

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

400Z0442

SENATE BILL NO. 37

Introduced by: The Committee on Retirement Laws at the request of the South Dakota Retirement System

1 FOR AN ACT ENTITLED, An Act to revise the automatic enrollment provisions of the
2 deferred compensation plan of the South Dakota Retirement System.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 3-13-56 be amended to read:

5 3-13-56. The board may establish an automatic enrollment feature within the plan by rules
6 promulgated pursuant to chapter 1-26 and § 3-13-54. Any automatic enrollment feature
7 established by the board shall include:

8 (1) A provision that automatic enrollment shall apply ~~only~~ to newly-employed members
9 hired after a specified future date, any state employees not participating in the
10 deferred compensation plan as of June 30, 2019, and employees of any other
11 automatic enrollment unit that elects automatic enrollment for its employees not
12 participating in the deferred compensation plan;

13 (2) A provision that automatic enrollment shall apply only to the employees of those
14 participating units that choose the automatic enrollment feature for the unit's
15 employees;



- 1 (3) A provision that automatic enrollment may not require more than an established
2 maximum contribution per month per automatically-enrolled participant;
- 3 (4) A provision that a participant who is automatically enrolled shall have as long as
4 ninety days after the start of employment to discontinue participation in the plan;
- 5 (5) A provision that an automatically-enrolled participant who discontinues participation
6 in the plan within ninety days of enrollment shall receive a refund of the participant's
7 account within thirty days after discontinuing participation;
- 8 (6) A provision that the state investment officer shall select a default investment fund to
9 receive contributions by any automatically-enrolled participant who does not choose
10 an investment alternative to receive the participant's contributions;
- 11 (7) A provision authorizing participating units and the system to make contributions to
12 the plan for the benefit of participants;
- 13 (8) A provision that the plan shall adhere to notice requirements to automatically-
14 enrolled participants in accord with Internal Revenue Service Rulings 98-30 and
15 2000-8;
- 16 (9) A provision that automatic enrollment does not require advance authorization by a
17 participant, which is hereby deemed to be an exception to the provisions of any state
18 law requiring employee authorization for a payroll deduction or any similar ordinance
19 of a local participating unit; and
- 20 (10) A provision that the amount of compensation deferred by an automatically-enrolled
21 participant shall automatically increase by a specified amount each year unless the
22 participant elects not to participate in automatic escalation or elects to defer a
23 different amount than specified.

24 If a participant discontinues participation pursuant to subdivision (4), that act is a permissive

1 withdrawal pursuant to § 414(w) of the Internal Revenue Code.

2 Section 2. That ARSD 62:03:07:02 be amended to read:

3 62:03:07:02. Automatic enrollment. Any person who becomes a permanent employee of
4 a participating employer after the participating employer becomes an automatic enrollment unit
5 becomes an automatic enrollee in the plan. Any permanent employee of the state who is not a
6 participant in the plan on June 30, 2019, becomes an automatic enrollee in the plan on July 1,
7 2019, unless the employee elects not to participate. Any other permanent employee who is not
8 a participant in the plan and who is employed by an automatic enrollment unit that elects
9 automatic enrollment pursuant to § 62:03:07:02.01 becomes an automatic enrollee in the plan,
10 unless the employee elects not to participate.

11 Section 3. That a NEW SECTION be added to ARSD chapter 62:03:07 to read:

12 62:03:07:02.01. Members employed by participating employers other than the state before
13 automatic enrollment established. An automatic enrollment unit other than the state may elect
14 to automatically enroll the unit's permanent employees who are not participating in the deferred
15 compensation plan. The automatic enrollment unit may elect to commence automatic enrollment
16 for these employees on the January or July immediately after the automatic enrollment unit's
17 decision is delivered in writing to the system as long as notice of the decision is received no
18 later than September 15 for a January start or March 15 for a July start.