

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

**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