

**RESOLUTION #2003-03 COMPENSATION AND RATE OF PAY FOR MEMBERS OF THE
FIREFIGHTER AND PUBLIC SAFETY RETIREMENT SYSTEM**

February 13, 2003

WHEREAS, the term “compensation” is defined in Section 49-14-102(1) of the Public Safety Retirement act, Section 49-15-102(1) of the Public safety Noncontributory Retirement act, and Section 49-16-102(1) of the Firefighters’ Retirement Act, for the purpose of determining the amount of pay on which retirement contributions must be paid; and

WHEREAS, “overtime” is excluded from each of the definitions of compensation listed above, and

WHEREAS, the case of O’Keefe v. Utah State Retirement Board, 956 P.2d 279 (Utah 1998), determined that pay received from an employer for all hours worked in a regularly scheduled work period must be included as compensation for purposes of retirement contributions; and

WHEREAS, O’Keefe does not address the issue of whether compensation paid at a higher than normal rate of pay (hereinafter “Premium Pay”) should be included as compensation for purposes of retirement contributions; and

WHEREAS, participating employers are currently not uniform in their handling and reporting of Premium Pay; and

WHEREAS, clarification is needed on the issue of whether Premium Pay is overtime for purposes of compensation and retirement contributions in the Firefighter and Public Safety Retirement Systems;

NOW, THEREFORE, BE IT RESOLVED, that Premium Pay shall be included as compensation for retirement purposes if such Premium Pay is earned during the regularly scheduled work period and such Premium Pay shall not be overtime for purposes of retirement contributions.

BE IT FURTHER RESOLVED, that pay earned for time worked in excess of the regularly scheduled work period, regardless of the rate of pay, shall be overtime for the purposes of determining retirement contributions.

BE IT FURTHER RESOLVED, that the effective date of this Resolution shall be February 13, 2003.

**RESOLUTION #2003-03 COMPENSATION AND RATE OF PAY FOR MEMBERS OF THE
FIREFIGHTER AND PUBLIC SAFETY RETIREMENT SYSTEM (CONTINUED)**

February 13, 2003

BE IT FURTHER RESOLVED, that members of the Firefighters' Retirement System, the Public Safety Retirement System, or the Public Safety Noncontributory Retirement System who retire after the effective date of this Resolution shall be able to use Premium Pay in their final average salary calculation provided that: (1) adequate documentation is provided showing the amount of Premium Pay received by the member during the final average salary period, and (2) all required contributions on the Premium Pay to be used in the final average salary calculation are received by the retirement office prior to the retirement of the member.

This Resolution is effective February 13, 2003.