

Subject: State and Local Handbook Changes-SL 40001.490

I want to make you aware of a recent change to the [State and Local Coverage Handbook](#). The changes are for [SL 40001.490 Agreement and Modification Exhibits](#).

Specifically, the agency has added a new subsection I. Miscellaneous Modification Situations. Under subsection I, we have added Exhibit 30: Amending Section 218 Agreement Language to Permit Coverage for Police Officer and Firefighter Positions under Retirement Systems.

This modification template implements the police and firefighter coverage permitted under Section 305 of Public Law No. 103-296. The State must tailor the modification to match the format of its Agreement. For example, if the “Services Covered” paragraph of the Agreement is denoted as (2), rather than (B), then the modification must follow the same convention. If Congress granted the State authority to cover police officers and firefighters prior to the enactment of Public Law No. 103-296, this template can be used in those situations by substituting references to Public Law 103-296 with the pertinent Public Law and date that gave the State the necessary authority.

The “Services Covered” paragraph of the State’s Agreement sets out a general rule that all services performed by individuals as employees of the State or its political subdivisions are covered by the Agreement. The sub-paragraphs that follow are a series of exceptions to this general rule. Services that fall within one or more of the exceptions are not covered under the State’s Agreement.

This modification expands coverage to police and firefighter positions under retirement systems by *removing an exception to coverage*. Historically, services performed in these positions were excepted from coverage. Beginning August 16, 1994, however, as the result of the passage of Public Law No. 103-296, these services can be covered, so the exception does not apply for services performed on or after that date (see section (B)(1)(a)).

Note that services performed by employees in police or firefighter positions on or after August 16, 1994 are still excepted from coverage if they fall within one of the other exceptions. For example, if the State has not yet executed a Section 218(d)(4) modification to cover the retirement-system positions at issue, then these positions would be excepted from coverage under section (B)(1)(b).

Attached is a PDF Version of Exhibit 30. You can also view the changes and access the new Exhibit using the links above.

Exhibit 30—Amending Section 218 Agreement Language to Permit Coverage for Police Officer and Firefighter Positions Under Retirement Systems

This modification template implements the police and firefighter coverage permitted under Section 305 of Public Law No. 103-296. The State must tailor the modification to match the format of its Agreement. For example, if the “Services Covered” paragraph of the Agreement is denoted as (2), rather than (B), then the modification must follow the same convention. If Congress granted the State authority to cover police officers and firefighters prior to the enactment of Public Law No. 103-296, this template can be used in those situations by substituting references to Public Law 103-296 with the pertinent Public Law and date that gave the State the necessary authority.

Interpretive note—The “Services Covered” paragraph of the State’s Agreement sets out a general rule that all services performed by individuals as employees of the State or its political subdivisions are covered by the Agreement. The sub-paragraphs that follow are a series of exceptions to this general rule. Services that fall within one or more of the exceptions are not covered under the State’s Agreement.

This modification expands coverage to police and firefighter positions under retirement systems by *removing an exception to coverage*. Historically, services performed in these positions were excepted from coverage. Beginning August 16, 1994, however, as the result of the passage of Public Law No. 103-296, these services can be covered, so the exception does not apply for services performed on or after that date (see section (B)(1)(a)).

Note that services performed by employees in police or firefighter positions on or after August 16, 1994 are still excepted from coverage if they fall within one of the other exceptions. For example, if the State has not yet executed a Section 218(d)(4) modification to cover the retirement-system positions at issue, then these positions would be excepted from coverage under section (B)(1)(b).

MODIFICATION #
TO ___ STATE SOCIAL SECURITY AGREEMENT

The Commissioner of Social Security and the State of ____, acting through its representative designated to administer its responsibilities under the agreement of ____, hereby accept the following modification to the agreement.

Sub-paragraph (B)(1) of the agreement is amended to read as follows (the italicized language is already part of the State's Agreement and is included here only for clarity):

(B) Services Covered

This agreement includes all services performed by individuals as employees of the State and as employees of those political subdivisions listed in the appendix attached hereto, except—

- (1) (a) Service performed prior to August 16, 1994, by an employee in a police or firefighter position which, on the date this agreement is made applicable to the coverage group (as defined in Section 218(b)(5) of the Act) to which the employee belongs, is covered by a retirement system, unless the service is described in sub-section (1)(b)(ii) below.
- (b) Service performed by an employee in a position which, on or after September 1, 1954, is covered by a retirement system, other than—
 - (i) service performed by an employee in a position which is included in a separate coverage group established by Section 218(d)(4) of the Social Security Act; or
 - (ii) prior to January 1, 1958, service performed by an employee as a member of a coverage group (as defined in Section 218(b)(5) of the Act) with respect to which this agreement was in effect on September 1, 1954, in a position—
 - a. to which this agreement is not otherwise applicable;
 - b. which was covered by a retirement system on the date the agreement was made applicable to such coverage group; and
 - c. which, by reason of action taken prior to September 1, 1954, by the State or any of its political subdivisions, is not covered by a retirement system on the date the agreement is made effective to such service; or

- (iii) Service performed by an employee as a member of a coverage group (as defined in Section 218(b)(5) of the Act) with respect to which this agreement is in effect, in a position covered by a retirement system, if the employee performing such service was ineligible to become a member of such retirement system on the date the agreement was made applicable to the coverage group (or if later, the date on which such individual first occupied such position).

...

The intent of this Modification is to extend, beginning August 16, 1994, voluntary Social Security and Medicare coverage to services performed by employees in police or firefighter positions that are covered by retirement systems. The option to extend such coverage was given to the State by Section 305 of Public Law No. 103-296.

Approved by the State of _____ on this ____ day of _____, ____

State Social Security Administrator
State of

Approved by SSA on this ____ day of _____, ____

Regional Commissioner (or designee)
Social Security Administration