

Employer Guide to the PERS/TRS Defined Contribution Retirement Plan Conversion Option

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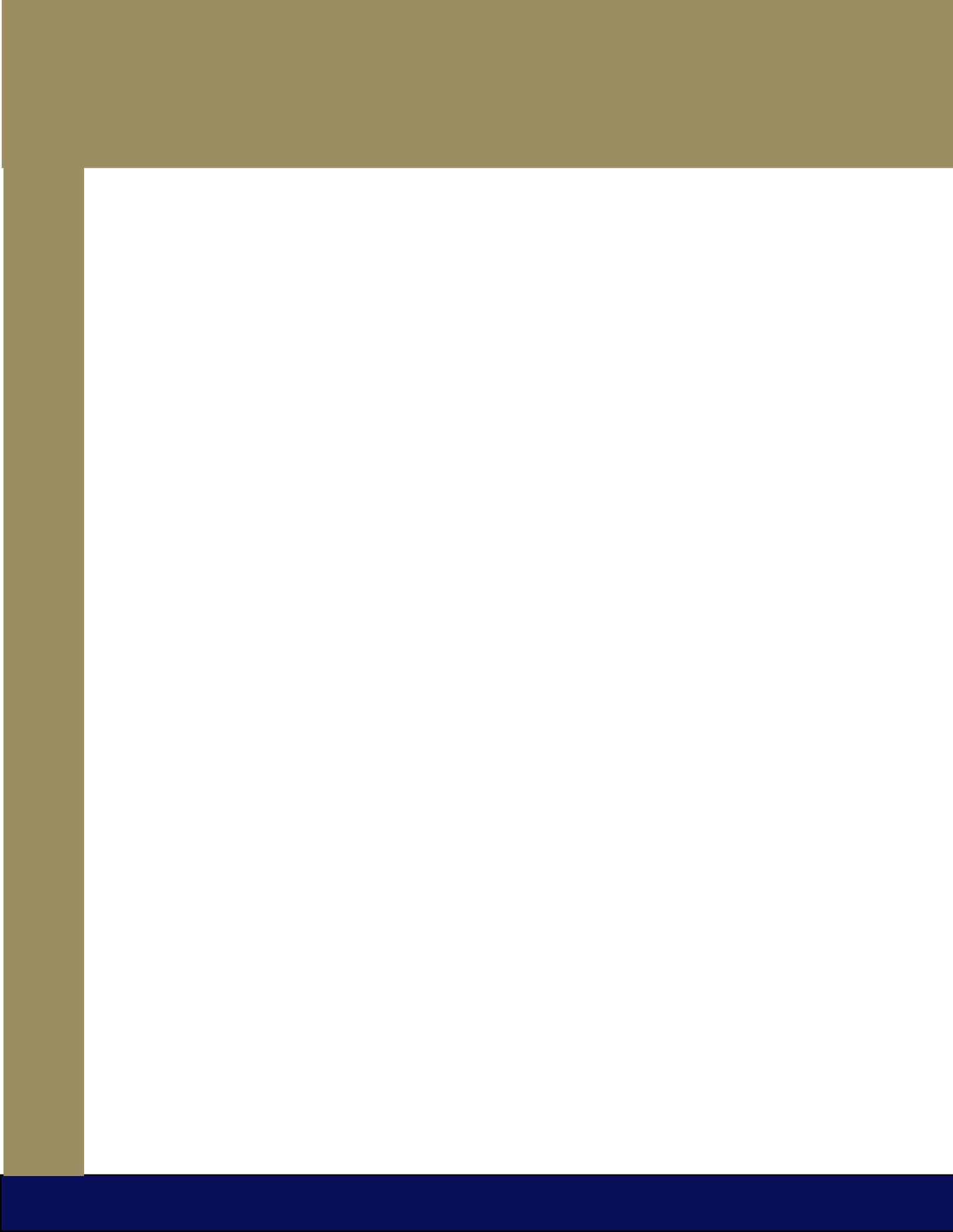




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INTRODUCTION

As a participating employer in the Teachers' Retirement System (TRS) and/or the Public Employees' Retirement System (PERS) you will have an opportunity on or after July 1, 2006, to elect to participate in an option that allows your non-vested defined benefit employees to decide whether to transfer their defined benefit accounts to the new Public Employees' and Teachers' Retirement System Defined Contribution Retirement Plan (PERS/TRS DCR plan).

This guide is designed to answer your questions regarding this process, to provide you with samples of the resolutions and other forms to elect participation in the option and to identify the financial reports and analysis necessary for you to make an informed decision.

Contact numbers of Division of Retirement and Benefits staff who can provide additional guidance are included.

What is the conversion option?

One of the provisions of the new defined contribution plans created by the legislature in 2005 (Sections 35 and 122, Chapter 9, FSSLA 2005) is an option for employers to allow active non-vested employees to make an election to forfeit their tier and benefits in the defined benefit plans in

favor of becoming either Tier IV members in PERS or Tier III members in TRS.

Employees electing this option will have their account balance transferred to a new account in the new plan.

Employers will match the transferred employee contribution account up to the limits allowed under the Internal Revenue Code (IRC) §415(c). Eligible employees whose defined contributions are projected to exceed the §415(c) IRC limits during a calendar year will not receive a 100% match from the employer. Whether the limits will be exceeded will be determined by aggregating the total projected contributions during the limitation year to all IRC §401(a) government qualified defined contribution plans in which the employee participates. Other types of plans, including §475(b) Governmental Deferred Compensation Plans, §403(b) Tax Sheltered Annuities, §125 flexible benefit cafeteria plans, health plans, and life and disability insurance are not required to be aggregated for purposes of §415(c).

Employees will be strongly encouraged to consult their tax advisors on this issue before electing the conversion option. Amounts over the §415(c) IRC limits that are inadvertently contributed or transferred will be refunded to the employer. Employ-

ees who terminate employment before the end of the calendar year in which the conversion occurred may forfeit some of the employer match due to the 415(c) IRC limit. At this time, the amount transferred from the employee's defined benefit member contribution account is not subject to the §415(c) IRC limits.

The §415(c) IRC limits for 2006 are \$44,000 or 100% of compensation, whichever is less. This limit is indexed annually for cost-of-living adjustments in accordance with §415(d).

When do employers have to make the decision to participate?

There is no deadline for employers to make this decision. The decision can be made at any time as long as the employer has nonvested defined benefit members in its employ.

Why should employers consider participation in the conversion option?

The conversion option provides a valuable choice to nonvested employees, and potential cost savings to employers.

Employees in the defined benefit plans have a right to future pension and retiree health insurance benefits when they reach either age or service eligibility once they

vest into the system. The employer's liability associated with the defined benefit plan is a combination of the liability for each of their employee members. The conversion option would eliminate all past liability and all future liability in the defined benefit plan for the nonvested employee who elects to forfeit all rights to the defined benefit plans in favor of transferring to the new PERS/TRS DCR plan. This could result in a cost savings to the employer by reducing future defined benefit plan liability to a greater extent than the cost associated with the new DCR plan. Every employer should analyze the cost associated with matching contributions for those who convert. The Division will provide each employer with information to assist them in their decision.

How do employers know which employees are eligible to convert?

The division has a web based report that can be run from our web site that will give you a point-in-time list of employees who are not vested and their contribution account balances. The report can be found at www.state.ak.us/drb.

To Access the Report

- Click *Employer Services* in the yellow banner at the top of the page.

- Click *Member Account Access* in “Quick Links.”
- Log in to *Member Account Access*
 - Human resources or payroll staff are authorized to log in and should have accounts set up. If you are a human resources or payroll staff member and believe you should have access, please complete and submit the *LogonID* form for Employer Services to the Division.
- Under “Reports” select *SB 141 Conversion Eligibility Report*.
- Read the information and instructions provided.
- Enter your employer number at the bottom of the page.
- Click “submit.”

Your report may take a few minutes to run.

How do employers know how much in matching contributions must be budgeted for when considering this option?

The *SB 141 Conversion Eligibility Report* will show the amount of each nonvested employee’s contribution account balance as of the day you run the report. The balance

the employer will have to contribute if the employee chooses to convert will be based on the employee’s balance at the time of transfer. The report will also show the total years of service for each employee.

Not all nonvested employees will be able to transfer their accounts, however. Employees who have signed an agreement to repay an indebtedness with pretax payments are not allowed to convert. The pretax indebtedness payment election is irrevocable and cannot be stopped for any reason except termination of employment. Other employees may have enough service to vest prior to when the employer finalizes the decision to participate.

Employers will need to analyze their lists to determine what the potential numbers of employees electing conversion might be.

Because the election period must be open for 12 months and an employer may hire additional employees who are non-vested members of the defined benefits plans during the election period, the employer’s *SB 141 Conversion Eligibility Report* will not identify every employee who may be eligible to make the conversion election. An employer must be prepared to make the matching contribution for an employee who elects the conversion option no later

than 30 days after the effective date of the employee's participation in the PERS/TRS DCR plan.

How do employers know what the effect of conversion will be on their defined benefit liabilities?

Employers will receive an actuarial analysis of the effect of conversion on the defined benefit unfunded liability (employer assets less employer liability) and their future employer rates. This analysis will assume all nonvested employees convert. The number of employees who actually choose to convert and the composition of the employer's entire covered employee group will play a role in the final result. Conversion will result in reduced liability, however, it will also result in a reduction of the employer assets (employee's refundable balance will transfer to the new DCR plan) and a reduction in the payroll base by which future contribution rates are calculated.

Can employers put any limits on who participates in the conversion option?

Once an employer elects to participate, the conversion option must be offered to all active nonvested employees who occupy TRS or PERS covered positions during the

12-month election period explained below. Employers cannot exclude active employee groups by job classification, group, department or other designations.

Can employers put any limits on how long employees have to make the conversion decision?

No. The election period for conversion is 12 months. Employers cannot extend the period nor shorten it. The Internal Revenue Service (IRS) regulation governing this type of plan provision is 26 CFR 1.401(k)-1(a)(3)(v) which allows a "one-time irrevocable election made no later than the employee's first becoming eligible under the plan. . . ." The Division has been advised by legal tax counsel that this 12-month period is necessary to receive favorable tax consideration.

Once an employer has made the decision to participate, what happens next?

The employer will have a resolution to participate in the conversion option passed by its governing body. The resolution will state the date the option is to be effective for the employer's employees, which must be no earlier than the first of the month following passage of the resolution. If there are less than ten working days until

the end of the month, the effective date must be no earlier than the first of the second month following passage of the resolution. The Administrator reserves the right to have a minimum of ten working days in order to process the election and notify eligible members prior to the election period commencement. The resolution will also state the end date of the election period and that the member account balance will be matched only up to the §415(c) limitations described earlier in this document. PERS and TRS employers will submit a certified copy of the resolution to the Division. PERS employers will also be required to amend their participation agreements with the PERS.

Once the resolution (and amendment for PERS employers) has been received and accepted by the Division, the employer's eligible non-vested employees will be notified by the Division of their right to convert.

Once the employee elects to convert, the Division will notify the employer. The employer will have 30 days, from the effective date of the employee's election, to match the member account balance. The employer match will be subject to IRC §415(c) limitations.

Does the employer collect the employee election forms once the employee has made the election?

No. The forms are required to be filed with the Division of Retirement and Benefits. Employers should not require election forms to be submitted to them. Because the election to transfer involves the ability for the employee to direct his or her own investment, it is important not to delay receipt of the forms or transfer of the employee account and employer match.

How will employers know which of their employees elect to transfer their accounts?

The Division will notify the employer of the receipt and acceptance of the employee election prior to its effective date. This notification will include the amount and due date of the employer contribution match.

Can the employer transfer contributions already paid to the current defined benefit plans on behalf of the employee to the new defined contribution account to match the combined contributions?

No. The employers' defined benefit trust funds cannot be transferred with the

defined contribution trust funds. The matching contributions must be made with new money from the employer.

Should employers encourage their nonvested employees to convert?

No. Even though maximum participation in the conversion option may financially benefit employers they should endeavor to remain neutral and allow employees to make the decision themselves. To do otherwise can expose the employer to employee complaints in the future if the conversion to the new plan does not meet the expectations the employee developed because of employer influence.

Employers can assist their employees by working with the Division to sponsor informational seminars, ensuring all non-vested employees attend the seminars, directing employees to read the material in the *Choice Kit* and showing them how to access the conversion benefit calculator on our web site. Employers may also direct employees to contact Division counselors if necessary. Employers should not have representatives from other plans they may sponsor give advice or counsel on this issue.

What information will be provided to nonvested employees to help them make the conversion decision?

The Division will send out a Choice Kit to each eligible employee along with investment information regarding the fund options in the PERS/TRS DCR plan. The Division will also contact the employer to set up either a teleconference, videoconference or in-person seminar to discuss the pros and cons of each plan to eligible employees. The seminars will present the information in a neutral manner and will not attempt to persuade employees to make any particular choice. Employers will work with the Division to select a date in which work-release time can be offered to the employees and maximum attendance can be achieved.

Employees can also receive information from the Division's web site and are encouraged to consult with their financial advisors.

Where will employees get the election forms?

Election forms for conversion will be included in the *Choice Kit*. Additional forms are available to employees from the Division.

With whom should the employee file the election to participate?

As mentioned before, the employee's original election must be filed with the Division. Once election forms are filed with the Division, employers will be notified timely by the Division's accounting staff in order to properly report the employee under the new plan and to effect the transfer of the matching contributions within the 30 day time limit required by Alaska Statute.

If an employee elects to transfer his/her account, can that decision be changed later?

No. Once made, filed and accepted by the Division, the election is irrevocable and the employee forfeits all rights to the current defined benefit plans. It is crucial that employees take the time and use the resources provided to make an informed decision.

Who can we contact if we have questions?

Employers or their employees should contact their regional counselors for more information about this option. Regional counselors are:

Anchorage, Mat-Su Area

Debbie Bialka (907) 269-0284

Fairbanks/Railbelt Area

Kathy Carson I-800-821-2251 ex 5697

Kenai, Kodiak, Valdez, Central Area

Judy Hall I-800-821-2251 ex 4470

Northwest/Aleutian/North Slope

Larry Davis I-800-821-2251 ex 1153

Southeast area

Mindy Voigt I-800-821-2251 ex 4467

PERS Statutes

Sec. 39.35.940. Transfer into defined contribution plan by nonvested members of defined benefit plan. [Effective July 1, 2006].

(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.
- (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 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) 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 39.35.085 - 39.35.680;
- (2) "defined contribution retirement plan" means the retirement plan established in AS 39.35.700 - 39.35.990.

TRS Statutes

Sec. 14.25.540 Transfer into defined contribution retirement plan by nonvested members of defined benefit retirement plan. [Effective July 1, 2006].

- (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.
- (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 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) 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.