

Alaska State Legislature

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SENATE BILL 88

Retirement Systems; Defined Benefit Opt.

REPEALED SECTIONS

AS 14.25.012 (c). **Purpose and effective date.**

Employees first hired after June 30, 2006, are not eligible to participate in the plan established in AS 14.25.009 — 14.25.220.

AS 14.25.061. **Retroactive indebtedness.**

(a) A member who was not subject to the provisions of AS 14.25.009 — 14.25.220, but who becomes subject to them because of a legislative change, may elect to receive credit for retroactive membership service by contributing to the plan an amount equal to the contributions the member would have made had the member been subject to the provisions of AS 14.25.009 — 14.25.220 for those years of retroactive service after June 30, 1955. Retroactive contributions are not required for retroactive membership service before July 1, 1955. Compound interest at the rate prescribed by regulation shall be added to the retroactive indebtedness from July 1, 1966, or the time of first becoming eligible under AS 14.25.009 — 14.25.220, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(b) If retroactive indebtedness contributions have been made for retroactive service before July 1, 1955, the member is entitled to a refund of those retroactive membership indebtedness contributions.

(c) [Repealed, § 133 ch 9 FSSLA 2005.]

AS 14.25.540. **Transfer into defined contribution retirement plan by nonvested members of defined benefit retirement plan.**

(a) Subject to (i) of this section, an active member of the defined benefit retirement plan of the teachers' retirement system is eligible to participate in the defined contribution retirement plan established under AS 14.25.310 — 14.25.590 if that member has not vested. Participation in the defined contribution retirement

plan is in lieu of participation in the defined benefit retirement plan established under AS 14.25.009 — 14.25.220.

(b) A member who has vested in a defined benefit **retirement** plan is not eligible to transfer under this section.

(c) Each eligible member who elects to participate in the defined contribution retirement plan shall have transferred to a new account the member contribution account balance held in trust for the member under the defined benefit retirement plan of the teachers' retirement system. A matching employer contribution shall be made on behalf of that employee to the new account. The employer shall make the matching contribution from funds other than the trust funds of the defined benefit retirement plan. The amount of the matching employer contribution is subject to, and may not exceed, the limitation of 26 U.S.C. 415(c) during the applicable limitation year as defined in AS 14.25.590. If the matching employer contribution would exceed the limits during the limitation year in which the transfer occurs, the remaining amount of the matching employer contribution shall be made in the next limitation year, if the limits would not be exceeded.

(d) Upon a transfer, all membership service previously earned under the defined benefit retirement plan shall be nullified for purposes of entitlement to a future benefit under the defined benefit retirement plan but shall be credited for purposes of determining vesting in employer contributions under AS 14.25.390(b) and eligibility to elect medical benefits under AS 14.25.470. Membership service allowed for credit toward medical benefits does not include any service credit purchased under AS 14.25.075 for employment by an employer who is not a participating employer in this chapter.

(e) An eligible member whose accounts are subject to a qualified domestic relations order may not make an election to participate in the defined contribution retirement plan under this subsection unless the qualified domestic relations order is amended or vacated and court-certified copies of the order are received by the administrator.

(f) As directed by the participant, the board shall transfer or cause to be transferred the appropriate amounts to the designated account. The board shall establish transfer procedures by regulation, but the actual transfer may not be later than 30 days after the effective date of the member's participation in the defined contribution retirement plan unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that also causes the suspension of trading on any national securities exchange in the country where the securities were issued. In that event, the 30-day period of time may be extended by a resolution of the board of trustees. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash as determined by the board. Securities shall be valued as of the date of receipt in the participant's account.

(g) If the board or the administrator receives notification from the United States Department of the Treasury, Internal Revenue Service, that this section or a portion of this section will cause the retirement system under this chapter, or a portion of the retirement system under this chapter, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply, and the board and the administrator shall notify the presiding officers of the legislature.

(h) A member who is eligible to elect transfer to the defined contribution retirement plan must make the election not later than 12 months after the first day of the month following the administrator's receipt of the notification that the member's employer consents to transfers of its members under (i) of this section. The election to participate in the defined contribution retirement plan must be made in writing on forms and in the manner prescribed by the administrator. Before accepting an election to participate in the defined contribution retirement plan, the administrator must provide the employee planning on making an election to participate in the defined contribution retirement plan with information, including calculations to illustrate the effect of moving the employee's retirement plan from the defined benefit retirement plan to the defined contribution retirement plan as well as other information to clearly inform the employee of the potential consequences of the employee's election. An election made under this subsection to participate in the defined contribution retirement plan is irrevocable. Upon making the election, the participant shall be enrolled as a member of the defined contribution retirement plan, the member's participation in the plan shall be governed by the provisions of AS 14.25.310 — 14.25.590, and the member's participation in the defined benefit retirement plan under AS 14.25.009 — 14.25.220 shall terminate. The participant's enrollment in the defined contribution retirement plan shall be effective the first day of the month after the administrator receives the completed enrollment forms. An election made by an eligible member who is married is not effective unless the election is signed by the individual's spouse.

(i) A member may make an election under this section only if the member's employer participates in both the defined benefit retirement plan and the defined contribution retirement plan and consents to transfers under this section. The employer shall notify the administrator if the employer consents to allowing the employer's members to choose to transfer from the defined benefit retirement plan to the defined contribution retirement plan under this section. An employer's notice to allow transfers is irrevocable and applicable to all eligible employees of the employer.

(j) In this section,

(1) “defined benefit retirement plan” means the retirement plan established in AS 14.25.009 — 14.25.220;

(2) “defined contribution retirement plan” means the retirement plan established in AS 14.25.310 — 14.25.590.

AS 39.35.940. Transfer into defined contribution plan by nonvested members of defined benefit plan.

(a) Subject to (i) of this section, an active member of the defined benefit retirement plan of the public employees' retirement system is eligible to participate in the defined contribution retirement plan established under AS 39.35.700 — 39.35.990 if that member has not vested. Participation in the defined contribution retirement plan is in lieu of participation in the defined benefit retirement plan established under AS 39.35.095 — 39.35.680.

(b) A member who has vested in a defined benefit retirement plan is not eligible to transfer under this section.

(c) Each eligible member who elects to participate in the defined contribution retirement plan shall have transferred to a new account the employee contribution account balance held in trust for the member under the defined benefit retirement plan of the public employees' retirement system. A matching employer contribution shall be made on behalf of that employee to the new account. The employer shall make the matching contribution from funds other than the trust funds of the defined benefit retirement plan established under AS 39.35.095 — 39.35.680. The amount of the matching employer contribution shall be subject to, and may not exceed, the limitation of 26 U.S.C. 415(c) during the applicable limitation year as defined by AS 39.35.990. If the matching employer contribution would exceed the limits during the limitation year in which the transfer occurs, the remaining amount of the matching employer contribution shall be made in the next limitation year, if the limits would not be exceeded.

(d) Upon a transfer, all membership service previously earned under the defined benefit retirement plan shall be nullified for purposes of entitlement to a future benefit under the defined benefit retirement plan but shall be credited for purposes of determining vesting in employer contributions under AS 39.35.790(b) and eligibility to elect medical benefits under AS 39.35.870. Membership service allowed for credit toward medical benefits does not include any service credit purchased for employment by an employer who is not a participating employer in this chapter.

(e) An eligible member whose accounts are subject to a qualified domestic relations order may not make an election to participate in the defined contribution retirement plan under this subsection unless the qualified domestic relations order is amended or vacated and court-certified copies of the order are received by the administrator.

(f) As directed by the participant, the board shall transfer or cause to be transferred the appropriate amounts to the designated account. The board shall establish transfer procedures by regulation, but the actual transfer may not be later than 30 days after the effective date of the member's participation in the defined contribution retirement plan unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that also causes the suspension of trading on any national securities exchange in the country where the securities were issued. In that event, the 30-day period of time may be extended by a resolution of the board of trustees. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash as determined by the board. Securities shall be valued as of the date of receipt in the participant's account.

(g) If the board or the administrator receives notification from the United States Department of the Treasury, Internal Revenue Service, that this section or a portion of this section will cause the retirement system under this chapter, or a portion of the retirement system under this chapter, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply, and the board and the administrator shall notify the presiding officers of the legislature.

(h) An employee who is eligible to elect transfer to the defined contribution retirement plan must make the election not later than 12 months after the first day of the month following the administrator's receipt of the notification that the employee's employer consents to transfers of its employees under (i) of this section. The election to participate in the defined contribution retirement plan must be made in writing on forms and in the manner prescribed by the administrator. Before accepting an election to participate in the defined contribution retirement plan, the administrator must provide the employee planning on making an election to participate in the defined contribution retirement plan with information, including calculations to illustrate the effect of moving the employee's retirement plan from the defined benefit retirement plan to the defined contribution retirement plan as well as other information to clearly inform the employee of the potential consequences of the employee's election. An election made under this subsection to participate in the defined contribution retirement plan is irrevocable. Upon making the election, the participant shall be enrolled as a member of the defined contribution retirement plan, the member's participation in the plan shall be governed by the provisions of AS 39.35.700 — 39.35.990, and the member's participation in the defined benefit retirement plan under AS 39.35.115 shall terminate. The participant's enrollment in the defined contribution retirement plan shall be effective the first day of the month after the administrator receives the completed enrollment forms. An election made by an eligible member who is married is not effective unless the election is signed by the individual's spouse.

(i) A member may make an election under this section only if the member's employer participates in both the defined benefit retirement plan and the defined contribution retirement plan and consents to transfers under this section. The employer shall notify the administrator if the employer consents to allowing the employer's members to choose to transfer from the defined benefit retirement plan to the defined contribution retirement plan under this section. An employer's notice to allow transfers is irrevocable and applicable to all eligible employees of the employer.

(j) In this section,

(1) “defined benefit retirement plan” means the retirement plan established in AS 39.35.095 — 39.35.680;

(2) “defined contribution retirement plan” means the retirement plan established in AS 39.35.700 — 39.35.990.