

**PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT (EXCERPT)**  
**Act 314 of 1965**

**38.1139b Deduction from employee compensation by public employer; automatic enrollment of employee; notice; investment alternatives; liability; definitions.**

Sec. 19b.

(1) A public employer may deduct from the compensation of an employee an amount for contribution to an individual account for the employee's benefit in a plan maintained under section 125, 401(k), 403(b), 408, 408A, or 457 of the internal revenue code of 1986, 26 USC 125, 401, 403, 408, 408A, and 457. A public employer may provide for automatic enrollment of an employee in a plan described in this subsection.

(2) Except as otherwise provided in this subsection, the public employer shall give written notice to a participating employee of any automatic enrollment at least 14 days before the initial deduction is made. The public employer shall include in the notice a description of the benefit the contribution provides and the right of the participating employee to cancel the contribution by instruction to the employer, including the procedure for giving the instruction. This subsection does not apply to a public employer for the purposes of a participating employee's participation in a plan established under section 1 of 1976 PA 306, MCL 38.1151, that provides for automatic contributions as provided under the internal revenue code of 1986.

(3) A public employer or plan official may provide investment alternatives for participating employees, including 1 or more default investment alternatives, for any contributions made to a plan described in subsection (1). A public employer or plan official is not liable for the actual decisions made by the employee with regard to the investment of any contribution under the plan or for the decisions made by the public employer or plan official on behalf of a participating employee with regard to the default investment of any contributions made for that employee to the plan if all of the following requirements are met:

(a) The plan allows the participating employee at least quarterly opportunities to select investments for any contributions made for that employee between investment alternatives available under the plan.

(b) For any type of default investment of any contributions for an employee, the default investment is comparable to the types of investment alternatives identified by the United States department of labor as qualified default investment alternatives.

(c) The participating employee is given notice of the default investment decisions that will be made in the absence of participating employee direction.

(d) The participating employee is given a description of all the investment alternatives available for the participating employee.

(e) The participating employee is given notice at least annually of all of the following:

(i) The actual default investments made by the public employer on behalf of the participating employee.

(ii) The right of a participating employee to cancel his or her continued participation in the plan.

(4) This section does not alter any existing responsibility of a public employer or other plan official for the selection of investment alternatives available for participating employees.

(5) As used in this section:

(a) "Automatic enrollment" means a plan provision under which the employee will have a specified contribution made to a plan described in subsection (1) equal to a compensation reduction that will be made for the employee unless the employee affirmatively elects no compensation reduction contributions or a compensation reduction contribution in another amount.

(b) "Public employer" means this state or an agency of this state, a city, county, village, township, school district, or intermediate school district, or an institution of higher education.

**History:** Add. 2014, Act 242, Imd. Eff. June 27, 2014