

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

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