

RESOLUTION #1997-03 DEFINITION OF BASE INCOME AND OVERTIME IN THE PUBLIC SAFETY AND FIREFIGHTER RETIREMENT SYSTEMS

June 12, 1997

WHEREAS, the Utah State Retirement Board has been involved in litigation concerning the meaning of the term “overtime” and “base income” under the Public Safety Retirement System; and

WHEREAS, these terms are also part of the Firefighters Retirement System; and the Board seeks to apply a uniform definition for both systems; and

WHEREAS, the Utah Court of Appeals recently held, in O’Keefe v. URSB 929 P.2d 1112 (Utah App. 1996), that the term “overtime” is not defined by statute and the Board is not empowered to provide such a definition; and

WHEREAS, the 1997 Utah Legislature enacted H.B. 173, effective July 1, 1997, granting discretion to the Board to interpret and define any provision or term under Title 49 upon providing documentation that demonstrates that the interpretation or definition promotes uniformity in the administration of the Systems or maintains the actuarial soundness of the Systems; and

WHEREAS, the Board seeks to maximize benefits for employees while discharging its statutory fiduciary duty to maintain the actuarial soundness of the Systems it is entrusted to administer; and

WHEREAS, the Board’s actuary has determined that there is no adverse actuarial consequence to either the Public Safety or Firefighter Retirement Systems by allowing base salary or income to include payment for more than 40 hours per week as long as (1) the additional time worked and income received is part of the employee’s regular work period; (2) contributions are paid by the employer and/or employee on all of the salary and; (3) there is no option to elect not to contribute on such salary for any period of time; and

WHEREAS, the Board’s actuary has determined that there is an actuarial consequence to both the Public Safety and Firefighters Retirement System by allowing base salary or income to include payment for more than 40 hours per week when the employee or employer or both may elect not to contribute on such salary for any period of time.

RESOLUTION #1997-03 DEFINITION OF BASE INCOME AND OVERTIME IN THE PUBLIC SAFETY AND FIREFIGHTER RETIREMENT SYSTEMS (CONTINUED)

June 12, 1997

NOW, THEREFORE BE IT RESOLVED, that the Board establishes the following treatment of “overtime” and “base income” in the Public Safety and Firefighter Retirement Systems:

1. Base income or salary includes salaries or income paid on hours worked in excess of a normal 40-hour work week as long as the employer certifies to the Utah State Retirement Board that (1) such additional time worked and income paid is part of the employee’s regular work period; (2) contributions have been and will be paid on such time and income throughout the entire career of the employee in that position; and (3) all employees in substantially similar positions are treated uniformly and equally.
2. “Overtime” means hours in excess of the regular work week or hours which employees can elect to take as accumulated vacation or leave during one period of time while electing to treat such hours as compensation during other time periods.
3. “Regular work period” means that period of time which an employing unit certifies is necessary to accomplish the normal duties and responsibilities of the position and which is actually worked by the employee continuously while in that position.

This Resolution is effective July 1, 1997.