

28 (b) An application for exclusion may only be made within the first 60 days:

29 (i) of each calendar year; or

30 (ii) after the member becomes a member of this system.

31 (c) (i) An excluded member shall have, beginning with the effective date of the exclusion,

32 an employer contribution equal to that member's share of the certified contribution rate under

33 Section 49-7-301 deposited into the member's defined contribution plan.

34 (ii) If the member is a member of this system on July 1, 2000, the member shall make a
35 one-time, irrevocable, written election in the application for exclusion to:

36 (A) preserve the member's vested defined benefit rights under this chapter; or

37 (B) terminate the member's vested defined benefit rights under this chapter and have the

38 board make a deposit equal to the sum of the member's shares of the certified contribution rate

39 under Section 49-7-301 plus accrued interest on the contributions deposited into the member's

40 defined contribution plan.

41 (4) A member may also make elective contributions to the qualified 401 plan selected by

42 the member, but only up to an amount permitted by federal law.

43 (5) (a) Each qualified defined contribution 401 plan is separate and distinct from any other

44 qualified defined contribution 401 plan for all purposes, including fiduciary liability and plan

45 administration.

46 (b) The board may request from any qualified 401 plan under Subsection (1)(a) any

47 relevant information pertaining to the maintenance of its tax qualification under the Internal

48 Revenue Code and may request indemnification from such other plan to the extent it performs

49 testing functions for that plan.

50 (6) (a) Prior to January 1 of each calendar year, each member shall notify the board in

51 writing which qualified defined contribution 401 plan the member has selected to receive the

52 employer and employee contributions described in this section for that calendar year.

53 (b) This election may be changed only in accordance with procedures established by the

54 board.

55 (c) Notwithstanding this section, the board may take any action which in its judgment is

56 necessary to maintain the tax-qualified status of its 401 defined contribution plan pursuant to

57 federal law. The board shall submit findings of fact and its conclusions prior to taking any such

58 action.

59 (7) The total amount contributed by the employer under Subsection (3) to the member's
60 defined contribution plan vests to the member's benefit immediately and is nonforfeitable.

61 (8) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
62 retirement office may make rules to implement this section.

63 Section 2. **Effective date.**

64 This act takes effect on July 1, 2000.

Legislative Review Note

as of 2-1-00 3:48 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel