (90) days of discharge if the firefighter was on military duty for ninety (90) days or more.

B. A firefighter whose military duty is entitled to coverage under USERRA may claim service credit for up to five (5) years of military duty, subject to any additional period of time as provided in USERRA.

III. Firefighter's Cost

- A. To obtain service credit with the Plan for military duty under USERRA, the firefighter must contribute to the Fund an amount not to exceed what the firefighter's contributions to the Fund would have been during the firefighter's leave of absence. The amount of this maximum firefighter contribution will be calculated by the Administrator based on the following:
1. the firefighter's contribution rate(s) in effect for the Plan during the period for which the firefighter is establishing Plan service credit, multiplied by
 2. the estimated pay the firefighter would have received for the period for which the firefighter is establishing Plan service credit, which is the Board's estimate of the firefighter's total pay, excluding overtime, that the firefighter would have received.

After returning to active service in the Department, the maximum additional contribution the firefighter could make is equal to the maximum firefighter contribution reduced by the contributions, if any, the firefighter made to the Fund during his leave of absence from the Department.

- B. The firefighter can make any total amount of contributions, not to exceed the maximum contribution amount described above, in either a single payment or installment payments.
- C. The firefighter must make these contributions after his date of return to employment with the Department and within a period of three times the period of the firefighter's military duty, but not to exceed a total period of five years. The firefighter must remain employed with the Department during the period when the firefighter is paying contributions.
- D. No interest or penalties will be added to the contributions paid by the firefighter to establish service credit under USERRA.
- E. The firefighter will receive Plan service credit for either all or part of the time during his leave of absence based on whether he paid all or part of his maximum contribution to the Fund.

IV. City's Cost

- A. The City of Killeen (City) must contribute to the Fund on behalf of the firefighter an amount not to exceed what the City's contribution to the Fund would have been during the firefighter's leave of absence. The amount of this maximum City contribution will be calculated by the Administrator based on the following:
1. the city's contribution rate(s) in effect for the Plan(s) for the period the firefighter makes contributions, multiplied by

2. the estimated pay the firefighter would have received for the period for which the firefighter is establishing Plan service credit, assuming the firefighter had remained in the same position and had received the same pay increases granted to other firefighters in the same position in the Department during that period.

The maximum additional contributions the City may be required to make will be equal to the maximum City contributions reduced by the contributions, if any, the City made to the Fund on behalf of the firefighter during the firefighter's leave of absence.

V. Procedure

- A. An eligible firefighter who wishes to establish service credit must submit a written request to the Administrator. This request should include sufficient documentation to establish the period of military duty and proof of an honorable discharge, such as a certified or legible unaltered copy or copies of the firefighter's military service record showing the dates and nature of military duty.
- B. The Administrator may require the firefighter to provide additional documents related to military duty to demonstrate eligibility under USERRA.
- C. Within thirty days of receipt of a written request to establish Plan service credit, the Administrator will provide the firefighter with a statement of:
 1. the maximum length of additional service credit that could be established by the firefighter due to his leave of absence,
 2. the contributions, if any, previously paid by the firefighter to the Fund during his leave of absence,
 3. the maximum amount of additional contributions the firefighter would be required to pay in order to establish credit for the maximum length of additional service credit, and
 4. the deadline by which the firefighter contributions must be paid to the Fund (after the date of return to employment with the Department and within a period of three times the period of the firefighter's military duty, but not to exceed a total period of five years).
- D. After the firefighter receives the Administrator's statement, he may pay either the maximum additional amount due or any smaller amount. He may provide the Administrator with a written installment payment agreement for the additional amount he has agreed to pay. Along with this agreement, he must include payment of the initial installment, and later he may pay all subsequent installment payments due.

- E. The firefighter must pay, within the required time period, the amount of additional contributions he decides to pay before the City makes its additional contribution for the corresponding time period.
- F. Any firefighter contributions received by the Administrator after the deadline for receipt of firefighter contributions will be returned to the firefighter.
- G. After the deadline for receipt of additional contributions from the firefighter has passed, the Administrator will notify the City of the amount of additional contributions, if any, the City is required to make.
 - 1. If the firefighter has made no contribution for his period of leave of absence, then the City will have no required contribution, or
 - 2. If the total contribution made by the firefighter is less than the maximum contributions he was eligible to make, then the Administrator will determine the percentage of maximum contributions the firefighter made. The city will be required to make contributions equal to the same percentage of the maximum City contribution, or
 - 3. If the firefighter has made the maximum firefighter contribution, then the City will be required to make the maximum City contribution.

The City will be required to make this contribution within 60 days after final receipt of the notice from the Administrator.

- H. The Administrator will determine the completed years and completed months of additional service credit the firefighter will receive as follows:
 - 1. If the firefighter and the City have made no contributions for the firefighter's period of leave of absence, then the firefighter will receive no additional service credit, or
 - 2. If the firefighter and the City have made only part of the maximum contributions, then the Administrator will calculate a reduced period of additional service credit to be established based on the actual firefighter and City contributions paid to the Fund. The reduced period of service credit will be the same proportion of maximum service credit as the reduced firefighter and City contributions are to the maximum firefighter and City contributions, or
 - 3. If the firefighter and the City have made the maximum contributions, then the firefighter will receive the maximum completed years, completed months and one extra month of service credit.

These rules were adopted by the Board of Trustees of the Killeen Firefighter's Relief and Retirement Fund on June 20, 2014.

Signature on file

Jerry Don Sutton

Chairman, Board of Trustees

6-20-2014

Date

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