

NEW AUTO-ENROLLMENT LEGISLATION GOES INTO EFFECT JULY 1, 2024

On December 8, 2023, New York Governor Kathy Hochul signed into law Chapter 721 of the Laws of 2023 ("Chapter 721"). This law, which takes effect on July 1, 2024, provides that certain employees eligible for BERS membership will be automatically enrolled in BERS unless they opt out within 90 days.

Please see below for some questions and answers about the scope and the effect of the law. If you have more questions, please don't hesitate to contact us. You may reach us by phone Monday through Friday, 8:30 am through 4:30 pm, at (929) 305-3800 or (800) 843-5575 (outside New York State). You may also email us at brespon@bers.nyc.gov by using this form.

Q. How do I know if Chapter 721 applies to me?

- A. Beginning July 1, 2024, this law will apply to every employee who:
- a) is currently in service in a [title eligible for BERS membership](#);
 - b) is active on payroll;
 - c) is not enrolled in BERS or any other New York City or State retirement system; and
 - d) is not provisionally appointed to a competitive title.

Q. How does Chapter 721 affect current employees?

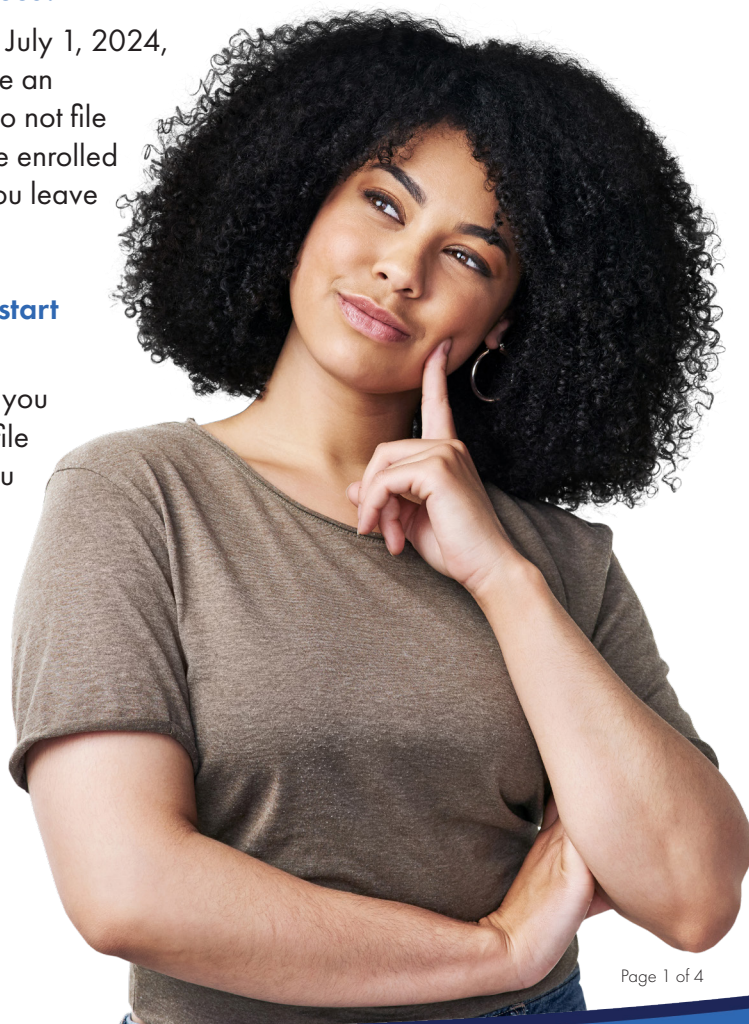
- A. If all of the above requirements apply to you as of July 1, 2024, then you will have until September 30, 2024 to file an [Auto-Enrollment Opt-Out](#) form with BERS. If you do not file this form by September 30, 2024, then you will be enrolled as a BERS member on October 1, 2024, unless you leave your BERS-eligible employment before then.

Q. How will Chapter 721 affect employees who start work after July 1, 2024?

- A. If all of the above requirements begin applying to you after July 1, 2024, then you will have 90 days to file an [Auto-Enrollment Opt-Out](#) form with BERS. If you do not file this form within 90 days, then you will be enrolled as a BERS member on the 91st day, unless you leave your BERS-eligible employment before then.

Q. How does Chapter 721 affect current BERS members?

- A. If you are a member of BERS, then this law will have no effect on you. Similarly, if you are a member of one of the other public retirement systems of New York City or State, then this law will have no effect on you.



Q. Does Chapter 721 apply only to DOE employees?

- A. No, this law applies to all BERS-eligible employees who meet all the requirements listed above. This includes employees of the School Construction Authority (SCA), School Crossing Guards employed by the New York City Police Department, etc.

Q. I am a part-time employee. Does Chapter 721 apply to me?

- A. Yes, Chapter 721 applies to both full-time and part-time employees in eligible titles, as long as they are not provisionally appointed to a competitive title.

Q. What does “provisionally appointed to a competitive title” mean?

- A. Many New York City jobs ordinarily require a competitive exam to qualify. Candidates who pass the exam are placed on a list in order of performance, and agencies hire from that list. However, at times when no list is available, the DOE and other City agencies can hire employees provisionally into these titles. Provisional appointees are designated by Civil Service Status Codes E, F, G, H, I, J, K, Q, and U. Only employees with Civil Service Status Codes N, W and X are subject to auto-enrollment under Chapter 721.

Q. What if I want to join BERS sooner than the 91st day?

- A. If you are serving in a BERS-eligible title, you can join BERS at any time by submitting a signed and notarized [Tier 6 Membership Application](#) form.

Q. What if I don’t want to join BERS?

- A. If you don’t want to join BERS at this time, you can prevent your automatic enrollment by submitting an [Auto-Enrollment Opt-Out](#) form.

Q. What if I join BERS, but later change my mind?

- A. Once BERS membership has been established, it is irrevocable as long as you remain in covered employment. If you leave your job with less than 10 years of service credit, you will have the option of withdrawing your BERS contributions by submitting a signed and notarized [Withdrawal of Accumulated Deductions](#) form.

Q. What if I opt out of BERS auto-enrollment, but later change my mind and decide to enroll in BERS?

- A. You may enroll in BERS at any time, as long as you remain in covered employment, by submitting a signed and notarized [Tier 6 Membership Application](#) form.

Q. What if I opt out of BERS auto-enrollment, but later become permanently appointed to a BERS-eligible title?

- A. Employees permanently appointed to BERS-eligible titles have always been required to join BERS, even before Chapter 721. If you become permanently appointed to a BERS-mandated title, then you will be enrolled in BERS effective on the date of your permanent appointment, even if you previously opted out of auto-enrollment under Chapter 721.

Q. I don't intend to work in this job for my entire career. Is there any reason I should consider BERS membership anyway?

- A. BERS membership comes with many valuable advantages, even for members who may only work for the City for a few years. The following privileges are available only to retirement system participants, and not to City employees in general:
1. **Disability insurance.** BERS members who are disabled as a result of a work-related accident are eligible to apply for Accident Disability Retirement. BERS members who are disabled after accruing 10 or more years of credited service are eligible to apply for Ordinary Disability Retirement, regardless of the cause of their disability.
 2. **Death Benefits.** After one year of credited service, BERS members are covered by a death benefit equal to one year of salary. After two years of credited service, this amount is increased to two years of salary. After three years of credited service, this amount is increased to three years of salary. This death benefit is payable to the beneficiary(ies) designated by the member.
 3. **Deferred Vested Benefit.** BERS service retirement benefits vest with only five years of credited service. BERS members who leave covered employment before retirement age will still be eligible to receive a deferred vested benefit when they reach retirement age, as long as they have five years of credited service.
 4. **Tax-Deferred Annuity (TDA) Program.** BERS members employed by the DOE are also eligible to contribute to the BERS TDA Program. The BERS TDA Program includes a variable investment option as well as a fixed investment option with a guaranteed interest rate of 7% for members represented by the UFT and 8.25% for all other members. As of 2024, contributions may be made either on a pre-tax or on a Roth basis. For more information, see the [TDA Brochure](#).

Q. How much does it cost to be a member of BERS?

- A. As of April 1, 2012, new BERS members are enrolled in Tier 6. Tier 6 members pay basic member contributions in an amount ranging from 3% to 6%, according to the following schedule:

Annual wages	Basic member contribution rate
\$45,000 or less	3%
greater than \$45,000, up to \$55,000	3.50%
greater than \$55,000, up to \$75,000	4.50%
greater than \$75,000, up to \$100,000	5.75%
over \$100,000	6%

Members who belong to early retirement plans also make Additional Member Contributions (AMC). The AMC rate is 4.83% for the Automotive Early Retirement Program and 6.25% for the Special Officers Early Retirement Program.

Q. I am interested in BERS membership, but I don't know if I can afford member deductions from my paycheck.

A. When deciding whether you can afford to make BERS member contributions, here are some additional factors you should consider:

1. **Contribution loans.** 1 year after membership, BERS members are allowed to borrow up to 75% of their contribution balance or \$50,000, whichever is less.
2. **Contribution refunds with interest.** Additionally, BERS members who leave covered employment with less than 10 years of credited service are entitled to a refund of contributions with 5% compound interest.

For more information about BERS benefits, please see the [Tier 6 Summary Plan Description](#), or contact our office with any questions.

CONTACT BERS



PHONE

Call: **929.305.3800** | Outside NY State: **1.800.843.5575**
Call Center hours are from 8:30 am to 4:30 pm.



FAX

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Visit BERS Website

www.nycbers.org