

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

***** 38.1381d.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 13, 2024 *****

38.1381d.amended Employment retirement system; election to participate in Tier 2; method of accepting elections; election period; member not making election considered as member of Tier 1; collection of employer and employee contributions; qualified participant considered as participant in Tier 2; definitions.

Sec. 81d. (1) Except as provided in subsection (8), the retirement system shall permit each qualified participant who first becomes a qualified participant and first works for a reporting unit after September 3, 2012 to make an election to not become a member of Tier 1 and become only a qualified participant in Tier 2.

(2) The retirement system shall determine a method of accepting elections under subsection (1) and reporting units shall secure those elections during the period beginning on the date of the individual's employment and ending on the expiration of 75 days from the individual's first payroll date. An election under subsection (1) is irrevocable. The retirement system shall provide a form on which each qualified participant who first becomes a qualified participant and first works for a reporting unit after January 31, 2018 and before July 1, 2024 may make an election under subsection (1). The form described in this subsection must be accompanied by a description of the benefit options. The form must include an acknowledgment that the qualified participant has received the description of the benefit options.

(3) A qualified participant who first becomes a qualified participant and first works for a reporting unit after September 3, 2012 and before February 1, 2018 who does not make an election under subsection (1) for any reason on or before the close of the election period is considered to have made an election to become a member of Tier 1 and is subject to all of the following as of the date of his or her employment:

(a) The qualified participant is eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) The qualified participant is also a qualified participant under Tier 2.

(4) A qualified participant who first becomes a qualified participant and first works for a reporting unit after January 31, 2018 and before July 1, 2024 who does not make an election for any reason on or before the close of the election period is considered to have made an election to become only a qualified participant in Tier 2.

(5) An individual who makes the election under subsection (1) on or before the close of the election period or is a qualified participant described in subsection (4) is considered to have made an election to not become a member of Tier 1 and is subject to all of the following as of the date of his or her employment:

(a) The individual is not eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) The individual is only a qualified participant under Tier 2.

(6) A qualified participant who first becomes a qualified participant and first works for a reporting unit after June 30, 2024 who does not make an election under subsection (1) for any reason on or before the close of the election period is considered to have made an election to become a member of Tier 1 and is subject to all of the following as of the date of the qualified participant's employment:

(a) The qualified participant is eligible to accrue any service credit or qualify for any retirement allowance under Tier 1 under the terms as provided in section 81c.

(b) The qualified participant is also a qualified participant under Tier 2.

(7) The retirement system shall collect from an individual described in subsection (1) all amounts required under sections 43a and 131(2) and shall collect all required employer contributions required under Tier 1 from the individual's date of employment. If an individual makes a valid election under subsection (1) to not become a member of Tier 1 or is a qualified participant under subsection (4), the retirement system shall determine and implement a method to reconcile employer and employee contributions to be deposited to Tier 2, and any such employee contributions will be considered to be elective contributions under section 131.

(8) A qualified participant who first becomes a qualified participant and first works for a reporting unit following the effective date of the qualifying event is only a Tier 2 qualified participant and is considered to have made an election to become only a qualified participant in Tier 2. As used in this subsection:

(a) "Effective date of the qualifying event" means 12 months after the date that the retirement board receives the valuation report showing that the qualifying event has occurred.

(b) "Qualifying event" means the date on which the actuarial funded ratio for the plan for which the separate contribution rate is calculated under section 41b(2) falls below 85% for 2 consecutive years, based on the actuarial funded ratio using 5-year smoothing of investment returns. For purposes of valuation under this

subdivision, the qualifying event does not occur if either of the following applies:

(i) The actuarial funded ratio falls below 85% but would not have fallen below 85% but for the failure of the employer or this state to make a required contribution as calculated under section 41b.

(ii) This state makes an appropriation to the plan described under this subdivision that increases the valuation as described under this subsection to 85% or higher.

History: Add. 2012, Act 300, Imd. Eff. Sept. 4, 2012;—Am. 2017, Act 92, Imd. Eff. July 13, 2017;—Am. 2023, Act 250, Eff. Feb. 13, 2024.

Compiler's note: Enacting section 2 of Act 300 of 2012 provides:

"Enacting section 2. (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.

"(2) The provisions of this amendatory act are severable. If any part of this amendatory act is declared invalid or unconstitutional, that declaration shall not affect the remaining part of this amendatory act."

Popular name: Act 300