

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

38.50a Election to continue receiving credit for future service and compensation; designation; failure to make election; rescission; reemployment of former nonvested member; "attainment date" defined.

Sec. 50a.

(1) The retirement system shall permit each member who is a member on December 31, 2011 to make an election with the retirement system to continue to receive credit for any future service and compensation after March 31, 2012, for purposes of a calculation of a retirement allowance under this act. A member who makes the election under this section shall make the contributions prescribed in section 35a.

(2) As part of the election under subsection (1), the retirement system shall permit the member to make a designation that the contributions prescribed in section 35a shall be paid only until the member's attainment date. A member who makes the election under subsection (1) and who makes the designation under this subsection shall make the contributions prescribed in section 35a only until the member's attainment date. A member who makes the election under subsection (1) and who does not make the designation or rescinds the designation under this subsection shall make the contributions prescribed in section 35a until termination of employment.

(3) The retirement system shall determine a method of accepting member elections and designations under this section. The retirement system shall accept elections and designations under this section from members during an election period that begins on January 3, 2012 and ends at 5 p.m. eastern standard time on March 2, 2012. A member may rescind an election or designation on or before the close of the election period. An election or designation made by a member and not rescinded on or before the close of the election period shall not be rescinded.

(4) A member who does not make the election under this section or who rescinds an election 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 20j, beginning 12 midnight on March 31, 2012.

(b) He or she becomes a qualified participant in Tier 2 beginning 12:01 a.m. on April 1, 2012.

(c) He or she shall receive a retirement allowance calculated under section 20 that is based only on credited service and compensation allowed under section 20j(1) and (2). This subdivision does not affect a person's right to health insurance coverage provided under section 20d or credit for service provided under section 20j(3).

(5) A member who makes the election under this section and the designation under subsection (2) 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 20j, beginning 12 midnight on the member's attainment date.

(b) He or she becomes a qualified participant in Tier 2 beginning 12:01 a.m. on the day after the attainment date if he or she remains employed by this state.

(c) He or she shall receive a retirement allowance calculated under section 20 that is based only on credited service and compensation allowed under section 20j(5) and (6). This subdivision does not affect a person's right to health insurance coverage provided under section 20d or credit for service provided under section 20j(7).

(6) Except as otherwise provided in this subsection or subsection (7), a deferred member or former nonvested member who is reemployed on or after January 1, 2012 shall be treated in the same manner as a member under section 20j who did not make the election under this section and shall become a qualified participant in Tier 2. However, a deferred member or former nonvested member who, while a member, made the election under this section shall have the credited service accrued and compensation received during the time he or she made the contributions under section 35a included in the calculation of a retirement allowance under this act.

(7) A former nonvested member who is reemployed on or after January 1, 2014 is not eligible for membership in Tier 1, shall become a qualified participant in Tier 2, and shall be treated as being first employed by this state as of his or her date of reemployment.

(8) A deferred member of the public school employees retirement system who is first employed and entered upon the payroll of his or her employer on or after January 1, 2012 shall become a qualified participant in Tier 2 and shall not be treated as a member for any purpose.

(9) As used in this section, "attainment date" means that term as defined in section 20j.

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

Constitutionality: 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."

