

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

38.1361 Employment of retirant in reporting unit.

Sec. 61. (1) Except as otherwise provided in this section, if a retirant is receiving a retirement allowance other than a disability allowance payable under this act or under former 1945 PA 136, on account of either age or years of personal service performed, or both, and becomes employed at a reporting unit, the retirant forfeits his or her retirement allowance and the retirement system subsidy for health care benefits from the retirement system for the entire month of each month in which the retirant is employed at the reporting unit. A retirant who has forfeited the retirement system subsidy for health care benefits under this subsection and who wants to retain health care benefits shall pay the retirant's and retirement system's costs for the health care benefits. The retirement allowance and retirement system subsidy for health care benefits must resume without recalculation on the first of the month following the month in which the retirant has terminated reporting unit employment.

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

(3) Subsection (1) does not apply to a retirant who is employed at a reporting unit if both of the following apply:

(a) The retirant retired after a bona fide termination of employment.

(b) The retirant is employed at any reporting unit on July 25, 2022.

(4) Subsection (1) does not apply to a retirant who is employed by a university that is considered a reporting unit for the limited purpose described in section 7(3).

(5) Subsection (1) does not apply to a retirant who is employed at a reporting unit if both of the following apply:

(a) The retirant retired after a bona fide termination of employment.

(b) The retirant has been retired for at least 9 consecutive months before becoming employed under this subsection.

(6) Until 5 years after the effective date of the amendatory act that added this sentence, subsection (1) does not apply to a retirant who, at the time of the retirant's retirement, was employed in a position other than a superintendent and who is employed at a reporting unit if both of the following apply:

(a) The retirant retired after a bona fide termination of employment.

(b) Either of the following applies:

(i) The retirant has been retired for at least 6 consecutive months.

(ii) The earnings of the retirant do not exceed \$15,100.00 in a calendar year.

(7) Until 5 years after the effective date of the amendatory act that added this sentence, subsection (1) does not apply to a retirant who, at the time of the retirant's retirement, was employed as a superintendent and who is employed at a reporting unit if both of the following apply:

(a) The retirant retired after a bona fide termination of employment.

(b) Either of the following applies:

(i) The retirant has been retired for at least 6 consecutive months.

(ii) If the retirant is employed in a position other than a superintendent, the earnings of the retirant do not exceed \$15,100.00 in a calendar year.

(8) A retirant is not eligible to use any service or compensation attributable to the employment described in subsection (3), (4), (5), (6), or (7), for a recomputation of his or her retirement allowance.

(9) For purposes of subsections (3), (4), (5), (6), and (7), the retirement system shall determine, in accordance with federal law that governs qualified retirement plans, whether a retirant retired after a bona fide termination of employment. If the retirement system determines that a retirant did not retire after a bona fide termination of employment, the retirement system may adjust the retirant retirement allowance effective date following a bona fide termination.

(10) A reporting unit shall report the employment of a retirant as described in subsection (3) or (4), as applicable, to the retirement system in a manner determined by the retirement system. The reporting unit shall include in the report the name of the retirant, the capacity in which the retirant is employed, and the compensation paid to the retirant. An employer, other than a reporting unit, that employs retirants as described in subsection (3) or (4) shall provide to the reporting unit all information that the reporting unit is required to report to the retirement system under this subsection.

(11) As used in this section:

(a) "Bona fide termination of employment" means, as determined by the retirement system under subsection (9), a retirant has completely severed the employer-employee relationship with his or her reporting

unit employer. Completely severing the employer-employee relationship includes, but is not limited to, a retirant not working for his or her reporting unit employer during the month of the retirant's retirement allowance effective date and, before the severing of the employer-employee relationship, the retirant does not intend or expect or have an offer or contingency to become employed at any reporting unit.

(b) "Employed at a reporting unit" means employed directly by a reporting unit as an employee, indirectly by a reporting unit through a contractual arrangement with other parties, or by engagement of a retirant by a reporting unit as an independent contractor.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1999, Act 68, Imd. Eff. June 25, 1999;—Am. 2001, Act 30, Imd. Eff. June 29, 2001;—Am. 2004, Act 5, Imd. Eff. Feb. 20, 2004;—Am. 2006, Act 158, Imd. Eff. May 26, 2006;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 464, Imd. Eff. Dec. 27, 2012;—Am. 2015, Act 219, Imd. Eff. Dec. 16, 2015;—Am. 2018, Act 141, Imd. Eff. May 10, 2018;—Am. 2018, Act 482, Eff. Mar. 29, 2019;—Am. 2020, Act 267, Imd. Eff. Dec. 29, 2020;—Am. 2022, Act 184, Imd. Eff. July 25, 2022;—Am. 2023, Act 147, Imd. Eff. Oct. 10, 2023.

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