

**Note:**

*Employer responsibilities have been streamlined, while also minimizing potentially substantial employer liabilities.*

*Web seminars for employers are available outlining these changes. To register go to [www.opers.org](http://www.opers.org).*

## Additional legislative changes regarding membership determination requests

**Who should read this notice**

Finance directors, payroll, human resources, and benefits professionals

**Situation overview**

The Ohio General Assembly recently passed additional legislative changes to the membership determination requirements. We recognize this may have caused some confusion as both employers and OPERS worked to comply with existing requirements.

The most recent changes simplify employer responsibilities, while upholding the initial intent of minimizing potentially substantial employer liabilities. In addition, the legislation requires OPERS to initiate an outreach program to help ensure potentially affected individuals are aware of these statutory changes.

Specifically, the legislation provides the following:

- Maintains the Aug. 7, 2014, deadline by which individuals who provided service *prior to* Jan. 7, 2013, must make a request for membership determination.
- With regard to individuals who provided service prior to Jan. 7, 2013, specifies that, for those OPERS members who submit a request for determination after the effective date of the new legislation and who have established 10 or more years of service credit **after** the period for which no contributions were withheld and remitted, their request for OPERS membership will be denied for the services in question.
- Individuals who began providing services *on or after* Jan. 7, 2013, must make their request for a membership determination within five years of starting to provide the services. These individuals will be denied a determination if this threshold is not met (unless the individual can prove incapacity to make such request). This limit is in effect regardless of whether the employer can produce an acknowledgment form.

In addition, the legislation imposes the following obligations on OPERS and employers with regard to membership determinations:

**Actions for OPERS:**

- OPERS is required to place ads the top eight newspapers in Ohio.
  - OPERS will also continue its outreach campaign to notify any affected individuals of the right to request a determination by continuing to post information on the OPERS web site.



- OPERS will process all membership determination requests received on or after the effective date of this legislation according to the provisions listed above.
- Pending requests will be processed under the original Sub. S.B. 343 and H.B. 67 requirements.

#### **Actions for employers:**

- Public employers are no longer required to notify individuals who performed services prior to Jan. 7, 2013, but for which no contributions were withheld, of their right to request a determination.
  - Please note that OPERS will not reimburse for any expenses incurred by employers related to notifying individuals as required under Sub. S.B. 343 and H.B. 67 requirements.
- Employers must retain the acknowledgement form (OPERS form: PEDACKN) for five years for those who began providing services on or after Jan. 7, 2013.
- Public employers must transmit a copy of the acknowledgement form (PEDACKN) to the public entity that reports payroll to OPERS, rather than sending directly to OPERS.
- Contracts for personal services between employers and business entities must include provisions that all employees of the entity are not “public employees” for the purpose of OPERS membership.

#### **Why this is important**

The legislative changes reviewed here provide important protections for both public employers, while still ensuring individuals who may be eligible for OPERS membership have the information necessary to pursue a membership determination in a timely fashion.

#### **Who to contact for more information**

As always, if you have questions, contact OPERS at 888-400-0965, option #3, for your dedicated compliance specialist, or by e-mail at [employeroutreach@opers.org](mailto:employeroutreach@opers.org).

**For a current listing of OPERS Board members, please visit [www.opers.org](http://www.opers.org)**

*It is your responsibility to be certain that OPERS has your current physical and e-mail address on file. If OPERS is not made aware of address changes, we cannot guarantee that you will receive important information pertaining to OPERS public employers. This Employer Notice is written in plain language for use by public employers who are subject to coverage under the Ohio Public Employees Retirement System. It is not intended as a substitute for the federal or state law, namely the Ohio Revised Code, the Ohio Administrative Code, or the Internal Revenue Code, nor will its interpretation prevail should a conflict arise between it and the Ohio Revised Code, Ohio Administrative Code, or Internal Revenue Code. Rules governing the retirement system are subject to change periodically either by statute of the Ohio General Assembly, regulation of the Ohio Public Employees Retirement Board, or regulation of the Internal Revenue Code. If you have questions about this material, please contact our office or seek legal advice from your attorney.*

