

Sec. 70. Conversion for Current Members of the Defined Benefit Plan or Defined Contribution Plan.

- (1) In the Resolution or Administrative Order Adopting the Hybrid Plan, the participating municipality or court may provide an opportunity for current members of the Retirement System to elect coverage under the Hybrid Plan if each of the following conditions is met:
 - (a) The member's municipality or court elects under section 44 or 45 to change the benefit plan from the Defined Benefit Plan or Defined Contribution Plan to the Hybrid Plan for members in a benefit program coverage classification who are first hired after the effective date of the change.
 - (b) On the effective date of the change to the Hybrid Plan, the member is a member of the Retirement System and is in the benefit program coverage classification described in subdivision (a).
 - (c) On the date of the Resolution or Administrative Order Adopting the Hybrid Plan, the participating municipality or court, and the affected division, shall not be less than 80% actuarially funded as of the most recent annual actuarial valuation. This requirement shall not preclude a participating municipality or court whose actuarial funded level is below 80% from adopting the Hybrid Plan where the results of the actuarial valuation indicate that the Hybrid Plan will reduce actuarial liabilities. The municipality or court may make additional contributions to the Retirement System or reallocate assets among Defined Benefit Plan coverage classifications in order to meet the conditions of this subsection. This paragraph shall not apply to subsection (6).
- (2) The Retirement System shall offer 1 opportunity for a member who satisfies the conditions of subsection (1) to elect coverage under the Hybrid Plan, and once made, the election is irrevocable. The member shall make the election under this subsection in writing, based on procedures established by the Retirement Board. The Retirement System shall begin accepting written elections from members on and after the effective date of the change of benefit program pursuant to subsection (1), and shall not accept written elections from members:
 - (a) Earlier than the end of the third month following the month in which the resolution is adopted and received by MERS; and
 - (b) Later than the first day of the first calendar month that is at least 6 months after MERS receipt of the resolution.

If the member is married at the time of election, the election is not effective unless the election is signed by the member's spouse, except that this requirement may be waived by the Retirement System if the signature of the member's spouse cannot be obtained because of extenuating circumstances.

- (3) A member who makes a written election under subsection (2) shall elect to do all of the following:
 - (a) Cease to be covered by the previous benefit plan effective 12:01 a.m. on the first day of the first calendar month that is at least 6 months after the effective date of the change of benefit plan.
 - (b) Become covered by the Hybrid Plan effective 12:01 a.m. on the first day of the first calendar month that is at least 6 months after the effective date of the change of benefit plan.
 - (c) Except as provided in subsections (4) and (5), waive all of his or her rights to a retirement allowance or any other benefit provided under the previous benefit plan.

- (4) For each member who is covered by the Defined Benefit Plan and who, under subsection (2), elects coverage under the Hybrid Plan, the Retirement System shall transfer the following amounts from the Reserve for Employee Contributions and the Reserve for Employer Contributions and Benefit Payments to the Reserve for Defined Contribution Plan:
 - (a) The member's accumulated contributions, if any, as of 12:01 a.m. on the day the member becomes covered by the Hybrid Plan shall be transferred from the Reserve for Employee Contributions to the member's credit in the Reserve for Defined Contribution Plan, Hybrid Plan Defined Contribution Component.
 - (b) Pursuant to procedures established by the Retirement Board, the funded excess present value shall be computed as the excess, if any, of the actuarial present value of the accrued benefit associated with the member's coverage under the previous benefit plan, over the actuarial present value of the accrued benefit associated with the member's coverage under the Defined Benefit Component of the Hybrid Plan, after such excess is multiplied by the funded level percentage selected by the governing body in the Hybrid Plan Adoption Agreement (which shall not be less than 80% nor exceed 100% funded level percentage in any case). The excess, if any, of the funded excess present value over the amount specified in subparagraph (a) shall be transferred from the Reserve for Employer Contributions and Benefit Payments to the member's credit in the Reserve for Defined Contribution Plan, Hybrid Plan Defined Contribution Component. For purposes of this sub-paragraph:

- (i) The actuarial present values shall be computed as of 12:01 a.m. on the day the member becomes covered by the Hybrid Plan and shall be based on the actuarial assumptions adopted by the Retirement Board.
 - (ii) On the effective date of the change of the benefit program the member's credited service under the Hybrid Plan shall be equal to the member's credited service under the previous benefit program.
 - (iii) In determining final average compensation there shall not be included any accrued annual leave, and the employer's defined benefit vesting schedule shall be disregarded.
 - (iv) The earliest retirement date (for an unreduced benefit) assumption under the previous benefit plan in effect on the effective date of the change of the benefit program shall be utilized. Likewise the earliest retirement date assumption under the Hybrid Plan shall be utilized.
 - (v) For purposes of the actuarial present value calculation, any future benefit otherwise payable under Benefit Program COLA shall be disregarded.
 - (vi) Upon conversion, the total dollar amount of the present value (as calculated under (1)(c) above) shall be immediately transferred or cash funded (or both) by the employer to the credit of the member in the Hybrid Plan Defined Contribution Component.
- (5) For each member who is covered by the Defined Contribution Plan and who, under subsection (2), elects coverage under the Hybrid Plan:
- (a) The member's accumulated balance (if any) in the Reserve for Defined Contribution Plan under the Defined Contribution Plan as of 12:01 a.m. on the day the member becomes covered by the Hybrid Plan shall be transferred to the member's credit in the Reserve for Defined Contribution Plan under the Hybrid Plan, Defined Contribution Component.
 - (b) For purposes of calculating benefit amounts under the Defined Benefit Component of the Hybrid Plan, only credited service earned after 12:01 a.m. on the day the member becomes covered by the Hybrid Plan shall be recognized.
- (6) For current members in the Defined Benefit Plan, a participating municipality or court may adopt the Hybrid Plan for new hires, and, as an alternative to the conversion opportunity described in subsections (2) through (4), either terminate

future participation in the Defined Benefit Plan or provide current members with a one-time irrevocable opportunity to terminate future participation in the Defined Benefit Plan. A current member whose participation in the Defined Benefit Plan is terminated shall become covered by the Hybrid Plan and cease to accrue additional benefits under the former Defined Benefit Plan as of the Hybrid Plan effective date.

- (a) A current member of the Defined Benefit Plan who terminates participation under this subsection and enrolls in the Hybrid Plan shall be credited with continuous credited service for purposes of satisfying vesting and eligibility requirements under both the Defined Benefit Plan and the Hybrid Plan.
 - (b) In calculating the defined benefit retirement allowance under this subsection, final average compensation shall be determined as of the Hybrid Plan effective date.
- (7) A participating municipality or court may provide a current member whose participation in the Defined Benefit Plan is terminated under subsection (6) with an opportunity to convert their accrued benefit to the Hybrid Plan Defined Contribution Component by transferring the amounts specified under subsection (4). A member who makes such an election waives all of his or her rights to a retirement allowance or any other benefit provided under the previous benefit plan. If the member is married at the time of election, the election is not effective unless the election is signed by the member's spouse, except that this requirement may be waived by the Retirement System if the signature of the member's spouse cannot be obtained because of extenuating circumstances. A participating municipality or court that provides this conversion option must satisfy the funding requirement under subsection (1)(c).