

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

38.13 Membership in retirement system.

Sec. 13.

(1) Except as otherwise provided in this act, membership in the retirement system consists of state employees occupying permanent positions in the state civil service. All state employees except those specifically excluded by law and those who are members or eligible to be members of other statutory retirement systems in this state, must become members of the retirement system. The employees may use service previously performed as an employee of this state in meeting the service requirements for the retirement allowances and death benefits provided by the retirement system. However, the prior service must not be used in computing the amount of a retirement allowance to be paid by the retirement system unless the employee pays to the retirement system the amount the employee's contributions would have been had the employee become a member immediately on employment by the state with interest compounded annually at the regular rate from a date 1 year after the date of employment by this state to the date of payment. An individual who draws compensation as a state employee of a political subdivision of this state is eligible for the benefits provided by this act to the extent of the individual's compensation paid by this state. An individual who meets the requirements of section 44a is a member of the retirement system.

(2) Elected or appointed state officials may elect not to become or continue as members of the retirement system by filing written notice with the retirement board. An appointed state official who is a member of a state board, commission, or council and who receives a per diem rate in his or her capacity as a member of the board, commission, or council is excluded from membership in the retirement system for the service rendered in his or her capacity as a member of the board, commission, or council. Service performed by an elected or appointed official during the time the official elects not to participate must not be used in meeting the service requirement or in computing the amount of retirement allowance to be paid by the retirement system. A member who elects not to participate must be refunded all contributions made before the election.

(3) Membership in the retirement system does not include any of the following:

(a) A person who is a contributing member in the public school employees' retirement system provided for in the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437.

(b) A person who is a contributing member in the Michigan judges retirement system provided for in the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

(c) A person who comes within the Michigan state police retirement system provided for in the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1675.

(d) An individual who is first employed and entered upon the payroll on or after March 31, 1997 for employment for which the individual would have been eligible for membership under this section before March 31, 1997. An individual described in this subdivision is eligible to be a qualified participant in Tier 2 subject to sections 50 to 69.

(e) Except as provided in section 19g, an individual who elects to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under this section.

(f) A retirant who again becomes employed by the state and is entered upon the payroll on or after December 1, 2002, for employment for which the retirant would have been eligible for membership under this section before December 1, 2002. A retirant described in this subdivision is a qualified participant in Tier 2 subject to sections 50 to 69.

(4) An individual who is hired in state classified or unclassified service after June 30, 1974, who is first employed and entered upon the payroll before March 31, 1997, and who possesses a Michigan teaching certificate is a member of this retirement system. After June 30, 1974, but before March 31, 1997, an individual who returns to state employment in the classified or unclassified service who previously was a contributing member of the Michigan public school employees' retirement system shall have the individual's accumulated contributions and service transferred to this retirement system, or having withdrawn the contributions, may pay into the retirement system the amount withdrawn together with regular interest and have credit restored as provided for in section 16. On and after March 31, 1997, an individual described in this subsection who returns to state service shall make an irrevocable election to remain in Tier 1 or to become a qualified participant of Tier 2 in the manner prescribed in section 50.

(5) An individual, not regularly employed by this state, who is employed through participation in 1 or more of the following programs, shall not be a member of the retirement system and must not receive service credit for the employment:

(a) A program authorized, undertaken, and financed pursuant to the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839.

(b) A summer youth employment program established under the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

- (c) A program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.
- (d) A program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of 1983 PA 259.
- (e) A program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259.
- (6) An individual, not regularly employed by this state, who is employed to administer a program described in subsection (5) is not a member of the retirement system and must not receive service credit for the employment.
- (7) If an individual described in subsection (5)(a) later becomes a member of this retirement system within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment that is excluded in subsection (5) for purposes of determining a retirement allowance on the payment by the individual's employer under subsection (5) from funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, as funds permit, to the retirement system of the contributions, plus regular interest, the employer would have paid had the employment been rendered in a position covered by this act. During the individual's employment in the transitional public employment program, the individual's employer shall place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this act, but only for that number of employees that the employer determined would move from the transitional public employment program into positions covered by this act. If the funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, are insufficient, the remainder of the employer contributions must be paid by the individual's current employer.
- (8) For purposes of section 19g, a former member is considered a member and is considered to have satisfied the requirements of section 19g(1)(c) and (2)(c) if the former member was employed by the department formerly known as the department of mental health on January 1, 1996 and went on layoff status before January 1, 1997.

History: 1943, Act 240, Eff. July 30, 1943 ;-- Am. 1944, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 29, 1944 ;-- Am. 1947, Act 351, Eff. Oct. 11, 1947 ;-- CL 1948, 38.13 ;-- Am. 1951, Act 200, Imd. Eff. June 14, 1951 ;-- Am. 1952, Act 38, Eff. Sept. 18, 1952 ;-- Am. 1955, Act 237, Eff. Oct. 24, 1955 ;-- Am. 1956, Act 91, Imd. Eff. Apr. 5, 1956 ;-- Am. 1957, Act 145, Imd. Eff. May 29, 1957 ;-- Am. 1958, Act 207, Imd. Eff. May 5, 1958 ;-- Am. 1960, Act 156, Eff. Aug. 17, 1960 ;-- Am. 1961, Act 56, Eff. Sept. 8, 1961 ;-- Am. 1965, Act 189, Imd. Eff. July 15, 1965 ;-- Am. 1970, Act 119, Imd. Eff. July 23, 1970 ;-- Am. 1974, Act 6, Imd. Eff. Jan. 30, 1974 ;-- Am. 1974, Act 216, Imd. Eff. July 19, 1974 ;-- Am. 1976, Act 63, Imd. Eff. Mar. 30, 1976 ;-- Am. 1978, Act 423, Imd. Eff. Sept. 30, 1978 ;-- Am. 1979, Act 146, Imd. Eff. Nov. 13, 1979 ;-- Am. 1983, Act 157, Imd. Eff. July 24, 1983 ;-- Am. 1984, Act 185, Imd. Eff. July 3, 1984 ;-- Am. 1993, Act 195, Eff. Dec. 28, 1994 ;-- Am. 1996, Act 389, Imd. Eff. Sept. 30, 1996 ;-- Am. 1996, Act 487, Eff. Mar. 31, 1997 ;-- Am. 2002, Act 93, Imd. Eff. Mar. 27, 2002 ;-- Am. 2002, Act 743, Imd. Eff. Dec. 30, 2002 ;-- Am. 2018, Act 682, Imd. Eff. Dec. 28, 2018

Compiler's Notes: Act 136 of 1945, referred to in this section, is repealed by Act 300 of 1980. Section 2 of Act 195 of 1993 provides as follows: "Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws." Section 2 of Act 487 of 1996 provides: "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."