

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

38.1361 Employment of retirant in reporting unit.

Sec. 61. (1) Except as otherwise provided in this section, if a retirant is receiving a retirement allowance other than a disability allowance payable under this act or under former 1945 PA 136, on account of either age or years of personal service performed, or both, and becomes employed by a reporting unit, the following must occur:

(a) The retirant is not entitled to a new final average compensation or additional service credit under this retirement system unless additional service is performed equivalent to 5 or more years of service credit or, if the retirant has contributed to the member investment plan, the equivalent of 3 or more years of service credit. The retirant may elect to have the retirement allowance recomputed based on the added credit or the final average compensation resulting from the added service, or both. A retirement allowance shall not be recomputed until the retirant pays into the retirement system an amount equal to the retirant's new final average compensation multiplied by the percentage determined under section 41(2) for normal cost and unfunded actuarial accrued liabilities, not including the percentage required for the funding of health benefits, multiplied by the total service credit in the period in which the retirant's additional service was performed.

(b) The retirant's retirement allowance must be reduced by the lesser of the amount that the earnings in a calendar year exceed the amount permitted without a reduction of benefits under the social security act, chapter 531, 49 Stat 620, or 1/3 of the retirant's final average compensation. For purposes of computing allowable earnings under this subdivision, the final average compensation must be increased by 5% for each full year of retirement.

(2) The retirement system may offset retirement benefits payable under this act against amounts owed to the retirement system by a retirant or retirement allowance beneficiary.

(3) Subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is a former teacher or administrator employed in a teaching or research capacity by a university that is considered a reporting unit for the limited purpose described in section 7(3). A university that employs a retirant under this subsection shall report that employment to the retirement system by July 1 of each year. The university shall include in the report the name of the retirant, the capacity in which the retirant is employed, and the total annual compensation paid to the retirant.

(b) The retirant is not eligible to use any service or compensation attributable to the employment described in subdivision (a) for a recomputation of his or her retirement allowance.

(4) Not later than April 1 of each year, the superintendent of public instruction shall compile a listing of critical shortage disciplines based on evidence of a shortage for each discipline. The department of education shall post the listing and the accompanying evidence on its website. If a discipline is not included in the listing of critical shortage disciplines, 2 or more contiguous reporting units may submit a written request to the superintendent of public instruction to add a discipline to the listing. The request must include evidence of a shortage of the discipline in those contiguous reporting units. If the superintendent of public instruction determines that there is a shortage of the discipline in those contiguous reporting units, the superintendent of public instruction shall add the discipline to the listing. A discipline added under a request under this subsection is applicable only to those contiguous reporting units. For purposes of this subsection, a reporting unit that is a public school academy is considered contiguous to any other reporting unit in which the public school academy is located.

(5) Until July 1, 2018, subsection (1) does not apply to a retirant if all of the following circumstances exist:

(a) The retirant is employed by a reporting unit that has a situation, not including a situation caused by a labor dispute, that necessitates the hiring of the retirant in an area that has been identified by the superintendent of public instruction as a critical shortage discipline under subsection (4).

(b) The retirant is employed under any situation described in subdivision (a) for a period not to exceed 3 years for that retirant.

(c) The retirant is not eligible to use any service or compensation attributable to the employment described in subdivision (a) for a recomputation of his or her retirement allowance.

(d) The reporting unit pays 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for each retirant who becomes employed by a reporting unit under this subsection.

(6) Subsection (5) only applies for retirants who have been retired for at least 12 months before becoming employed under this section.

(7) Notwithstanding any other provision of this act to the contrary, for a retirant who retires after June 30, 2010, and following a bona fide termination, including not working in the month of the retirant's retirement

effective date, and who becomes employed by a reporting unit and the retirant's amount of earnings in a calendar year exceeds 1/3 of the retirant's final average compensation, the retirant forfeits his or her retirement allowance and the retirement system subsidy for health care benefits from the retirement system for the entire month of each month in which the retirant is employed at the reporting unit unless the retirant is employed as described in subsection (5), (9), (10), or (11). A retirant who has forfeited the retirement system subsidy for health care benefits under this subsection and who wants to retain health care benefits shall pay the retirant's and retirement system's costs for the health care benefits. The retirement allowance and retirement system subsidy for health care benefits shall resume without recalculation on the first of the month following the month in which the retirant has terminated reporting unit employment.

(8) Notwithstanding any other provision of this act to the contrary, for a retirant who retires after June 30, 2010, who performs core services at a reporting unit as determined by the retirement system, but who is employed by an entity other than the reporting unit or is an independent contractor, the retirant forfeits his or her retirement allowance and the retirement system subsidy for health care benefits from the retirement system for the entire month of each month in which the retirant is performing core services at the reporting unit, unless the retirant is employed as described in subsection (9), (10), or (12). A retirant who has forfeited the retirement system subsidy for health care benefits under this subsection and who wants to retain health care benefits shall pay the retirant's and retirement system's costs for the health care benefits. The retirement allowance and retirement system subsidy for health care benefits shall resume without recalculation on the first of the month following the month in which the retirant has terminated performing core services, as described in this subsection.

(9) Until July 1, 2018, subsection (1) does not apply to a retirant who retires after June 30, 2010 and on or before September 1, 2015; who following a bona fide termination, including not working in the month of his or her retirement effective date, becomes employed as a substitute teacher by a reporting unit, by an entity other than the reporting unit, or as an independent contractor; and whose amount of earnings attributable to employment by or at a reporting unit in a calendar year does not exceed 1/3 of his or her final average compensation. A retirant described in this subsection is not eligible to use any service or compensation attributable to the employment described in this subsection for a recomputation of his or her retirement allowance. The reporting unit at which the retirant provides substitute teacher services described in this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection. The reporting unit shall report the engagement of substitute teachers to the retirement system at the same interval the reporting unit reports information to the retirement system with regard to its other employees. The reporting unit shall include in the report the name of the substitute teacher and the total earnings paid to the substitute teacher for that reporting period. In order to comply with the reporting requirements of this subsection, a reporting unit that engages substitute teachers through an entity other than a reporting unit or as independent contractors shall obtain from the substitute teacher's employer a list of all substitute teachers the employer supplies to that reporting unit and the total earnings paid to each substitute teacher for the reporting period. An employer other than a reporting unit that employs substitute teachers as described in this subsection shall provide to the reporting unit all information that the reporting unit is required to report to the retirement system under this subsection. For the purposes of this subsection, an employer includes an independent contractor.

(10) Until July 1, 2018, subsection (1) does not apply to a retirant who retires after June 30, 2010 and on or before September 1, 2015; who following a bona fide termination, including not working in the month of his or her retirement effective date, becomes employed as an instructional coach or a school improvement facilitator by an entity other than the reporting unit or as an independent contractor; and whose amount of earnings attributable to employment at a reporting unit in a calendar year does not exceed 1/3 of his or her final average compensation. A retirant described in this subsection is not eligible to use any service or compensation attributable to the employment described in this subsection for a recomputation of his or her retirement allowance. The reporting unit at which the retirant provides the services described in this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection. The reporting unit shall report the engagement of instructional coaches or school improvement facilitators to the retirement system at the same interval the reporting unit reports information to the retirement system with regard to its other employees. The reporting unit shall include in the report the name of the instructional coach or school improvement facilitator and the total earnings paid to the coach or facilitator for that reporting period. In order to comply with the reporting requirements of this subsection, a reporting unit shall obtain from the coach's or facilitator's employer a list of all instructional coaches and school improvement facilitators the employer supplies to that reporting unit and

the total earnings paid to each coach or facilitator for the reporting period. An employer other than a reporting unit that employs instructional coaches or school improvement facilitators as described in this subsection shall provide to the reporting unit all information that the reporting unit is required to report to the retirement system under this subsection. For the purposes of this subsection, an employer includes an independent contractor. As used in this subsection, "instructional coach" and "school improvement facilitator" mean those terms as used in the listing of critical shortage disciplines developed by the superintendent of public instruction under subsection (4).

(11) Subsection (1) does not apply to a retirant who is a former teacher or administrator who retires after June 30, 2010 and on or before October 1, 2014, who following a bona fide termination, including not working in the month of his or her retirement effective date, becomes employed in a teaching or research capacity or in a program-department direction capacity by a university that is considered a reporting unit for the limited purpose described in section 7(3). A retirant described in this subsection is not eligible to use any service or compensation attributable to the employment described in this subsection for recomputation of his or her retirement allowance. The reporting unit at which the retirant provides the services described in this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection. The reporting unit shall report the employment of a retirant as described in this subsection to the retirement system by July 1 of each year. The reporting unit shall include in the report the name of the retirant, the capacity in which the retirant is employed, and the total annual compensation paid to the retirant.

(12) Until July 1, 2018, notwithstanding any provision of this act to the contrary, for a retirant who retires after June 30, 2010, who is employed as an independent contractor at a reporting unit for a situation described in subsection (5)(a) or is employed at a reporting unit for a situation described in subsection (5)(a) by an entity other than the reporting unit, who has been retired for at least 12 months before becoming employed under this subsection, and whose employment under this subsection does not exceed 3 years, the reporting unit at which the retirant provides services under this subsection shall pay 100% of the contribution rates for the unfunded actuarial accrued liability for retiree health care and the unfunded actuarial accrued liability for pension to the retirement system for the employment described in this subsection.

History: 1980, Act 300, Imd. Eff. Oct. 31, 1980;—Am. 1989, Act 194, Imd. Eff. Aug. 25, 1989;—Am. 1999, Act 68, Imd. Eff. June 25, 1999;—Am. 2001, Act 30, Imd. Eff. June 29, 2001;—Am. 2004, Act 5, Imd. Eff. Feb. 20, 2004;—Am. 2006, Act 158, Imd. Eff. May 26, 2006;—Am. 2010, Act 75, Imd. Eff. May 19, 2010;—Am. 2012, Act 464, Imd. Eff. Dec. 27, 2012;—Am. 2015, Act 219, Imd. Eff. Dec. 16, 2015.

Compiler's note: Enacting section 1 of Act 75 of 2010 provides:

"Enacting section 1. 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."

Popular name: Act 300