

**THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979 (EXCERPT)**  
**Act 300 of 1980**

ARTICLE 3

**38.1341 Determining annual level percentage of payroll contribution rates; factors; unfunded actuarial accrued liability contribution rate; computation and certification of sum due and payable; payment; certification of actual aggregate compensation; adjustment; evidence of correctness; audit; duties of reporting unit; submission of difference occurring in certain fiscal years; interest rate; reassignment of assets; rate of investment return; basis of asset valuation; use of salary increase assumption; deposit to health advance funding subaccount; allocations from employer contributions; experience investigation study; risk assumptions; report; pension and retiree health care payroll growth assumption rate; "university reporting unit" defined.**

Sec. 41. (1) The annual level percentage of payroll contribution rates to finance benefits being provided and to be provided by the retirement system must be determined by actuarial valuation under subsection (2) on the basis of the risk assumptions that the retirement board and the department adopt after consultation with the state treasurer and an actuary. An annual actuarial valuation must be made of the retirement system to determine the actuarial condition of the retirement system and the required contribution to the retirement system. An annual actuarial gain-loss experience study of the retirement system must be made to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) Except as otherwise provided in sections 41a and 41b, the annual contribution rates for benefits are subject to all of the following:

(a) Except as otherwise provided in this subdivision, the contribution rate for benefits must be computed using an individual projected benefit entry age normal cost method of valuation. If the contributions described in section 43e are determined by a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted to be unconstitutional and the contributions are not deposited into the appropriate funding account referenced in section 43e, the contribution rate for health benefits provided under section 91 must be computed using a cash disbursement method.

(b) Subject to subdivision (c), the contribution rate for service likely to be rendered in the current year, the normal cost contribution rate, for reporting units must be determined as follows:

(i) Calculate the aggregate amount of individual projected benefit entry age normal costs.

(ii) Divide the result of the calculation under subparagraph (i) by 1% of the aggregate amount of active members' valuation compensation.

(c) Except for the employee portion of the normal cost contribution rates for members under section 41b(2), and except as otherwise provided in this subdivision, beginning with the state fiscal year ending September 30, 2018 and for each subsequent fiscal year, the normal cost contribution rate must not be less than the normal cost contribution rate in the immediately preceding state fiscal year. Beginning in the state fiscal year ending September 30, 2026, and for each subsequent state fiscal year, this subdivision does not apply to the normal cost contribution rate for retiree health benefits provided under section 91.

(d) Subject to subdivision (e), the contribution rate for unfunded service rendered before the valuation date, the unfunded actuarial accrued liability contribution rate, must be determined as follows:

(i) Calculate the aggregate amount of unfunded actuarial accrued liabilities of reporting units as follows:

(A) Calculate the actuarial present value of benefits for members attributable to reporting units.

(B) Calculate the actuarial present value of future normal cost contributions of reporting units.

(C) Calculate the actuarial present value of assets on the valuation date.

(D) Add the results of sub-subparagraphs (B) and (C).

(E) Subtract from the result of the calculation under sub-subparagraph (A) the result from the calculation under sub-subparagraph (D).

(ii) Subject to subsection (18), divide the result of the calculation under subparagraph (i) by 1% of the actuarial present value over a period not to exceed 50 years of projected valuation compensation.

(e) Except for the employee portion of the unfunded actuarial accrued liability contribution rates for members under section 41b(2), beginning with the state fiscal year ending September 30, 2018 and for each subsequent fiscal year until the state fiscal year ending September 30, 2021, the unfunded actuarial accrued liability contribution rate must not be less than the unfunded actuarial accrued liability contribution rate in the preceding state fiscal year. Except as otherwise provided in this subdivision, beginning with the state fiscal year ending September 30, 2022, and for each subsequent fiscal year until the unfunded actuarial accrued liability is fully paid, the unfunded actuarial accrued liability contribution amount due and payable must not

be less than the unfunded actuarial accrued liability contribution amount due and payable in the preceding state fiscal year. For the state fiscal year ending September 30, 2025, the unfunded actuarial accrued liability contribution due and payable must be equal to the actuarially determined contribution. For a reporting unit that is a university reporting unit, for the state fiscal years ending September 30, 2023 and September 30, 2024, the unfunded actuarial accrued liability contribution due and payable must be equal to the actuarially determined contribution. For a reporting unit that is a university reporting unit, for the state fiscal years ending September 30, 2023 and September 30, 2024, the contribution must reflect the appropriations made under section 236h of the state school aid act of 1979, 1979 PA 94, MCL 388.1836h, as amended by 2022 PA 144 and 2023 PA 103.

(f) Except as otherwise provided in this subsection, beginning with the state fiscal year ending September 30, 2013 and for each subsequent fiscal year, the unfunded actuarial accrued liability contribution rate applied to payroll must not exceed 20.96% for a reporting unit that is not a university reporting unit. Beginning with the state fiscal year ending September 30, 2026 and for each subsequent fiscal year, the unfunded actuarial accrued liability contribution rate applied to payroll must not exceed 15.21% for a reporting unit that is not a university reporting unit. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year are to be paid by appropriation from the state school aid fund established by section 11 of article IX of the state constitution of 1963. Except as otherwise provided in this section and sections 41a and 41b, the unfunded actuarial accrued liability contribution rate must be based on and applied to the combined payrolls of the employees who are members or qualified participants, or both.

(g) Beginning with the state fiscal year ending September 30, 2016 and for each subsequent state fiscal year, the unfunded actuarial accrued liability contribution rate applied to the combined payroll, as provided in section 41a, must not exceed 25.73% for a university reporting unit. Any additional unfunded actuarial accrued liability contributions as determined under this section for each fiscal year for university reporting units are to be paid by appropriation under article III of the state school aid act of 1979, 1979 PA 94, MCL 388.1836 to 388.1891.

(3) Before November 1 of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department the aggregate compensation estimated to be paid public school employees for the state fiscal year.

(4) On the basis of the estimate under subsection (3), the annual actuarial valuation, and any adjustment required under subsection (6), the director of the department shall compute the amount due and payable to the retirement system and shall certify this amount to the reporting units.

(5) Except as provided in section 41b, the reporting units shall pay the amount certified under subsection (4) to the director of the department in equal payroll cycle installments for unfunded actuarial accrued liability contributions and payroll cycle installments for normal cost contributions.

(6) Not later than 90 days after the end of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department and each reporting unit the actual aggregate compensation paid to public school employees during the preceding state fiscal year. On receipt of that certification, the director of the department may compute any adjustment required to the amount because of a difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate. The difference, if any, must be paid as provided in subsection (9). This subsection does not apply in a fiscal year in which a deposit is made under subsection (14).

(7) The director of the department may require evidence of correctness and may conduct an audit of the aggregate compensation that the director of the department considers necessary to establish its correctness.

(8) A reporting unit shall forward employee and employer Social Security contributions and reports as required by the federal old-age, survivors, disability, and hospital insurance provisions of title II of the social security act, 42 USC 401 to 434.

(9) For an employer of an employee of a local public school district or an intermediate school district, for differences occurring in fiscal years beginning on or after October 1, 1993, a minimum of 20% of any difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6) must be paid by that employer in the next state fiscal year and a minimum of 25% of the remaining difference must be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. For an employer of other public school employees, for differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of any difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6) must be paid by that employer in the next state fiscal year and a minimum of 25% of the remaining difference must be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest must be included for

each year that a portion of the remaining difference is carried forward. The interest rate must equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply in a fiscal year in which a deposit is made under subsection (14).

(10) Beginning on September 30, 2006, all assets held by the retirement system must be reassigned their fair market value, as determined by the state treasurer, as of September 30, 2006, and in calculating any unfunded actuarial accrued liabilities, any market gains or losses incurred before September 30, 2006 may not be considered by the retirement system's actuaries.

(11) Except as otherwise provided in this subsection, beginning on September 30, 2006, the actuary used by the retirement board shall assume a rate of return on investments of 8% per annum, as of September 30, 2006, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on July 1, 2010, the actuary used by the retirement board shall assume a rate of return on investments of 7% per annum for investments associated with members who first became members after June 30, 2010, and before February 1, 2018, which rate may only be changed with the approval of the retirement board and the director of the department. Beginning on February 1, 2018, the actuary used by the retirement board shall assume a rate of return on investments of 6% per annum for investments associated with members who first became a member on or after February 1, 2018, which rate may only be changed with the approval of the retirement board and the director of the department.

(12) Beginning on September 30, 2006, the value of assets used must be based on a method that spreads over a 5-year period the difference between actual and expected return occurring in each year after September 30, 2006, and the methodology may only be changed with the approval of the retirement board and the director of the department.

(13) Beginning on September 30, 2006, the actuary used by the retirement board shall use a salary increase assumption that projects annual salary increases of 4%. In addition to the 4%, the retirement board shall use an additional percentage based on an age-related scale to reflect merit, longevity, and promotional salary increase. The actuary shall use this assumption until a change in the assumption is approved in writing by the retirement board and the director of the department.

(14) For fiscal years that begin on or after October 1, 2001, if the actuarial valuation prepared under this section demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, the amount based on the annual level percent of payroll contribution rate under subsections (1) and (2) may be deposited into the health advance funding subaccount created by section 34.

(15) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1686, the benefits that are required to be paid from that fund must be paid from a portion of the employer contributions described in this section or other eligible money. The retirement board shall determine the amount of the employer contributions or other eligible money that must be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible money in the pension fund.

(16) The retirement board and the department shall conduct and review an experience investigation study and adopt risk assumptions on which actuarial valuations are to be based after consultation with the actuary and the state treasurer. The experience investigation study must be completed and risk assumptions must be periodically reviewed at least once every 5 years.

(17) Every April 1 following the periodic review of risk assumptions under subsection (16), the office of retirement services on behalf of the department and the state treasurer shall collaborate to submit a report to the senate majority leader, the speaker of the house of representatives, the senate and house of representatives appropriations committees, and the senate and house fiscal agencies. A report required under this subsection must be published on the office of retirement services' website and include at least all of the following:

(a) Forecasted rate of return on investments at all of the following probability levels:

(i) 5%.

(ii) 25%.

(iii) 50%.

(iv) 75%.

(v) 95%.

(b) The actual rate of return on investments for 10-, 15-, and 20-year intervals.

(c) Mortality assumptions.

(d) Retirement age assumptions.

(e) Payroll growth assumptions.

(f) Any other assumptions that have a material impact on the financial status of the retirement system.

(18) Except as otherwise provided in this subsection, for members who first became members before February 1, 2018, for the state fiscal year ending September 30, 2024, the pension and retiree health care payroll growth assumption rate for a reporting unit that is not a university reporting unit must be 0.75%. Except as otherwise provided in this subsection, for members who first became members before February 1, 2018, beginning with the state fiscal year ending September 30, 2025, and for each subsequent state fiscal year until the pension and retiree health care payroll growth assumption rate for a reporting unit that is not a university reporting unit is zero, the payroll growth assumption rate for a reporting unit that is not a university reporting unit must be reduced by 50 basis points. Beginning with the state fiscal year ending September 30, 2025 and for each subsequent state fiscal year until the rate described in this subsection is zero, if the pension and retiree health care unfunded actuarial accrued liability contribution amount directly attributable to the 50 basis points reduction under this subsection for the fiscal year is 7% or more of the pension and retiree health care unfunded actuarial accrued liability contribution amount in the preceding state fiscal year, the office of retirement services may reduce the rate described in this subsection by 25 basis points in that current fiscal year instead of the 50 basis point reduction described in this subsection. Beginning with the fiscal year ending September 30, 2022 and for each subsequent state fiscal year until the rate described in this subsection is zero, the office of retirement services and the retirement board may agree to reduce the rate described in this subsection by any number of additional basis points.

(19) As used in this section, "university reporting unit" means a reporting unit that is a university listed in the definition of public school employee under section 6.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1982, Act 197, Imd. Eff. July 1, 1982;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1992, Act 158, Imd. Eff. July 16, 1992;—Am. 1993, Act 164, Imd. Eff. Sept. 16, 1993;—Am. 1994, Act 272, Imd. Eff. July 11, 1994;—Am. 1996, Act 278, Imd. Eff. June 17, 1996;—Am. 1997, Act 143, Imd. Eff. Nov. 19, 1997;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2007, Act 15, Imd. Eff. June 6, 2007;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2016, Act 136, Imd. Eff. May 26, 2016;—Am. 2017, Act 92, Imd. Eff. July 13, 2017;—Am. 2018, Act 181, Imd. Eff. June 11, 2018;—Am. 2018, Act 512, Imd. Eff. Dec. 28, 2018;—Am. 2022, Act 220, Imd. Eff. Oct. 14, 2022;—Am. 2023, Act 198, Imd. Eff. Nov. 7, 2023;—Am. 2024, Act 127, Eff. Apr. 2, 2025.

**Constitutionality:** The Michigan Supreme Court held that the failure by the state to prefund retirement health care benefits is in violation of Const 1963, art 9, § 24. However, the Michigan Supreme Court also held that it has no authority to order the governor or legislature to appropriate funds. *Musselman v Engler*, 448 Mich 503; 533 NW2d 237 (1995).

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1341a Separate contribution rate; unfunded accrued liability; "university reporting unit" defined.**

Sec. 41a. (1) For fiscal years that begin after March 27, 1996, the retirement system shall determine a separate contribution rate for a university reporting unit. Subject to this subsection, the retirement system shall determine the separate contribution rate in the manner prescribed in section 41, except that the unfunded actuarial accrued liability must be amortized over 40 years beginning October 1, 1996 and ending on September 30, 2036, with the payment schedule for universities being based on and applied to the combined payrolls of the universities' employees who are members and who were hired before January 1, 1996 and the universities' employees who would have been members after December 31, 1995, but for the enactment of 1995 PA 272. Beginning with the state fiscal year ending September 30, 2016 and for each subsequent fiscal year, the combined payrolls used for the payment schedule for the university reporting units must include each university reporting unit's combined payroll, as projected by the actuary based on the actuarial valuation for each following fiscal year, except that the combined payroll for each university reporting unit must not be less than the combined payroll projected for each subsequent fiscal year for each university reporting unit by the actuary based on the September 30, 2012 actuarial valuation. The amount of the unfunded accrued liability on which the separate contribution rate is determined must be that amount which a university reporting unit is legally responsible for and is calculated by actuarial analysis. Any reduction in the unfunded liability of the system under governmental action affecting the entire system will be allocated to all reporting

units including universities as determined by the system's actuary. For the state fiscal year ending September 30, 2007, the contribution for unfunded actuarial accrued liability must be equal to 4.5% of the unfunded actuarial accrued liability.

(2) As used in this section, "university reporting unit" means a reporting unit that is a university listed in the definition of public school employee under section 6.

**History:** Add. 1995, Act 272, Eff. Mar. 28, 1996;—Am. 1996, Act 488, Eff. Mar. 31, 1997;—Am. 2007, Act 15, Imd. Eff. June 6, 2007;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2016, Act 136, Imd. Eff. May 26, 2016.

**Compiler's note:** Section 2 of Act 488 of 1996 provides:

"Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1341b Employees as members on or after July 1, 2010 and before February 1, 2018; determination of separate contribution rate for members on or after February 1, 2018; contributions; individuals performing services for entity not participating in retirement system; conditions.**

Sec. 41b. (1) Beginning July 1, 2010, the retirement system may determine a separate employer contribution rate for members who first became members on or after July 1, 2010 and before February 1, 2018. Except as provided in this section, the retirement system shall determine the separate employer contribution rate in the manner prescribed in section 41.

(2) Beginning February 1, 2018, the retirement system shall determine a separate contribution rate for members who first became members on or after February 1, 2018. Except as provided in this section, the retirement system shall determine the separate contribution rate in the manner prescribed in section 41, except that any increase or decrease in the unfunded actuarial accrued liabilities associated with members who first became members on or after February 1, 2018 must be amortized on a 10-year level-dollar schedule with a new contribution rate calculated for each year.

(3) All normal cost and any unfunded actuarial accrued liability contributions as determined under subsection (2) must be paid on a cost-sharing basis of 50% by the employer and 50% by the employee. Except as provided in this section, contributions shall be made in the manner prescribed in section 42. An employee contribution for unfunded actuarial accrued liability must not be assessed to an employee based on any portion of an unfunded liability caused by the failure of an employer to make a required contribution. Following the determination of the cost-sharing basis under this subsection, section 41(2)(c) and (e) applies.

(4) The contributions of a member for unfunded actuarial accrued liability must be treated as picked-up contributions under the internal revenue code, deducted by the employer, and remitted as employer contributions to the general fund of the retirement system and must only be used to finance unfunded actuarial accrued liabilities of the retirement system.

(5) To the extent and upon approval by the Internal Revenue Service, the retirement system for the Tier 1 plan and the plan administrator for the Tier 2 plan may also determine the extent to which some or all of the individuals performing services for an entity not participating in the retirement system that receives any funding from the state school aid fund established in section 11 of article IX of the state constitution of 1963 may participate in the Tier 1 and Tier 2 plans.

**History:** Add. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2017, Act 92, Imd. Eff. July 13, 2017.

**Compiler's note:** Former MCL 38.1341b, which pertained to payroll contribution rate, basis, and application, was repealed by Act 143 of 1997, Imd. Eff. Nov. 19, 1997.

Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**Popular name:** Act 300

### **38.1342 Reporting unit contribution; exclusive obligation; contributions picked up by employer; deduction of Social Security contributions; agreement of member; forwarding retirement contributions; report; failure to submit report or contributions; late fee; intentional error or omission; withholding payment of state funds for noncompliance;**



**exception for community or junior college student employee; "intentional" defined.**

Sec. 42. (1) Beginning with the state fiscal year ending September 30, 1995 and subject to section 41b, a reporting unit shall contribute the entire amount determined under section 41 to the reserve for employer contributions and to the reserve for health benefits. The reporting unit contribution under this subsection is the exclusive obligation of the reporting unit payable out of general budget resources of the reporting unit, including funds available under local millage and other local resources and from the state school aid allocation to the reporting unit, and is not a separate obligation by specific reimbursement or otherwise of this state.

(2) As authorized by resolution or other enabling act of its governing body, the employer shall pick up all contributions of a member made under section 43a for all compensation paid after December 31, 1986 and reported to the retirement system. Although considered contributions of a member for certain purposes under this act, all contributions picked up must be treated as paid by the employer in lieu of contributions by the employee. Contributions picked up as provided in this subsection must be paid from the same source of funds that is used for paying compensation to the member. The employer may pick up these contributions by either a reduction to the member's cash salary, an offset against a future salary increase, or a combination of a reduction in salary and offset against a future salary increase. This subsection does not apply, and the employer shall not deduct, offset, or remit contributions, until the department receives notification from the United States Internal Revenue Service that contributions picked up will not be included as gross income of the member until they are distributed or made available to the member, retirant, retirement allowance beneficiary, or refund beneficiary.

(3) The employer shall deduct from a member's compensation the contributions for Social Security provided in 1951 PA 205, MCL 38.851 to 38.871. Contributions must be made while the member remains a public school employee. Each reporting unit official shall deduct the Social Security contributions from the compensation of each member for each payroll period after the date the employee becomes a member. Social Security contributions must be made notwithstanding that the minimum compensation provided by law is changed. Each member is considered to have agreed to the contributions prescribed in this subsection.

(4) Each reporting unit official shall forward member contributions to the retirement system on a schedule and in a manner determined by the retirement system.

(5) Each reporting unit official shall forward the entire employer contribution required by this act to the retirement system on a schedule and in a manner determined by the retirement system.

(6) Each reporting unit official shall submit to the retirement system a report that includes the information for retirement purposes, including, but not limited to, persons employed, retirants performing services at a reporting unit who are employed by an entity other than the reporting unit or who are independent contractors, wages or amounts paid, hours, and contributions required under this act. The report must include the information on a pay period basis and must be submitted to the retirement system on a schedule and in a manner determined by the retirement system. The superintendent for a reporting unit or the chief administrator for a reporting unit that does not have a superintendent shall complete an annual certification that gives authorization for the employees of the reporting unit to report the information to the retirement system.

(7) If a reporting unit fails to submit a report or contributions, or both, according to the schedule established by the retirement board, the reporting unit shall pay a late fee. If the remittance of contributions is late, the late fee must include interest for each day that the remittance of contributions is late. The retirement board periodically may establish the late fee, which must not be less than \$25.00, and interest charges, which must not be less than 6% per annum.

(8) Subject to subsection (9), if a reporting unit fails to correct errors on a report before the errors are discovered by the retirement system or if the errors are intentional, the reporting unit shall pay the late fee and interest charges as described in subsection (7) for each day that the report is in error, unless reasonable cause is shown to the satisfaction of the retirement system.

(9) If the retirement board determines that a reporting unit has committed an intentional error or omission that includes a failure to submit contributions required by this act, the total assessment of daily late fees and daily interest charges under subsection (8) must not exceed the reporting unit's delinquent contribution balance associated with the error or omission, or the reporting unit's employer contribution balance for the previous school fiscal year, whichever is less. Subject to subsection (11), if the retirement board determines that a reporting unit has committed an intentional error or omission that does not include a failure to submit contributions required by this act, the total assessment of daily late fees and daily interest charges under subsection (8) must not exceed 100% of the reporting unit's employer contributions for the previous school fiscal year.

(10) On written notice from the retirement board, the superintendent of public instruction and the state treasurer shall withhold payment of state funds, in part or in whole, payable from the state school aid appropriation or higher education appropriations to a reporting unit that fails to comply with this section.

(11) Errors or omissions relating to the reporting of service rendered by an individual employed by a tax supported community or junior college while enrolled as a part-time student in that same tax supported community or junior college for a school fiscal year before the 2018-2019 school fiscal year are not subject to the assessment of daily late fees and daily interest penalties under subsection (8) but are subject to the payment of regular late fees and regular interest under subsection (7).

(12) As used in this section, an "intentional" error or omission includes, but is not limited to, the following:

(a) A knowing and willful representation that service was performed if the service was not performed.

(b) A knowing and willful submission of a report that contains material misrepresentations or falsifications, or the knowing and willful failure to submit a required report.

(c) Any other knowing and willful act or omission of a false, fraudulent, or misleading nature undertaken to gain compliance or the appearance of compliance with this act.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1994, Act 272, Imd. Eff. July 11, 1994;—Am. 1996, Act 268, Imd. Eff. June 12, 1996;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2017, Act 92, Imd. Eff. July 13, 2017;—Am. 2018, Act 512, Imd. Eff. Dec. 28, 2018.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1342a Community or junior college reporting units; report; office of retirement services; report requirements.**

Sec. 42a. (1) By August 31, 2018, each reporting unit that is a tax supported community or junior college shall submit a report to the office of retirement services with the information necessary for the retirement system to complete the report under subsection (2), as determined by the retirement system.

(2) By September 30, 2018, the office of retirement services shall submit a report to the senate and house of representatives committees on education. The report required under this subsection must include all of the following information, based on information included in the reports submitted to the retirement system under subsection (1), for each reporting unit that is a tax supported community or junior college:

(a) For each of the 4 school fiscal years preceding the state fiscal year ending September 30, 2018, the number of individuals employed by the tax supported community or junior college while enrolled as a part-time student in that same tax supported community or junior college.

(b) For each of the 4 school fiscal years preceding the state fiscal year ending September 30, 2018, the amount of reporting unit contributions the tax supported community or junior college contributed under section 42 associated with an individual employed by the tax supported community or junior college while enrolled as a part-time student in that same tax supported community or junior college.

(c) For each of the 4 school fiscal years preceding the state fiscal year ending September 30, 2018, the amount of reporting unit contributions the tax supported community or junior college failed to contribute under section 42, if any, associated with an individual employed by the tax supported community or junior college while enrolled as a part-time student in that same tax supported community or junior college.

(3) Subject to sections 43h and 43i, each reporting unit shall make appropriate adjustments and corrections to its reporting and crediting of service to correspond with the information contained in the report under this section, in a time and manner determined by the retirement system.

**History:** Add. 2018, Act 328, Imd. Eff. July 2, 2018;—Am. 2018, Act 512, Imd. Eff. Dec. 28, 2018.

**Popular name:** Act 300

### **38.1343 Percentage paid for participants in optional retirement program.**

Sec. 43. The percentage of aggregate annual compensation to be paid for employees who participate in the optional retirement program under the optional retirement act of 1967, Act No. 156 of the Public Acts of 1967, as amended, being sections 38.381 to 38.388 of the Michigan Compiled Laws, shall be only for the

employer's share of social security.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1986, Act 123, Imd. Eff. June 2, 1986;—Am. 1987, Act 242, Imd. Eff. Dec. 28, 1987;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1994, Act 272, Imd. Eff. July 11, 1994.

**Popular name:** Act 300

**38.1343a Contributions of member to member investment plan; deduction and remittance as employer contributions; benefits; amount of contribution; amounts; percentage; member on or before February 1, 2018.**

Sec. 43a. (1) The contributions of a member who contributes to the member investment plan must be deducted by the employer and remitted as employer contributions to the retirement system pursuant to section 42. A member who contributes to the member investment plan is entitled to the benefits provided in sections 43b and 43c.

(2) Except as otherwise provided in subsection (7), a member who first became a member on or before December 31, 1989 and who elected or elects on or before December 31, 1989 to contribute to the member investment plan shall contribute 3.9% of the member's compensation to the member investment plan.

(3) Except as otherwise provided in subsection (7), a member who first became a member on or before December 31, 1986 but did not perform membership service between December 31, 1986 and January 1, 1990, and who returns to membership service on or after January 1, 1990 and before July 1, 2008, shall make the contributions described in subsection (5).

(4) Except as otherwise provided in subsection (7), a member who first became a member on or after January 1, 1990 and before July 1, 2008 shall make the contributions described in subsection (5).

(5) Except as otherwise provided in subsection (7), a member who first became a member on or after January 1, 1990 and before July 1, 2008 shall contribute the following amounts to the member investment plan:

<u>Member's annual school fiscal year earned compensation</u>	<u>Amount payable to the member investment plan</u>
Not over \$5,000.00	3% of member's compensation
Over \$5,000.00 but not over \$15,000.00	\$150.00, plus 3.6% of the excess over \$5,000.00
Over \$15,000.00	\$510.00, plus 4.3% of the excess over \$15,000.00

(6) Except as otherwise provided in subsection (7), a member who first became a member on or after July 1, 2008 and before February 1, 2018 shall contribute the following amounts to the member investment plan:

<u>Member's annual school fiscal year earned compensation</u>	<u>Amount payable to the member investment plan</u>
Not over \$5,000.00	3% of member's compensation
Over \$5,000.00 but not over \$15,000.00	\$150.00, plus 3.6% of excess over \$5,000.00
Over \$15,000.00	\$510.00, plus 6.4% of the excess over \$15,000.00

(7) Beginning on the transition date, a member described in subsections (2) to (6) who makes the election under section 59(1) and who does not make the attainment date designation under section 59(1) shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in section 43g until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes the election and attainment date designation under section 59(1) shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in section 43g until his or her attainment date and shall contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in this section on and after his or her attainment date until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes or is considered to have made the alternative election under section 59(2)(a) shall continue to contribute the percentage of the member's annual school fiscal year earned compensation to the retirement system as prescribed in this section until termination of employment. Beginning on the transition date, a member described in subsections (2) to (6) who makes the alternative election under section 59(2)(b) shall not contribute any percentage of the member's annual school fiscal year earned compensation to the retirement system under this section or section 43g.

(8) A member who first became a member on or after February 1, 2018 shall contribute his or her normal cost contribution amounts to the member investment plan as described in section 41b(3).



**History:** Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1990, Act 298, Eff. Mar. 28, 1991;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2007, Act 111, Imd. Eff. Oct. 1, 2007;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2017, Act 92, Imd. Eff. July 13, 2017.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1343b Eligibility requirements; exceptions.**

Sec. 43b. A member who contributes to the member investment plan shall have the eligibility requirements of section 81 except as follows:

(a) The age 55 requirement of section 81(1)(a) shall not apply.

(b) The 10 years of credited service requirement of section 81(1)(b) shall be 5 years if the member is working as a public school employee and the member received credited service in each of the 5 school fiscal years immediately preceding the retirement allowance effective date.

**History:** Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

**Popular name:** Act 300

### **38.1343c Entitlements.**

Sec. 43c. A member other than a member who first became a member on or after July 1, 2010 who contributes to the member investment plan, or the retirement allowance beneficiary of that member, shall be entitled to all of the following:

(a) A 36-month averaging period for the computation of final average compensation, as provided in section 4.

(b) An annual increase in the retirement allowance. The first increase will occur on the first October 1 that is at least 1 full year after the effective date of the retirement allowance. Subsequent annual increases will occur on October 1 of each subsequent year. The amount of the annual increase shall be equal to 3% of the retirement allowance that would be payable as of the date of the increase without application of this subdivision. However, if the retirement allowance is being paid under section 85(2), the increase shall be based on the retirement allowance that would have been paid under the payment option selected by the member under section 85(1).

(c) The credited service eligibility requirement applicable to the survivor benefits provided in section 89 shall be reduced as follows:

(i) The 15 years of credited service requirement shall be 10 years.

(ii) The 10 years of credited service requirement shall be 5 years.

**History:** Add. 1985, Act 91, Imd. Eff. July 10, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1998, Act 213, Eff. Mar. 23, 1999;—Am. 2010, Act 75, Imd. Eff. May 19, 2010.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

**Popular name:** Act 300

### **38.1343d Repealed. 2012, Act 300, Imd. Eff. Sept. 4, 2012.**

**Compiler's note:** The repealed section pertained to conditions for election to make contributions to member investment plan.

**Popular name:** Act 300

### **38.1343e Member before September 4, 2012; contribution of percentage to funding account under public employee retirement health care funding act; "funding account" defined.**

Sec. 43e. Except as otherwise provided in this section or section 91a, each member who first became a member before September 4, 2012 shall contribute 3% of the member's compensation to the appropriate funding account established under the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747. Except as otherwise provided in section 91a, beginning in the fiscal year ending September 30, 2026 and each subsequent fiscal year, for each member who first became a member before September 4, 2012, there is no required member contribution under this section. The member contributions under this section must be deducted by the employer and remitted as employer contributions in a manner that the retirement system shall determine. As used in this section, "funding account" means the appropriate

irrevocable trust created in the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747, for the deposit of funds and the payment of retirement health care benefits.

**History:** Add. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2024, Act 127, Eff. Apr. 2, 2025.

**Compiler's note:** Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety."

Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1343g Contribution beginning on transition date; amount; method of deducting contributions; picking up member contributions for compensation on or after transition date; benefit.**

Sec. 43g. (1) Beginning on the transition date and ending upon the member's termination of employment or attainment date, as applicable under section 59(1), each member who made the election under section 59(1) shall contribute an amount equal to a percentage of his or her compensation to the reserve for employee contributions or to the member investment plan as set forth in subdivision (a) or (b), as applicable, to provide for the amount of retirement allowance that is calculated only on the credited service accrued and compensation for that member on or after the transition date. Subject to subsection (2), the member shall not contribute any amount under this subsection for any years of credited service accrued or compensation before the transition date. Subject to subsection (2), the amount to be contributed under this subsection is as follows:

(a) For a member who does not contribute to the member investment plan as of September 3, 2012, 4% of compensation to the reserve for employee contributions.

(b) For a member who does contribute to the member investment plan as of September 3, 2012, 7% of compensation to the member investment plan.

(2) The retirement system shall determine a method of deducting the contributions provided for in this section from the compensation of each member for each payroll and each payroll period. The contributions under subsection (1) shall not exceed the total normal cost contribution rate.

(3) The employer shall pick up the member contributions required by subsection (1) for all compensation on or after the transition date. Contributions picked up shall be treated as employer contributions in determining tax treatment under the internal revenue code. The employer shall pay these member contributions from the same source of funds that is used in paying compensation to the member.

(4) A member is entitled to the benefit of all contributions made under this section in the same manner as provided under section 29.

**History:** Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300

### **38.1343h Service credit; enrollment for certain employees of community or junior college reporting unit; requirements; forfeit of claim; assessment and payment of supplemental employer contributions.**

Sec. 43h. (1) An individual who was first employed by a reporting unit that is a tax supported community college or junior college before July 1, 2014, and who did not previously have that service reported by a reporting unit on his or her behalf, may claim and thereafter be credited with the service only if all of the following apply:

(a) The individual is described in section 5(1)(p).

(b) The individual files a written application with the retirement board after January 1, 2019 but not later than 5 p.m. Eastern Standard Time on January 31, 2020 in a method determined by the retirement system. A

written application submitted by an individual under this subdivision is irrevocable.

(c) The individual fulfills the terms of any billing statement issued by the retirement system that corresponds with the amount the individual would have contributed according to the schedule governing contributions in effect at the time of that service, plus regular interest on the contributions. The retirement system may determine the time and manner of payment of the total amount under this subdivision.

(2) An individual who satisfies the conditions of subsection (1) must have service credited in an amount commensurate with the contributions remitted under subsection (1) in a time and manner as determined by the retirement system.

(3) An individual described in section 5(1)(p) who was first employed by a reporting unit that is a tax supported community or junior college before July 1, 2014 and who does not satisfy the conditions of subsection (1) shall forfeit any claim to receive credit for that service unless the individual can demonstrate to the satisfaction of the board that a reasonable person in the same circumstance as the individual would not have adequate notice of the application deadline under subsection (1)(b).

(4) Subject to section 43i, the retirement system shall determine and assess a supplemental employer contribution for each reporting unit that is a tax supported community or junior college that corresponds with service claimed under subsection (1).

(5) Except as otherwise provided in this subsection, on payment by a reporting unit of the contributions assessed under subsection (4), a reporting unit's financial obligation for service claimed under subsection (1) is considered satisfied in full. If any service is thereafter claimed on the basis of lack of adequate notice under subsection (3), the reporting unit shall pay the contributions assessed in a time and manner as determined by the retirement system.

(6) Notwithstanding any other provision of this act, service otherwise creditable under this section that is not claimed in the manner provided under this section is considered not reportable.

**History:** Add. 2018, Act 512, Imd. Eff. Dec. 28, 2018.

**Popular name:** Act 300

### **38.1343i Determination and assessment of supplemental employer contributions by community or junior college reporting units; payment.**

Sec. 43i. (1) The retirement system shall determine and assess a supplemental employer contribution for each reporting unit that is a tax supported community or junior college on the basis of information reported by the reporting unit under section 42a, and payroll data reported to the retirement system by the reporting unit. The contribution determined and assessed under this section must take into account all of the following:

(a) The extent to which the reporting unit remitted employer contributions and related retirement information for individuals employed by the reporting unit while enrolled as a part-time student in that same reporting unit for each of the 4 school fiscal years preceding the state fiscal year ending September 30, 2018.

(b) The contribution rate must be calculated in the manner provided by section 42.

(2) The retirement system shall determine and assess a supplemental employer contribution for each reporting unit that is a tax supported community or junior college on the basis of service credit claimed under section 43h for the time period and payroll data reported to the retirement system by the reporting unit. In making its determination under this subsection, the retirement system shall take into account all of the following:

(a) The amount and duration of service claimed.

(b) The retirement plan election made by an eligible individual, as applicable.

(3) The contribution rate for service under subsection (2) must be calculated in the manner provided by section 42.

(4) On payment by a reporting unit of the supplemental employer contribution rate assessed under this section, the reporting unit's financial obligation for the service is considered satisfied in full.

**History:** Add. 2018, Act 512, Imd. Eff. Dec. 28, 2018.

**Popular name:** Act 300

### **38.1344 Separation from service; death; unclaimed retirement allowance or other money.**

Sec. 44. Upon the separation from service by a member or upon the death of a member, a former member, a retirant, a retirement allowance beneficiary, or a refund beneficiary, any unclaimed retirement allowance or other money otherwise payable on account of the separation or death shall remain a part of that fund in which it is deposited until claimed by the separated member, retirement allowance beneficiary, or refund beneficiary or the estate or legal representative of a separated member, retirement allowance beneficiary, or refund beneficiary.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

### **38.1345 Change or error in records; correction; adjustment in benefits.**

Sec. 45. If a change or error in the records of the retirement system results in a retirant, retirement allowance beneficiary, or refund beneficiary receiving from the retirement system more or less than the retirant, retirement allowance beneficiary, or refund beneficiary would have been entitled to receive had the records been correct, the retirement system shall correct the error, and as far as practicable, shall adjust the payment to provide an actuarial equivalent of the benefit to which the retirant, retirement allowance beneficiary, or refund beneficiary was entitled. An adjustment in benefits shall not be made for an error totaling \$10.00 or less annually and the amount shall be debited or credited to the reserve for employer contributions.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

Popular name: Act 300

### **38.1346 Benefits; exemption from taxation; subject to taxation beginning January 1, 2012; offset of retirement benefits or refunds; forfeiture of service credit.**

Sec. 46. (1) Except as otherwise provided in this section, a retirement allowance, an optional benefit, or any other benefit accrued or accruing to a person under this act, the reserves created by this act, and the money, investments, or income of those reserves are exempt from state, county, municipal, or other local tax and are subject to the public employee retirement benefit protection act, 2002 PA 100, MCL 38.1681 to 38.1689.

(2) Beginning January 1, 2012, a retirement allowance, an optional benefit, or any other benefit accrued or accruing to a person under this act is subject to state tax upon distribution to the person from the various funds created by this act.

(3) The retirement system may offset retirement benefits or refunds payable under this act against amounts owed to the retirement system by a member, retirant, retirement allowance beneficiary, or refund beneficiary.

(4) If the retirement system is required by the federal government pursuant to a court order to transmit a part of a member's contributions standing to the member's credit in the reserve for employee contributions to a federal agency, the service credit that is covered by the payment shall be forfeited in the same manner as if the employee had requested and been paid a refund of the member's most recent contributions.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1985, Act 40, Imd. Eff. June 13, 1985;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1991, Act 47, Imd. Eff. June 27, 1991;—Am. 2002, Act 94, Imd. Eff. Mar. 27, 2002;—Am. 2011, Act 42, Imd. Eff. May 25, 2011.

Popular name: Act 300

### **38.1347 Employee of Michigan high school athletic association; entitlement to benefits preserved; limited membership; continued service; eligibility for retirement benefits; election; termination of employment; computation of retirement allowance.**

Sec. 47. (1) An employee of the Michigan high school athletic association who is a member on December 31, 1987 shall have his or her entitlement to benefits from the retirement system preserved as those benefits exist on December 31, 1987. That employee shall retain a limited membership in the retirement system as provided in this section.

(2) The employee's continued service with the Michigan high school athletic association is service in the retirement system for the purpose of determining the employee's eligibility for retirement benefits that are dependent upon a specified period of total service or upon the attainment of a specified age while in service, or both. Notwithstanding section 81a(1)(c), the employee shall be eligible to retire under section 81a after December 31, 1987, if all the other requirements of that section are met.

(3) The employee shall be eligible to elect to receive his or her retirement allowance under section 85 if all the requirements of that section are met. The employee shall also be eligible to elect the option provided in section 85(1)(b) and nominate a retirement allowance beneficiary as specified in section 85(3) if all the other requirements of section 89 are met. If a Michigan high school athletic association employee has met all age and service requirements for a retirement allowance as of December 31, 1987, the employee is eligible for benefits under section 85 as of December 31, 1987.

(4) If the employee terminates his or her employment with the Michigan high school athletic association with a retirement allowance payable under the retirement system, the computation of the retirement allowance shall be based upon all of the following:

(a) The employee's credited service as of December 31, 1987.

(b) The employee's final average compensation before January 1, 1988, as determined under section 4, or,

the average of the employee's annual compensation immediately before January 1, 1988 if the employee's total credited service is less than 5 years.

**History:** Add. 1987, Act 242, Imd. Eff. Dec. 28, 1987;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989.

**Popular name:** Act 300

**38.1359 Calculation of retirement allowance; election and attainment date designation; credit for future service accrued and compensation earned; alternative election; method of accepting elections, designations, and alternative elections; member not making or rescinding election or who makes alternative election; reemployed member; definitions.**

Sec. 59. (1) The retirement system shall permit each qualified member to make an election with the retirement system to continue to receive credit for any future service and compensation on and after the transition date, for purposes of a calculation of a retirement allowance under section 84b. As part of the election under this subsection, the retirement system shall permit the qualified member to make a designation that the contributions prescribed in section 43g shall be paid only until the member's attainment date. A qualified member who makes the election and the attainment date designation under this subsection shall make the contributions prescribed in section 43g only until the member's attainment date and shall make the contributions prescribed in section 43a on and after his or her attainment date. A qualified member who makes the election and the attainment date designation under this subsection shall continue to receive credit for any future service accrued and compensation earned after his or her attainment date for the purpose of the calculation of a retirement allowance under section 84b. A qualified member who makes the election under this subsection and who does not make the attainment date designation or rescinds the attainment date designation under this subsection shall make the contributions prescribed in section 43g until termination of employment. A qualified member who makes the election under this subsection and who does not make the attainment date designation under this subsection shall receive credit for any future service accrued and compensation earned for the purpose of the calculation of a retirement allowance under section 84b.

(2) The retirement system shall permit each qualified member to make an alternative election described in this subsection with the retirement system, if the qualified member does not make the election or the election and designation under subsection (1). A qualified member who does not make the election or the election and designation under subsection (1) and who does not make an alternative election described in this subsection is considered to have made the alternative election described in subdivision (a). A qualified member who does not make the election or the election and designation under subsection (1) shall be permitted to make 1 of the following alternative elections:

(a) To continue to receive credit for any future service and compensation on and after the transition date, for the purpose of the calculation of a retirement allowance under section 84b. A qualified member who makes or is considered to have made the alternative election in this subdivision shall continue to make the employee contributions as provided in section 43a and shall not make the employee contributions described in section 43g.

(b) To freeze all service and compensation to that member as of the day before the transition date for the purpose of the calculation of a retirement allowance under section 84b and, beginning on the transition date, to be eligible for the employer contribution to the member's Tier 2 account as provided in section 84b. Beginning on the transition date, a qualified member who makes the alternative election in this subdivision shall not make the employee contributions described in section 43a or 43g.

(3) The retirement system shall determine a method of accepting qualified member elections, designations, and alternative elections under this section. The retirement system shall accept elections, designations, and alternative elections under this section from qualified members during an election period that begins on September 4, 2012 and ends at 5 p.m. eastern standard time on January 9, 2013. A qualified member may rescind an election, designation, or alternative election before the close of the election period. An election, designation, or alternative election made by a qualified member and not rescinded before the close of the election period shall not be rescinded.

(4) A qualified member who does not make or who rescinds the election under subsection (1) on or before the close of the election period and who makes or is considered to have made the alternative election under subsection (2)(a) is subject to all of the following:

(a) He or she ceases to receive credit for any future service and compensation for purposes of a calculation of a retirement allowance as prescribed in section 84, beginning 12 midnight on the day before the transition date.

(b) He or she becomes subject to section 84b for any future service and compensation on or after 12:01 a.m. on the transition date for purposes of a calculation of a retirement allowance.



(c) He or she shall receive a retirement allowance calculated under section 84 that is based only on credited service and compensation allowed under section 84b(1) and (2). This subdivision does not affect an individual's right to health insurance coverage provided under section 91 or credit for service provided under section 84b(7).

(5) A qualified member who does not make or who rescinds an election under subsection (1) and who makes the alternative election under subsection (2)(b) on or before the close of the election period under this section is subject to all of the following:

(a) He or she ceases to receive credit for any future service and compensation for purposes of a calculation of a retirement allowance as prescribed in section 84, beginning 12 midnight on the day before the transition date.

(b) He or she becomes subject to section 84b for any future service and compensation on or after 12:01 a.m. on the transition date for purposes of a calculation of a retirement allowance and eligibility for the employer contribution to the member's Tier 2 account.

(c) He or she shall receive a retirement allowance calculated under section 84 that is based only on credited service and compensation allowed under section 84b(3) and (4). This subdivision does not affect an individual's right to health insurance coverage provided under section 91 or credit for service provided under section 84b(7).

(6) A qualified member who makes the election and the attainment date designation under subsection (1) and who does not rescind the election and designation on or before the close of the election period under this section is subject to all of the following:

(a) He or she ceases to receive credit for any future service and compensation for purposes of a calculation of a retirement allowance as prescribed in section 84, beginning 12 midnight on the member's attainment date.

(b) He or she becomes subject to section 84b for any future service and compensation on or after 12:01 a.m. on the day after the attainment date if he or she remains employed by an employer.

(c) He or she shall receive a retirement allowance calculated under section 84 that is based only on credited service and compensation allowed under section 84b(5) and (6). This subdivision does not affect a person's right to health insurance coverage provided under section 91 or credit for service provided under section 84b(7).

(7) An individual who is not a qualified member, who was a member before July 1, 2010, who is a deferred member or former nonvested member on September 3, 2012, and who is reemployed on or after September 4, 2012 shall be treated in the same manner as a member described in subsection (4) and shall become subject to section 84b for any future service and compensation.

(8) Any member who is reemployed on or after September 4, 2012 and who, while a member, made an election, designation, or alternative election or is considered to have made an alternative election under this section shall be treated as retaining that election, designation, or alternative election on his or her date of reemployment.

(9) As used in this section:

(a) "Attainment date" means that term as defined in section 84b.

(b) "Qualified member" means a member who meets all of the following requirements:

(i) He or she first became a member before July 1, 2010.

(ii) He or she has earned service credit in the 12 months ending September 3, 2012 or was on an approved professional services or military leave of absence on September 3, 2012.

**History:** Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2012, Act 359, Imd. Eff. Dec. 14, 2012.

**Compiler's note:** Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (1) If the office of retirement services in the department of technology, management, and budget receives notification from the United States internal revenue service that any section or any portion of a section of this amendatory act will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

**Popular name:** Act 300