

**97B.52A Eligibility for benefits — bona fide retirement.**

1. A member has a bona fide retirement when the member terminates all employment covered under the chapter or formerly covered under the chapter pursuant to section 97B.42, files a completed application for benefits form with the system, survives into the month for which benefits are first payable, and meets the following applicable requirement:

a. For a member whose first month of entitlement is prior to July 1, 1998, the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits.

b. For a member whose first month of entitlement is July 1998 or later, but before July 2000, the member does not return to any employment with a covered employer until the member has qualified for no fewer than four calendar months of retirement benefits.

c. (1) For a member whose first month of entitlement is July 2000 or later, the member does not return to any employment with a covered employer until the member has qualified for at least one calendar month of retirement benefits, and the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits.

(2) For purposes of determining a bona fide retirement under this paragraph "c", the following provisions apply:

(a) Effective July 1, 2000, any employment with a covered employer does not include employment as an elective official or member of the general assembly if the member is not covered under this chapter for that employment.

(b) For a member whose first month of entitlement is July 2004 or later, but before July 2014, covered employment does not include employment as a licensed health care professional by a public hospital. For the purposes of this subparagraph, "*public hospital*" means a hospital licensed pursuant to chapter 135B and governed pursuant to chapter 145A, 347, 347A, or 392.

(c) Effective May 25, 2008, any employment with a covered employer does not include noncovered employment as a member of the national guard called to state active duty as defined in section 29A.1.

2. A member may commence receiving retirement benefits under this chapter upon satisfying eligibility requirements. However, a retired member who commences receiving a retirement allowance but fails to meet the applicable requirements of subsection 1 does not have a bona fide retirement and any retirement allowance received by such a member must be returned to the system together with interest earned on the retirement allowance calculated at a rate determined by the system. Until the member has repaid the retirement allowance and interest, the system may withhold any future retirement allowance for which the member may qualify.

3. A member whose first month of entitlement is before July 1998 and who terminates covered employment but maintains an employment relationship with an employer that made contributions to the retirement system on the member's behalf does not have a bona fide retirement until all employment, including employment which is not covered by this chapter, with such employer is terminated for at least thirty days. In order to receive retirement benefits, the member must file a completed application for benefits form with the system before returning to any employment with the same employer.

4. The requirements of this section shall apply to a lump sum payment as provided by section 97B.48, subsection 1, and the payment of contributions as provided in section 97B.48A, subsection 4.

92 Acts, ch 1201, §55; 95 Acts, ch 102, §10; 96 Acts, ch 1187, §48; 98 Acts, ch 1183, §55, 56; 2000 Acts, ch 1077, §59 – 62; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §46; 2005 Acts, ch 167, §29, 66; 2006 Acts, ch 1092, §6; 2010 Acts, ch 1167, §33, 40; 2012 Acts, ch 1138, §21; 2013 Acts, ch 138, §115, 127

Referred to in §97B.1A, 97B.42

[T] 2013 amendment to subsection 1, paragraph c, subparagraph (2), subparagraph division (b), takes effect January 1, 2014; 2013 Acts, ch 138, §127

[T] Subsection 1, paragraph c, subparagraph (2), subparagraph division (b) amended