

STATE EMPLOYEES' RETIREMENT ACT (EXCERPT)
Act 240 of 1943

38.19j Retirement; requirements; accumulated annual leave, sick leave, and deferred leave hours; forfeiture; inclusion in calculation for determination of final average compensation; extension; request; retirement allowance calculation; "incentivized retirement application period" defined.

Sec. 19j. (1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On the last day of the month preceding the effective date of his or her retirement as stated in subdivision (f), the member's combined age and length of credited service is equal to or greater than 80 years, the member's length of credited service is equal to or greater than 30 years, or the member is eligible to retire under section 19 with a retirement allowance that is not subject to reduction under section 19(2).

(b) The member occupies a position in the classified state civil service, has classified state civil service status, or is an individual not described in subsection (2)(b).

(c) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45, or if the member is eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45, the member meets the requirements of subsection (6).

(d) The member is not a conservation officer as described in section 48, or if the member is a conservation officer as described in section 48, the member meets the requirements of subsection (6).

(e) The member was employed by this state or the legislature within the 6-month period ending on the first day of the incentivized retirement application period. A member who was laid off or granted an approved leave of absence from state employment within the 12-month period ending on the first day of the incentivized retirement application period is considered to have met the employment requirement of this subdivision.

(f) The member executes and files an application in a manner determined by the retirement system with the retirement board, during the incentivized retirement application period, stating a retirement allowance effective date that is on or after November 1, 2010 but not later than January 1, 2011. A member may withdraw an application on or before the close of the incentivized retirement application period. An application submitted by a member and not withdrawn on or before the close of the incentivized retirement application period is irrevocable.

(2) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On the last day of the month preceding the effective date of his or her retirement as stated in subdivision (f), the member's combined age and length of credited service is equal to or greater than 80 years, the member's credited service is equal to or greater than 30 years, or the member is eligible to retire under section 19 with a retirement allowance that is not subject to reduction under section 19(2).

(b) The member is an employee of the legislative branch of state government without classified civil service status, is an employee of the judicial branch of state government, or is an unclassified state employee not within the classified state civil service.

(c) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45, or if the member is eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45, the member meets the requirements of subsection (6).

(d) The member is not a conservation officer as described in section 48, or if the member is a conservation officer as described in section 48, the member meets the requirements of subsection (6).

(e) The member was employed by this state within the 6-month period ending on the first day of the incentivized retirement application period. A member who was laid off or granted an approved leave of absence from state employment within the 12-month period ending on the first day of the incentivized retirement application period is considered to have met the employment requirement of this subdivision.

(f) The member executes and files an application in a manner determined by the retirement system with the retirement board, during the incentivized retirement application period, stating a retirement allowance effective date that is on or after November 1, 2010 but not later than January 1, 2011. A member may withdraw an application on or before the close of the incentivized retirement application period. An application submitted by a member and not withdrawn on or before the close of the incentivized retirement application period is irrevocable.

(3) Notwithstanding any other provision of this act, a member retiring under this section agrees that any amount that he or she would otherwise be entitled to receive at retirement on account of accumulated annual leave, sick leave, and other deferred leave hours shall not be paid to the member and shall be forfeited. The

value of accrued annual leave up to 240 hours and the value of voluntary and involuntary pay reduction plan B for services rendered on or before October 1, 1981, forfeited under this subsection by a member shall be included in the calculation for the purposes of determining "final average compensation" for that member under this section. This subsection does not apply to banked leave time.

(4) The director of a principal department of the executive branch of state government may request that the effective date of retirement under subsection (1) or (2) of a member employed by that department be extended to a date not later than July 1, 2011. To make a request under this subsection, the director shall submit a written request and the written concurrence of the member to the director of the office of the state employer and the state budget director on or before the close of the incentivized retirement application period. Upon receipt of the written request and concurrence, the director of the office of the state employer and the state budget director may extend the effective date of retirement of a member otherwise eligible to retire under subsection (1) or (2) to a date not later than July 1, 2011. Upon written approval of the senate majority leader for a member who is an employee of the senate, the speaker of the house of representatives for a member who is an employee of the house of representatives, the senate majority leader and the speaker of the house of representatives for a member who is an employee of the office of the auditor general, director or chair of the legislative retirement system for a member who is an employee of the legislative retirement system, or the chair and alternate chair of the legislative council for a member who is an employee of an agency under the jurisdiction of the legislative council, and upon written concurrence of the member, the effective date of retirement for that member may be extended to a date not later than July 1, 2011. Upon written approval of the chief justice for a member who is an employee of the judicial branch, including, but not limited to, members described in section 44a, and upon written concurrence of the member, the effective date of retirement for that member may be extended to a date not later than July 1, 2011. The individual or individuals who approve the extension of an effective date of retirement for a member who is an employee of the legislature, supreme court, or court of appeals shall submit written notification to the office of retirement services of all extensions approved on or before October 29, 2010.

(5) Upon his or her retirement as provided in this section, a member with a retirement allowance effective date on or before January 1, 2011 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.6% of his or her final average compensation if the member's final average compensation is \$90,000.00 or less, and the member is eligible to retire under section 19 with a retirement allowance that is not subject to reduction under section 19(2). If the member has a retirement allowance effective date on or before January 1, 2011, the member is eligible to retire under section 19 with a retirement allowance that is not subject to reduction under section 19(2), and that member has a final average compensation that is greater than \$90,000.00, the retirement allowance shall be equal to the member's number of years and fraction of a year of credited service multiplied by 1.6% of his or her final average compensation up to a final average compensation of \$90,000.00 and the remaining portion of the retirement allowance shall be equal to the member's number of years and fraction of a year of credited service multiplied by 1.5% of the portion of final average compensation over \$90,000.00. For members eligible under this section because the member's combined age and length of credited service is equal to or greater than 80 years or because the member's length of credited service is equal to or greater than 30 years, upon his or her retirement as provided in this section, a member who retires with a retirement effective date on or before January 1, 2011 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.55% of the member's final average compensation if the final average compensation is \$90,000.00 or less. For members eligible to retire under this section because the member's combined age and length of credited service is equal to or greater than 80 years or because the member's length of credited service is equal to or greater than 30 years whose final average compensation is greater than \$90,000.00, the retirement allowance shall be calculated so that the member receives a portion of his or her retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1.55% of his or her final average compensation up to a final average compensation of \$90,000.00 and the remaining portion of the retirement allowance shall be calculated as equal to the member's number of years and fraction of a year of credited service multiplied by 1.5% of the portion of final average compensation over \$90,000.00. No additional increase in multiplier shall be used based on an extension under subsection (4).

(6) A member who is a conservation officer as described in section 48 or a member who is eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45 may make the election and be eligible for a retirement allowance under this section if the member meets the eligibility requirements of this section. A member who meets the eligibility requirements and makes an election under this section shall receive a retirement allowance calculated under this section and shall not be eligible for any supplemental benefit that he or she may have been eligible for had he or she retired under sections 45 to 48.

(7) Any additional costs to the retirement system as a result of the retirement allowance calculations under this section shall be amortized over a 5-year period.

(8) As used in this section, "incentivized retirement application period" means the period beginning on the effective date of the amendatory act that added this section and ending on November 5, 2010 at 5 p.m. eastern standard time unless the member selects a retirement allowance effective date of November 1, 2010. If the member selects a retirement allowance effective date of November 1, 2010, then the incentivized retirement application period ends on October 22, 2010 at 5 p.m. eastern daylight time.

History: Add. 2010, Act 185, Imd. Eff. Sept. 30, 2010.

Compiler's note: Enacting section 1 of Act 185 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."