

# STATE OF NEW YORK

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5634

2017-2018 Regular Sessions

## IN SENATE

April 21, 2017

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Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to providing for the automatic enrollment for employees whose right to membership has been made optional by the head of the public retirement system involved

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 45 of the retirement and social security law, as  
2 added by chapter 878 of the laws of 1986, is amended to read as follows:

3 § 45. Right to membership. a. Upon the employment of any employee  
4 whose right to membership in a public retirement system of the state,  
5 which for purposes of this section shall include any public retirement  
6 system other than the New York state teachers' retirement system, has  
7 been made optional by the head of the retirement system involved, the  
8 employer shall provide the respective automatic contribution arrangement  
9 for the employee to join the retirement system ninety days after  
10 commencement of employment, with membership in the retirement system  
11 commencing on the ninety-first day after commencement of employment,  
12 provided that, if the employee files with the system an application to  
13 opt out of membership within ninety days after commencement of employ-  
14 ment, the employer shall refrain from enrolling the employee in the  
15 retirement system unless and until such employee subsequently files an  
16 application for membership with the system. The automatic enrollment of  
17 optional employees as provided for in this section shall not be  
18 construed to modify the right of eligible employees to join a public  
19 retirement system as of the first date of covered employment by filing  
20 an application for membership with the system. The employer shall  
21 further inform the employee in writing of the right to join the system  
22 as well as the fact that the employee shall be enrolled in the retire-  
23 ment system after the ninetieth day after commencement of employment,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 unless such employee files with the system an application to opt out of  
2 the system prior to such date. Each such employee shall acknowledge the  
3 receipt of such notice by signing a copy thereof and filing it with such  
4 employer[~~, provided, however, the failure to inform such employee shall~~  
5 ~~not in any way be construed to waive the requirement that membership for~~  
6 ~~such an employee commences only when an application for membership is~~  
7 ~~filed with the system, nor shall it be construed to waive any of the~~  
8 ~~eligibility requirements for previous service credit]. Any eligible~~  
9 employee who elects to opt out of membership in a public retirement  
10 system within the ninety day period shall retain the right to join such  
11 system by subsequently filing an application for membership so long as  
12 such employee remains in covered employment.

13 b. Each employer shall enroll in the applicable retirement system,  
14 every current employee eligible for, but not enrolled in, a public  
15 retirement system, on October first, two thousand eighteen, unless such  
16 employee files an application with the system to opt out of the retire-  
17 ment system by September thirtieth, two thousand eighteen. Automatic  
18 enrollment in the retirement system shall not be construed to waive any  
19 of the eligibility requirements for previous service credit.

20 c. The automatic enrollment of optional employees as provided for in  
21 this section shall not be construed to modify the rights and obligations  
22 of any employee who is a mandated member of a public retirement system  
23 under any applicable law, and such mandated members may not opt out of  
24 membership.

25 § 2. This act shall take effect July 1, 2018.