

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

38.68b Participant employed on or after January 1, 2012 or making election under subsection (5) or (6); health insurance coverage; contribution to tax-deferred account; opt-out; calculation of amount under subsection (7) and adjustment under subsection (8); implementation of subsections (5) to (11); method; report.

Sec. 68b. (1) A qualified participant or former qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012 or who made an election under subsection (5) or (6) shall not receive any health insurance coverage premium from this state under section 68. In lieu of any health insurance coverage premium that might have been paid by this state under section 68, a qualified participant's employer shall make a matching contribution up to 2% of the qualified participant's compensation to an appropriate tax-deferred account for each qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012 or who made an election under subsection (5) or (6). A matching contribution under this subsection shall not be used as the basis for a loan from an employee's Tier 2 or tax-deferred account.

(2) A qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012 or who made an election under subsection (5) or (6) may make a contribution up to 2% of the qualified participant's compensation to an appropriate tax-deferred account.

(3) Except as otherwise provided in this subsection, a qualified participant is vested in contributions made to his or her tax-deferred account under subsections (1) and (2) according to the vesting provisions under section 64(1). A qualified participant who is eligible for health insurance coverage under section 67a(4) or (8) is not vested in any employer contributions under subsection (1) and forfeits the contributions and earnings on the contributions.

(4) The contributions described in this section shall begin with the first payday after the qualified participant is employed or on or after April 1, 2012 for a qualified participant who makes an election under subsection (5) or (6) and end upon his or her termination of employment.

(5) Except as otherwise provided in this subsection, beginning January 3, 2012 and ending at 5 p.m. eastern standard time on March 2, 2012, the retirement system shall permit each qualified participant who is a qualified participant on December 31, 2011 to make an election to opt out of the health insurance coverage premium that would have been paid by this state under section 68 and opt in to the tax-deferred account provisions of this section effective April 1, 2012. A qualified participant who is a qualified participant on December 31, 2011 and who does not make the election under this subsection continues to be eligible for the health insurance coverage premium paid by this state under section 68 and is not eligible for the tax-deferred account provisions of this section. A qualified participant who is a qualified participant on December 31, 2011 and who makes the election under this subsection shall cease accruing years of service credit for purposes of calculating a portion of the health insurance coverage premium that would have been paid by this state under section 68 as if that section continued to apply and for the portion of the amount to be calculated under subsection (7) for crediting to a tax-deferred account. This subsection does not apply to any of the following:

(a) A former member who made an election to become a qualified participant under section 50.

(b) A member who did not make the election under section 50a.

(c) A member who made the election under section 50a(1) and the designation under section 50a(2), who has attained 30 years of credited service, and who remains employed by this state.

(d) A former qualified participant who was a former qualified participant on December 31, 2011.

(6) Except as otherwise provided in this subsection, a former qualified participant who has 10 or more years of service on or before December 31, 2011 and who is reemployed by this state on or after January 1, 2012 and before January 1, 2014 may make an election under this subsection and receive an amount, if any, as determined under this section. Beginning on the date of the former qualified participant's reemployment and ending 60 days after the former qualified participant's first pay date, the retirement system shall permit the former qualified participant to make an election to opt out of the health insurance coverage premium that would have been paid by this state under section 68 and opt in to the tax-deferred account provisions of this section effective on or after the former qualified participant's date of reemployment. If the former qualified participant does not make the election under this subsection, he or she continues to be eligible for the health insurance coverage premium paid by this state under section 68 and is not eligible for the tax-deferred account provisions of this section. A former qualified participant who makes the election under this subsection ceases to accrue years of service credit for purposes of calculating a portion of the health insurance coverage premium that would have been paid by this state under section 68 as if that section continued to apply and for

purposes of calculating the portion of the amount to be credited to a tax-deferred account under subsection (7). This subsection does not apply to any of the following:

- (a) A former member who made an election to become a qualified participant under section 50.
- (b) A member who did not make the election under section 50a.
- (c) A member who made the election under section 50a(1) and the designation under section 50a(2), who has attained 30 years of credited service, and who remains employed by this state.

(7) Except as otherwise provided in this section, in lieu of any health insurance coverage premium that might have been paid by this state under section 68, the retirement system shall calculate an amount to be credited at termination to an appropriate tax-deferred account for each qualified participant who makes an election under subsection (5) or (6). The amount described in this subsection shall be an amount calculated to approximate the actuarial present value as of 12 midnight March 31, 2012 of the projected retirant health benefits based on the current benefit structure under section 68 and the qualified participant's years of service as of March 31, 2012. The amount calculated under this subsection shall be equal to the product of all of the following as determined by the retirement system in consultation with the actuary for the system:

(a) An average monthly premium of \$1,000.00, payable for the life of the qualified participant, which approximates the overall average value of all types of premium coverages for single and multiple lives during both pre-medicare and post-medicare periods.

(b) A frozen benefit accrual percent that is the product of 3% and the qualified participant's years of service as of March 31, 2012, up to 30 years.

(c) A deferred life annuity factor equal to the actuarial present value as of March 31, 2012 of \$1.00 per month payable for the life of the qualified participant, based on the following actuarial assumptions:

(i) An interest discount rate of 4% annually for all future years, which approximates the use of an assumed rate of investment return or interest discount rate of 8%, combined with an assumption that the average premium is projected to increase 4% annually for all future years.

(ii) Mortality rates based on a 50% male - 50% female blend of the 1994 group annuity mortality table set forward 1 year for both males and females.

(iii) Commencement of the \$1.00 per month deferred life annuity based on an assumption that the qualified participant will terminate employment upon reaching age 60 and that the qualified participant would have received health insurance coverage immediately upon termination of employment.

(8) The amount calculated under subsection (7) shall be adjusted annually from March 31, 2012 to the date of the qualified participant's actual termination of employment. Except as otherwise provided in this subsection, the retirement system shall establish the amount of the annual adjustment to be equal to the change in the medical care component of the United States consumer price index for the most recent 12-month period for which data are available from the bureau of labor statistics of the United States department of labor. The adjustment under this subsection shall not be less than 0% and shall not be more than 4%.

(9) The amount calculated under subsection (7) and adjusted under subsection (8) shall be credited at the qualified participant's first termination of employment following December 31, 2011, to the qualified participant's tax-deferred account according to the following schedule:

(a) One hundred percent of the calculated amount to a qualified participant who is at least 60 years of age with at least 10 years of service or is at least 55 years of age with at least 30 years of service.

(b) Fifty percent of the calculated amount to a qualified participant who has at least 10 years of service and who does not meet the age and service qualifications of subdivision (a).

(10) An individual who is a former qualified participant on December 31, 2011, who has 10 or more years of service on or before December 31, 2011, and who is reemployed by this state on or after January 1, 2014 shall be treated in the same manner as a qualified participant under this section who made the election under subsection (5) and shall receive an amount, if any, as determined under this section. This subsection does not apply to any of the following:

- (a) A former member who made the election to become a qualified participant under section 50.
- (b) A member who did not make the election under section 50a.
- (c) A member who made the election under section 50a(1) and the designation under section 50a(2), who has attained 30 years of credited service, and who remains employed by this state.

(11) In lieu of any other health insurance coverage that might have been paid by this state, a credit to a health reimbursement account within the trust created under the public employee retirement health care funding act, 2010 PA 77, MCL 38.2731 to 38.2747, shall be made by this state in the amounts and to the qualified participants or former qualified participants as follows:

(a) Two thousand dollars to a qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012, who is 60 years of age or older, and who has at least 10 years

of service at his or her first termination of employment.

(b) One thousand dollars to a qualified participant who was first employed and entered upon the payroll of his or her employer on or after January 1, 2012, who is less than 60 years of age, and who has at least 10 years of service at his or her first termination of employment.

(c) Two thousand dollars to a former qualified participant who has less than 10 years of service as of December 31, 2011, who is reemployed by this state on or after January 1, 2012, who is 60 years of age or older, and who has at least 10 years of service at his or her first termination of employment following December 31, 2011. This subdivision does not apply to an individual described in subsection (10)(a), (b), or (c).

(d) One thousand dollars to a former qualified participant who has less than 10 years of service as of December 31, 2011, who is reemployed by this state on or after January 1, 2012, who is less than 60 years of age, and who has at least 10 years of service at his or her first termination of employment following December 31, 2011. This subdivision does not apply to an individual described in subsection (10)(a), (b), or (c).

(e) Two thousand dollars shall be the minimum amount credited to a qualified participant who made an election under subsection (5) and who does not otherwise qualify for an amount or qualifies for a lesser amount under this subsection at his or her first termination of employment after December 31, 2011.

(12) The retirement system shall determine a method to implement subsections (5) to (11), including a method for crediting the amounts in subsection (9) to comply with any contribution limits imposed by the internal revenue code, including, but not limited to, crediting of payments before termination of employment.

(13) Subsections (5) to (11) do not apply to a qualified participant who is eligible for health insurance coverage under section 67a(4) or (8).

(14) On or before January 1, 2017, the retirement system shall provide a report to the chair of the house and senate appropriations committees that provides the projected impact of subsection (11) as it applies to qualified participants entered upon the payroll of this state on or after January 1, 2017 with regard to the annual required contribution as used by the governmental accounting standards board and for purposes of the annual financial statements prepared under section 12(1).

History: Add. 2011, Act 264, Imd. Eff. Dec. 15, 2011.

Compiler's note: Enacting section 1 of Act 264 of 2011 provides:

"Enacting section 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."