Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 425: PARTICIPATING LOCAL DISTRICTS

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Subchapter 1: GENERAL PROVISIONS

§18200. NAME, ESTABLISHMENT AND PURPOSE

There is established the Participating Local District Retirement Program as a governmental qualified defined benefit plan pursuant to Sections 401(a) and 414(d) of the Internal Revenue Code and such other provisions of the Internal Revenue Code and United States Treasury regulations and other guidance as are applicable, which has the powers and privileges of a corporation. [2009, c. 474, §26 (AMD).]

The purpose of the Participating Local District Retirement Program is to provide retirement allowances and other benefits under this chapter for employees of participating local districts. [2007, c. 491, §181 (NEW).]

SECTION HISTORY
2007, c. 491, §181 (NEW). 2009, c. 474, §26 (AMD).

§18201. LOCAL DISTRICT PARTICIPATION

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

A local district may contract for the participation of its employees in the Participating Local District Retirement Program under this chapter any time before the date the board puts into operation the consolidated retirement plan for participating local districts under chapter 427. After the date on which the consolidated plan described in chapter 427 is put into operation, a local district may contract for participation only under the consolidated plan. [2007, c. 491, §182 (AMD).]

1. **Local districts that are not municipalities.** For a local district that is not a municipality, as that term is defined in Title 1, section 72, subsection 13, the executive body of the district must approve participation and must file with the board a duly certified copy of the resolution approving the participation and the extent of the benefits which are to apply and setting the date of establishment as provided under subsection 4.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Local districts that are municipalities.** For a local district that is a municipality, as that term is defined in Title 1, section 72, subsection 13, the legislative body of the municipality must approve participation and must file with the board a record of the vote of the legislative body, certified by the clerk of the municipality, approving the participation and the extent of the benefits which are to apply and setting the date of establishment as provided under subsection 4.

[1985, c. 801, §§5, 7 (NEW) .]

3. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Exempt employees.** The local district shall designate in its approval any class of employees that the district determines to be exempt from this Part.

[1991, c. 619, §11 (AMD); 1991, c. 619, §18 (AFF) .]

3. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Exempt employees.** The local district shall designate in its approval any class of employees, otherwise provided for by local pension provisions, who are exempt from this Part.

[1985, c. 801, §§5, 7 (NEW) .]

3-A. **Compliance with federal law.** The local district is responsible for compliance with 26 Code of Federal Regulations, Part 31, with Section 401 of the United States Internal Revenue Code and with other relevant federal law and rules with respect to its employees, including employees to whom section 18252-A applies.

[1997, c. 709, §1 (NEW) .]

4. **Date of establishment.** The date when the participation of the employees of a participating local district begins shall be set by the district. This date, which shall be no later than 6 months after the date of approval, shall be considered as the date of establishment for a participating local district under section 17101, subsection 3.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 811, §2 (AMD). 1991, c. 619, §11 (AMD). 1993, c. 250, §2 (AMD). 1997, c. 709, §1 (AMD). 2007, c. 491, §182 (AMD).

§18202. ADOPTION OF AMENDMENTS TO LAWS

1. **Adoption optional.** A participating local district may adopt any or all of the amendments to this Part by filing with the board a duly certified copy of the vote of the body which would be entitled to approve participation under section 18201, setting forth the amendments to this Part which are to be adopted by that district.

A. A participating local district may elect to retain any or all of the provisions of the retirement law that the district adopted at the time of the original contract and including any changes adopted or selected by the district after that time. [1985, c. 801, §§5, 7 (NEW).]

B. The participating local district may request a valuation to determine the cost of any amendments. The cost of the valuation shall be assessed to and paid by the participating local district. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Effectiveness of amendments.** Any amendments to this Part enacted by the Legislature, which could grant benefits to employees of participating local districts, shall be effective only if the district elects to adopt the benefits and agrees to pay into the retirement system required costs as developed by the actuary.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Application.** Notwithstanding the provisions of subsections 1 and 2, the amendments made to the Participating Local District Retirement Program disability plans to meet the requirements of the federal Older Workers Benefit Protection Act apply to each participating local district without adoption by the district.

[2007, c. 491, §183 (AMD) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1991, c. 887, §11 (AMD). 2007, c. 491, §183 (AMD).

§18203. WITHDRAWAL OF DISTRICT FROM PARTICIPATION

A participating local district may withdraw from further participation in the Participating Local District Retirement Program under the terms and conditions of this section. [2007, c. 491, §184 (AMD).]

1. **Procedure.** Withdrawal from participation is accomplished by filing with the board a duly certified copy of the vote of the body which would be entitled to approve participation under section 18201.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Effective date.** The withdrawal shall become effective on the last day of the month following the month in which the certified notice is received by the board.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Amendments.** A participating local district that has withdrawn from participation in the Participating Local District Retirement Program may adopt any provision of this Part and amend its plan to reflect adoption of that provision, whether the provision took effect before or after the effective date of the district's withdrawal. A participating local district withdrawing under this section may not amend its retirement plan except in accordance with this subsection, and any such amendment is effective only with respect to employees of the district who remained in the Participating Local District Retirement Program at the time of the district's withdrawal.

[2007, c. 491, §185 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §22 (AMD). 2003, c. 273, §1 (AMD). 2007, c. 491, §§184, 185 (AMD).

§18203-A. RESUMPTION OF PARTICIPATION AFTER WITHDRAWAL

The board may establish by rule the conditions under which a local district that has withdrawn from participation in the Participating Local District Retirement Program may again contract for participation of its employees in that program under this chapter or under chapter 427. [2007, c. 491, §186 (AMD).]

SECTION HISTORY
1991, c. 580, §11 (NEW). 2007, c. 491, §186 (AMD).

§18204. CHIEF FISCAL OFFICER

The chief fiscal officer of a participating local district shall, in order to assist in the administration of the Participating Local District Retirement Program: [2007, c. 491, §187 (AMD).]

1. **Information.** Submit to the board whatever information about the employees of the participating local district the board prescribes; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Duties.** Cause to be performed whatever duties, with respect to the employees of the participating local district, that the board prescribes.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §187 (AMD).

§18205. INTERNAL REVENUE CODE QUALIFIED PLAN COMPLIANCE

The Participating Local District Retirement Program established in this chapter is subject to the following requirements. [2009, c. 474, §27 (NEW).]

1. **Vesting.** In compliance with the Code, Section 401(a)(7), a member is 100% vested in the member's contribution account at all times.

[2009, c. 474, §27 (NEW) .]

2. **Use of forfeitures of benefits.** In compliance with the Code, Section 401(a)(8), any forfeitures of benefits by members or former members may not be used to pay benefit increases, but must be used to reduce unfunded liabilities.

[2009, c. 474, §27 (NEW) .]

3. **Benefits.** In compliance with the Code, Section 401(a)(9), benefits must be paid in accordance with a good faith interpretation of the requirements of the Code, Section 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of the Code, Section 414(d).

[2009, c. 474, §27 (NEW) .]

4. **Application of annual compensation limits.** In compliance with the Code, Section 401(a)(17), applicable annual compensation limits must be applied for purposes of determining benefits or contributions due to the retirement system.

[2009, c. 474, §27 (NEW) .]

5. **Rollovers.** In compliance with the Code, Section 401(a)(31), a member may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover.

[2009, c. 474, §27 (NEW) .]

6. **Qualified military service.** Effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service are governed by the Code, Section 414(u) and the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and, effective January 1, 2007, the Code, Section 401(a)(37).

[2009, c. 474, §27 (NEW) .]

7. **Additional requirements.** In compliance with the Code, Section 415, the member contributions paid to and retirement benefits paid from the Participating Local District Retirement Program must be limited to the extent necessary to conform to the requirements of the Code, Section 415 for a qualified pension plan.

[2009, c. 474, §27 (NEW) .]

8. **Compliance with Section 503(b).** Effective July 1, 1989, the board may not engage in a transaction prohibited by the Code, Section 503(b).

[2009, c. 474, §27 (NEW) .]

9. **Rules.** The board shall adopt rules necessary to maintain the qualified pension plan tax status of the Participating Local District Retirement Program under the Internal Revenue Code as required for governmental defined benefit plans defined in the Code, Section 414(d). Rules adopted under this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

[2009, c. 474, §27 (NEW) .]

SECTION HISTORY
2009, c. 474, §27 (NEW).

Subchapter 2: MEMBERSHIP

§18251. COMPULSORY AND OPTIONAL MEMBERSHIP

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Compulsory membership.** Membership is compulsory for all persons entering the service of a participating local district after the date of establishment for the participating local district, except as otherwise provided by subsection 3; section 18201, subsection 3; or section 18256.

[2003, c. 630, Pt. A, §1 (AMD) .]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Compulsory membership.** Membership is compulsory for all employees entering the service of a participating local district after the date of establishment for the participating local district, but not for employees exempted under subsection 2; under section 18201, subsection 3; or under section 18252.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Optional membership.**

[2003, c. 630, Pt. A, §2 (RP) .]

3. **Optional membership.** Membership in the Participating Local District Retirement Program is optional for the following employees of a participating local district:

A. A person in the service of a participating local district on the date of establishment for that participating local district. Once such a person joins the Participating Local District Retirement Program, membership ceases to be optional for that person under this paragraph; [2007, c. 491, §188 (AMD).]

B. An elected official or an official appointed for a fixed term. Special provisions apply to certain officials as follows:

(1) Membership of trustees of a water district is governed by Title 35-A, section 6410, subsection 8;

(2) Membership of trustees of a sanitary district is governed by Title 38, section 1104; and

(3) Membership of trustees of a sewer district is governed by Title 38, section 1036, subsections 7 and 8; [2013, c. 555, §1 (AMD).]

C. A chief administrative officer of a participating local district, whether appointed for a fixed term or appointed with tenure; and [2003, c. 630, Pt. A, §3 (NEW).]

D. A person whose membership is optional under section 18252, 18252-A or 18801. [2003, c. 630, Pt. A, §3 (NEW).]

A person must make an election at the time of initial hire, or on the date of first eligibility to participate, whichever occurs earlier, whether to be a member of the program. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

[2013, c. 555, §1 (AMD) .]

4. **Delayed election of membership.**

[2009, c. 474, §29 (RP) .]

5. **Reentry.**

[2009, c. 474, §30 (RP) .]

6. **Limitations on claims for participation.** If an employee claims that the employee was not offered participation in the program at the commencement of or during the course of employment with the participating local district, that claim must be commenced within 6 years of the date upon which the employee was first eligible for participation in the program.

[2015, c. 384, §2 (NEW) .]

7. **Participation in other retirement plans.** If an employee requests and is allowed retroactive participation in the program, and during the time for which these retroactive retirement benefits are sought the participating local district offered and the employee participated in another retirement plan, all contributions made to the alternative plan by the employer and all earnings made on employer and employee contributions must be paid to the retirement system, up to the amount that the employer is required by the retirement system to pay to fund retroactive benefits under the program. In the event the funds available in the employee's alternative retirement plan account are not sufficient to fund the employer's required contributions to the retirement system, the employer shall pay any remaining employer contributions required by the retirement system to fund retroactive benefits under the program.

[2015, c. 384, §2 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §23 (AMD). 1987, c. 739, §§28,48 (AMD). 1991, c. 619, §12 (AMD). 1991, c. 619, §18 (AFF). 1997, c. 709, §2 (AMD). 2003, c. 630, §§A1-3 (AMD). 2007, c. 491, §§188-190 (AMD). 2009, c. 474, §§28-30 (AMD). 2011, c. 449, §13 (AMD). 2013, c. 555, §1 (AMD). 2015, c. 384, §2 (AMD).

§18252. MEMBERSHIP IN DISTRICTS WITH SOCIAL SECURITY COVERAGE

A person who is or would be covered by the United States Social Security Act as a result of employment by a participating local district with Social Security coverage may elect to be a member in the Participating Local District Retirement Program. A person must make an election at the time of initial hire or on the date of first eligibility to participate, whichever occurs earlier, whether to be a member of the program. Once an election is made under this section, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory. [2011, c. 449, §14 (AMD).]

1. Membership.

[2009, c. 474, §31 (RP) .]

2. Employee who is participating member.

[2009, c. 474, §31 (RP) .]

3. Person who has previously ceased contributions.

[2009, c. 474, §31 (RP) .]

4. Employee who has previously withdrawn rejoins after 3 years.

[2003, c. 387, §6 (RP) .]

5. Limit on right to rejoin.

[2009, c. 474, §31 (RP) .]

6. Restoration to service. If any person who is the recipient of a service retirement benefit is covered by the United States Social Security Act upon being restored to service, continuation of that person's benefit is governed by the following.

A. The person may elect to have the service retirement benefit continued during the period of time the person is restored to service and the person may not accumulate any additional service credits. [2009, c. 415, Pt. A, §5 (RPR).]

B. The person may elect to have the service retirement benefit terminated, again become a member of the Participating Local District Retirement Program and begin contributing at the current rate.

(1) The person is entitled to accumulate additional service credits during the period of time the person is restored to service.

(2) When the person again retires, the person is entitled to receive benefits computed on the person's entire creditable service and in accordance with the law in effect at the time. [2009, c. 415, Pt. A, §5 (RPR).]

C. Upon being restored to service, the person must elect to have benefits either continued or terminated. If written notification of the person's election is not received by the executive director within 60 days of restoration to service, the person is deemed to have elected the provisions of paragraph A. The election, regardless of how it is made, is irrevocable during the period of restoration to service. [2009, c. 415, Pt. A, §5 (RPR).]

[2009, c. 415, Pt. A, §5 (RPR) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§29,48 (AMD). 1987, c. 823, §§4-6 (AMD). 1989, c. 677, §§2,3 (AMD). 1993, c. 349, §20 (AMD). 1997, c. 709, §3 (AMD). 2001, c. 699, §3 (AMD). 2003, c. 387, §6 (AMD). 2003, c. 630, §A4 (AMD). 2005, c. 76, §1 (AMD). 2007, c. 137, §17 (AMD). 2007, c. 490, §1 (AMD). 2007, c. 491, §191 (AMD). 2009, c. 415, Pt. A, §5 (RPR). 2009, c. 474, §31 (AMD). 2011, c. 449, §14 (AMD).

§18252-A. MEMBERSHIP IN DISTRICT WITHOUT SOCIAL SECURITY COVERAGE AND WITH PLAN PROVIDED BY THE EMPLOYER UNDER SECTION 18252-B

1. **Membership.** An employee of a participating local district that does not have Social Security coverage and that has a plan provided by the employer under section 18252-B may elect to be a member under the Participating Local District Retirement Program or to be covered under the plan provided by the employer in accordance with the following.

A. A person hired by a participating local district, or rehired following a break in service, after the date on which the employer provides a plan under section 18252-B must elect at the time of initial hiring or rehiring whether to be a member under the Participating Local District Retirement Program or to be covered under a plan provided by the employer under section 18252-B. Once an election is made under this paragraph, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory. [2011, c. 449, §15 (AMD).]

B. An employee of the participating local district who is a member under the Participating Local District Retirement Program on the date on which the employer provides a plan under section 18252-B may elect to remain a member under that program or to become covered under a plan provided by the employer under section 18252-B. A person must make an election within 90 days of the date on which the employer provides a plan under section 18252-B. Once an election is made under this paragraph, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory.

(1) If that person elects not to remain a member, the election is effective as of the first day of the month in which no contributions or pick-up contributions are made to the Participating Local District Retirement Program by that person. A person who elects not to remain a member may, at that person's discretion, withdraw accumulated contributions in accordance with section 18306-A. [2009, c. 474, §33 (AMD).]

C. [2003, c. 630, Pt. A, §5 (RP).]

D. If the participating local district does not have a plan provided under section 18252-B, the employees do not have the elections provided under paragraphs A and B. [2009, c. 415, Pt. A, §6 (RPR).]

[2011, c. 449, §15 (AMD) .]

2. **District employer responsibilities.** Responsibilities of the participating local district employer are as follows.

A. The participating local district employer is responsible for ensuring that the plan provided by the employer under section 18252-B meets the requirements of that section. [1997, c. 709, §4 (NEW).]

B. The participating local district employer is responsible for providing employees with information as to membership under the Participating Local District Retirement Program and as to coverage under the plan provided by the employer under section 18252-B to assist the employee in making election decisions. The retirement system shall provide the employer with information as to the Participating Local District Retirement Program. [2007, c. 491, §193 (AMD).]

C. The participating local district employer is responsible for providing procedures by which employees make elections under this section, for maintaining all records relevant to the election process and each employee's elections, for informing the retirement system as to employee elections in accordance with procedures established by the executive director and for making all administrative decisions, including the final administrative decision, in any dispute related to an employee's elections or administrative decision, in any dispute related to an employee's elections or to any issue as to the plan provided by the employer under section 18252-B. Neither the retirement system nor the system's board of trustees

has responsibility or jurisdiction to make the final administrative decision with respect to any of these matters. The retirement system is responsible only to ensure that its records accurately reflect the information provided by the employer, the employer's decision as to any of these matters, and the legally cognizable outcome of any dispute related to any of these matters. [1997, c. 709, §4 (NEW).]

D. With respect to matters related to participation and membership other than those specified in paragraph C, the retirement system and the board retain responsibility and authority according to applicable retirement system law and rules as to the participating local districts and their employees to whom this section applies, including the authority to make final administrative decisions. [1997, c. 709, §4 (NEW).]

[2007, c. 491, §193 (AMD) .]

3. **Exclusions.** This section does not apply to employees of participating local districts:

A. Who are employed in part-time, seasonal or temporary positions; [2003, c. 630, Pt. A, §6 (NEW).]

B. Whose membership in the Participating Local District Retirement Program is optional under section 18252, section 18801, subsection 1 or section 18251, subsection 3, paragraph A, B or C; [2007, c. 491, §194 (AMD).]

C. For whom membership in the Participating Local District Retirement Program is denied under section 18256; or [2007, c. 491, §195 (AMD).]

D. Who are excluded from membership under section 18201, subsection 3. [2003, c. 630, Pt. A, §6 (NEW).]

[2007, c. 491, §§194, 195 (AMD) .]

SECTION HISTORY
1997, c. 709, §4 (NEW). 2003, c. 387, §7 (AMD). 2003, c. 630, §§A5,6 (AMD). 2007, c. 137, §§18, 19 (AMD). 2007, c. 490, §2 (AMD). 2007, c. 491, §§192-195 (AMD). 2009, c. 415, Pt. A, §6 (AMD). 2009, c. 474, §§32, 33 (AMD). 2011, c. 449, §15 (AMD).

§18252-B. REQUIREMENTS FOR PLAN PROVIDED BY DISTRICT EMPLOYER FOR EMPLOYEES TO WHOM SECTION 18252-A APPLIES

The plan provided by the participating local district employer for employees to whom section 18252-A applies must meet the following requirements. [1997, c. 709, §4 (NEW).]

1. **Internal Revenue Code.** The plan must meet the requirements of United States Internal Revenue Code, Section 401(a) for defined contribution plans or United States Internal Revenue Code, Section 457 for deferred compensation plans, or both.

[1997, c. 709, §4 (NEW) .]

2. **Employer contribution.** The employer must contribute as a percentage of compensation on behalf of each employee in each pay period an amount not less than the amount the employer would be required to pay if the employee were covered under the United States Social Security Act, not including the Medicare portion of the payment, consistent with applicable contribution limits of federal law.

[2015, c. 2, §5 (COR) .]

3. **Employee contribution.** The employee must contribute as a percentage of compensation in each pay period an amount not less than the employee would have been required to contribute had the employee been a member under the Participating Local District Retirement Program under the so-called "Regular Plan A" of the consolidated plan for participating local districts, consistent with applicable contribution limits of federal law.

[2007, c. 491, §196 (AMD) .]

4. **Education.** The employer must provide for employees to whom section 18252-A applies an education program that meets the requirements of federal law for such programs for the plan that the employer provides.

[1997, c. 709, §4 (NEW) .]

5. **Disability benefits** . For employees who become covered under the plan, the employer must provide a disability benefit program, the cost of which must be paid by the employer. At a minimum, that program must establish eligibility criteria, provide coverage for physical and mental disabilities and provide a level of benefits at least equal to 60% of the employee's annual compensation.

[1997, c. 709, §4 (NEW) .]

6. **Change or termination of plan.** Except with respect to current employees covered under the plan and with respect to persons receiving benefits under the plan, the employer may change or terminate the plan at any time, to the extent that change or termination is not prohibited by other law. The employer may allow current employees covered under the plan the choice to instead be covered under the changed plan.

A. Section 18252-A, subsection 1, paragraph A applies to an employee hired or rehired by the employer after the employer changes the plan. [1997, c. 709, §4 (NEW).]

B. If, after plan termination, the employer no longer provides a plan under this section, an employee hired or rehired after termination of the plan must be a member under the Participating Local District Retirement Program. [2007, c. 491, §197 (AMD).]

C. [2009, c. 474, §34 (RP).]

[2009, c. 474, §34 (AMD) .]

SECTION HISTORY
1997, c. 709, §4 (NEW). 2007, c. 491, §§196-198 (AMD). 2009, c. 474, §34 (AMD). RR 2015, c. 2, §5 (COR).

§18253. EMPLOYMENT CHANGES AFFECTING MEMBERSHIP

1. **Reemployment with new employer.** Membership of a member who is reemployed with a new employer is governed as follows.

A. Any member of the State Employee and Teacher Retirement Program or the Participating Local District Retirement Program whose service is terminated as a state employee, teacher or participating local district employee and who becomes employed as a state employee, teacher or participating local district employee with a new employer shall, if the member has not previously withdrawn the member's accumulated contributions:

(1) Have the membership transferred to the member's account with the new employer; and

(2) Be entitled to all benefits that:

(a) Are based on creditable service and earnable compensation with the previous employer and the provisions of this Part in effect with respect to the previous employer at the date of termination of service by the member; and

(b) Do not require additional contributions by the new employer. [2007, c. 491, §199 (AMD).]

B. The new employer may elect to include the creditable service and earnable compensation of the member with the previous employer with the creditable service and earnable compensation with the new employer. If that election is made, the new employer shall make, from time to time, whatever contributions are necessary to provide the benefits under the applicable retirement program for the member that have accrued to the member by reason of the member's previous employment and that may accrue to the member by reason of the member's new employment. [2007, c. 491, §200 (AMD).]

C. If the new employer makes the election provided under paragraph B, or the member makes the election provided under paragraph E, all funds in the applicable retirement program contributed by the member's former employer on account of the member's previous employment must be transferred to the account of the new employer and must be used to liquidate the liability incurred by reason of the previous employment. [2007, c. 542, §3 (AMD).]

D. For the purposes of this subsection, an employee of the Maine Public Employees Retirement System who is a member on January 1, 1994 is considered to be reemployed with a new employer. If an employee returns to state service during the period that begins on July 1, 1995 and ends 180 days after the date upon which the initial collective bargaining agreement between the Maine Public Employees Retirement System and the collective bargaining agent that represents the employees of the system becomes effective, all funds transferred to the account of the Maine Public Employees Retirement System as the new employer on behalf of the employee from the State's account must be returned to the State's account. For the purpose of service, breaks in service and benefit accruals, the employee must be treated as if the employee had remained in state service throughout the period in question. For purposes of this paragraph, "becomes effective" means that the collective bargaining agreement has been signed and ratified by both parties. [2015, c. 385, §10 (AMD).]

E. Notwithstanding paragraph A, a member of the Maine Public Employees Retirement System who is a law enforcement officer as defined in Title 25, section 2801-A, subsection 5, or a municipal firefighter as defined in section 286-M, whose previous membership was based upon employment as a law enforcement officer, a state firefighter or a municipal firefighter, and whose service retirement benefits are not otherwise governed by section 18801, subsection 1, paragraph A, subparagraph 2 may elect to make the contribution necessary to include all or part of the member's creditable service and earnable compensation from the prior plan in the new plan. The retirement system shall establish procedures for determining the contribution necessary for such a member to carry forward all or part of the creditable service and earnable compensation from a prior plan or plans. For purposes of this paragraph, "state firefighter" means a person employed by the State with the primary responsibility of aiding in the extinguishment of fires and includes a member of emergency medical services line personnel as defined in section 286-M, subsection 2, paragraph H. [2007, c. 542, §4 (AMD).]

[2015, c. 385, §10 (AMD) .]

2. **Purchase of previously rendered creditable service.** Notwithstanding any law to the contrary, a member of a participating local district who has served in any participating local district or in any local district, and who did not make an election to decline membership while employed with that district, may purchase, by mutual agreement between the participating local district and the person concerned, service credit for the service previously rendered, upon proper certification that:

A. The service had been rendered; and [1985, c. 801, §§5, 7 (NEW).]

B. The current employer will assume the liability incurred by the granting of the service credit for the previous time served. [1985, c. 801, §§5, 7 (NEW).]

[2011, c. 449, §16 (AMD) .]

3. **Former employee.** Notwithstanding anything to the contrary, a participating local district may grant service credit for creditable service to any former employee who is currently a member of the Participating Local District Retirement Program, as long as the former employee did not make an election to decline membership while employed with that district. The entire actuarial cost of granting the service credit must be fully funded by the district granting the service credit.

[2011, c. 449, §17 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 580, §12 (AMD). 1993, c. 410, §L43 (AMD). 1995, c. 363, §1 (AMD). 2005, c. 636, §B2 (AMD). 2007, c. 58, §3 (REV). 2007, c. 491, §§199-202 (AMD). 2007, c. 542, §§3, 4 (AMD). 2011, c. 449, §§16, 17 (AMD). 2015, c. 385, §10 (AMD).

§18254. EFFECT OF DISTRICT'S WITHDRAWAL

The withdrawal of a participating local district from the Participating Local District Retirement Program has the following effects on an employee of the district and on the district itself. [2007, c. 491, §203 (AMD).]

1. **Employee eligible to withdraw accumulated contributions.** An employee of the district whose membership in the Participating Local District Retirement Program was compulsory under section 18251 must make an election to remain a member under that program or to withdraw accumulated contributions within 90 days of the effective date of the employer withdrawal from the program under section 18203, subsection 2. An employee who elects to withdraw accumulated contributions under this subsection may not be a member of the program as an employee of that district. Once an election is made under this subsection, the election is irrevocable with respect to all subsequent employment with the same employer when membership in the program is not mandatory if the employer later resumes participation in the program pursuant to section 18254-A.

[2009, c. 474, §35 (AMD) .]

2. **Person employed after district withdrawal.** A person who begins employment with the district after the effective date of withdrawal of the district from the Participating Local District Retirement Program may not be a member of that program as an employee of that district.

[2007, c. 491, §205 (AMD) .]

3. **Former employee receiving or eligible for retirement benefits.** Except as provided in subsection 5, for a former employee who is receiving retirement benefits or is eligible for retirement benefits, the district continues to be a participating local district and that person is subject to this Part.

[2001, c. 181, §9 (AMD) .]

4. **Former employee who has not withdrawn accumulated contributions.** For a former employee who has not withdrawn accumulated contributions from the Participating Local District Retirement Program, the district continues to be a participating local district and that person is subject to this Part.

[2007, c. 491, §206 (AMD) .]

5. **Conditions under which withdrawn participating local district is no longer participating local district.** A participating local district that has no former employees eligible for retirement benefits under subsection 3 and no former employees covered under subsection 4 is no longer a participating local district when:

A. The participating local district's status as a participating local district is based solely on the existence of a former employee or employees who are retirees receiving retirement benefits or on the existence of current or potential beneficiaries of such retirees who are receiving or potentially entitled to receive benefits; and [2001, c. 181, §10 (NEW).]

B. The district satisfies fully all liabilities as measured by the retirement system for those to whom paragraph A applies:

(1) In accordance with state and federal law; and

(2) According to standards and procedures approved by the board as determined by the board to protect the interests of current and potential benefit recipients and any other affected or potentially affected person or entity. Such procedures may include, but are not limited to, the establishment by purchase or otherwise of an annuity or annuities as a means of satisfying the district's liabilities. [2001, c. 181, §10 (NEW).]

Having satisfied its liabilities in compliance with this subsection, a district is no longer a participating local district, and once the retirement plan is terminated in accordance with federal law, the retirement system must return to it any assets in the district's retirement system account exceeding the amount necessary to comply. Satisfaction of district liabilities pursuant to this subsection bars any future claim by any person against the retirement system for liability to or responsibility for any retiree, beneficiary or the district, and a retiree, beneficiary or the district is not thereafter subject to this Part.

[2009, c. 474, §36 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§30,48 (AMD). 2001, c. 181, §§8-10 (AMD). 2007, c. 491, §§203-206 (AMD). 2009, c. 474, §§35, 36 (AMD).

§18254-A. EFFECT OF DISTRICT'S RESUMPTION OF PARTICIPATION AFTER WITHDRAWAL

The board may establish by rule the effect on employees of a local district that resumes participation in the Participating Local District Retirement Program after having withdrawn from participation. [2007, c. 491, §207 (AMD).]

SECTION HISTORY
1991, c. 580, §13 (NEW). 2007, c. 491, §207 (AMD).

§18255. DISBANDED OR DISSOLVED LOCAL DISTRICT

If, for any reason, any participating local district ceases to be an employing unit eligible for inclusion in the Participating Local District Retirement Program, the membership of its employees ceases except to the extent of any benefits that may be provided by the funds that have been established under the retirement system for that district. [2007, c. 491, §208 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §208 (AMD).

§18256. DENIAL OF MEMBERSHIP RIGHTS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL CONTINTENCY: See PL 1991, c. 619, §18)

The board may, in its discretion, deny the right to become a member to any class of employees who are serving on a temporary basis or whose compensation is set on any basis other than a per annum basis. [1985, c. 801, §§5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5, 7 (NEW). 1991, c. 619, §18 (AFF). 1991, c. 619, §13 (RPR).

§18256. DENIAL OF MEMBERSHIP RIGHTS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINTENCY: See PL 1991, c. 619, §18)

1. **Board of trustees.** The board may deny membership to any class of employees whose compensation is set on any basis other than a per annum basis and that is not required by 26 CFR Part 31 to be covered by a public employee retirement system or United States Social Security System.

[1991, c. 619, §13 (NEW); 1991, c. 619, §18 (AFF) .]

2. **Local district.** A participating local district may deny membership to part-time, seasonal and temporary employees to the extent and in the manner provided by board rules.

[1991, c. 619, §13 (NEW); 1991, c. 619, §18 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5, 7 (NEW). 1991, c. 619, §18 (AFF). 1991, c. 619, §13 (RPR).

§18257. CESSATION OF MEMBERSHIP

A member ceases to be a member of the Participating Local District Retirement Program if the member: [2007, c. 491, §209 (AMD).]

1. **Withdrawal.** Withdraws accumulated contributions;

[1987, c. 739, §§31, 48 (AMD) .]

2. **Beneficiary.** Becomes a beneficiary as a result of the member's own retirement; or

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Death.** Dies.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§31,48 (AMD). 2007, c. 491, §209 (AMD).

§18258. SERVICE IN THE ARMED FORCES

1. **Membership continued.** The membership of the following employees is considered to have continued during the period of the employee's service in the Armed Forces of the United States:

A. Any employee entering a class of service in the Armed Forces of the United States approved by resolution of the board, if the employee does not withdraw accumulated contributions; [1991, c. 479, §4 (AMD).]

B. Any employee who enlists in or is inducted or drafted into the service of the Armed Forces of the United States; [2001, c. 181, §11 (AMD).]

C. Any employee who enlists in or is inducted or drafted into the service of the Armed Forces of the United States while the United States Selective Service Act of 1948, Public Law 759, or any of its amendments or extensions is in effect. [1991, c. 479, §4 (NEW).]

[2001, c. 181, §11 (AMD) .]

2. **Other military benefits.** Any employee who satisfies the criteria of subsection 1, paragraph B, is entitled to all the benefits of Title 26, section 811.

[2001, c. 662, §6 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 402, §§A72,A73 (AMD). 1987, c. 739, §§32,48 (AMD). 1991, c. 479, §4 (AMD). 2001, c. 181, §11 (AMD). 2001, c. 662, §6 (AMD).

Subchapter 3: CONTRIBUTIONS

§18301. MEMBER CONTRIBUTION

Each member shall contribute to the Participating Local District Retirement Program or have pick-up contributions made by the employer at a rate of 6.5% of earnable compensation, except as otherwise provided in this Part. [2007, c. 491, §210 (AMD).]

1. **Employer pick-up.** The contributions required to be made on behalf of a member under this section shall, after the effective date of this section, be picked up by the employer in lieu of contributions by the employee with a reduction of the member's salary consistent with section 17001, subsection 28-A.

[1987, c. 739, §§33, 48 (NEW) .]

2. **No employee option.** The employee may not choose to receive pick-up contribution amounts directly instead of having them paid by the employer to the Participating Local District Retirement Program.

[2007, c. 491, §211 (AMD) .]

3. **Treatment of pick-up contributions.** Pick-up contributions shall be treated as follows.

A. Pick-up contributions shall be treated as the employer's contribution in determining tax treatment under the United States Internal Revenue Code for federal tax purposes, pursuant to the United States Code, Title 26, Section 414(h)(2). [1987, c. 739, §§33, 48 (NEW).]

B. For all other purposes, pick-up contributions shall be treated in the same manner and to the same extent as member contributions were treated before the effective date of this section. [1987, c. 739, §§33, 48 (NEW).]

[1987, c. 739, §§33, 48 (NEW) .]

4. **Payment of contributions for back time; repayment of refunds; purchase of service credit.** Wherever under this chapter provision is made for payment of contributions for back time, repayment of refunds or purchase of service credit through annual direct payments, those payments may be made either by a single annual payment or by an increased rate of contribution through payroll deduction. For payments or repayments made by single annual payments, the board shall designate, by rule, a period of not less than 30 days during which annual direct payments or repayments may be made. Regardless of whether payment or repayment is made by a single annual payment or by payroll deduction, the payment or deduction must be sufficient to cover interest costs and effect some reduction in principal.

[1999, c. 537, §3 (AFF); 1999, c. 537, §2 (RPR) .]

5. **Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which members who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules established pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2013, c. 391, §1 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§33,48 (AMD). 1989, c. 710, §14 (AMD). 1999, c. 537, §2 (AMD). 1999, c. 537, §3 (AFF). 2007, c. 491, §§210, 211 (AMD). 2013, c. 391, §1 (AMD).

§18302. EMPLOYER CONTRIBUTION

1. **Computation by actuary.** The actuary shall compute employer contributions payable annually by the participating local district on account of employees who become members under subchapter II in the same manner as if they were state employees in accordance with chapter 421, subchapter IV.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Expense.** The expense of making the initial determination of the contributions under this section shall be assessed against and paid by the participating local district on whose account it is made.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18303. CERTIFICATION AND PAYMENT OF CONTRIBUTIONS

1. **Certification.** The board shall certify to the chief fiscal officer of the participating local district:

A. The contributions and pick-up contributions computed under sections 18301 and 18302; [1987, c. 739, §§34, 48 (AMD).]

B. A pro rata share of the cost of the administration of the retirement system, based upon the payroll of the employees; and [1985, c. 801, §§ 5, 7 (NEW).]

C. The cost of each annual valuation. [1985, c. 801, §§ 5, 7 (NEW).]

[1987, c. 739, §§34, 48 (AMD) .]

2. **Payment and credit.** The chief fiscal officer of the participating local district shall make monthly payments to the retirement system in accordance with the board certification under subsection 1. The amounts paid shall be credited to the appropriate funds and accounts of the retirement system.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Delinquent payments.** Delinquent payments due under this section:

A. May be recovered by action in a court of competent jurisdiction against the participating local district liable for the payments; [1991, c. 185, §2 (AMD).]

B. May, at the request of the retirement system, be deducted from any other money payable to that participating local district by any department of the State; or [1991, c. 185, §2 (AMD).]

C. May be subject to a late fee as directed by the board and interest at a rate, to be set by the board and paid by the participating local district, not to exceed regular interest by 5 or more percentage points. [1993, c. 387, Pt. A, §16 (AMD).]

[1993, c. 387, Pt. A, §16 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§34,48 (AMD). 1991, c. 185, §§2,3 (AMD). 1993, c. 387, §A16 (AMD).

§18304. FORMER MEMBERS

Any former member who withdrew that person's contributions after termination of service or after withdrawing from a retirement program of the retirement system and who again becomes a member may repay earlier contributions to the Members' Contribution Fund under the following conditions. [2007, c. 491, §212 (AMD).]

1. **Time.** The repayment must be made before the date any retirement benefit becomes effective for the member.

[2003, c. 630, Pt. A, §8 (AMD) .]

2. **Manner of repayment.** The repayment must be made to the applicable retirement program by a single direct payment or by annual direct payments made in accordance with section 18301, subsection 4.

[2007, c. 491, §213 (AMD) .]

3. **Amount of repayment.** The amount of repayment must be equal to the accumulated contributions withdrawn by the person plus interest on the amount of those accumulated contributions, beginning on the date of withdrawal to the date the repayment or repayments are made, at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §15 (AMD). 1991, c. 580, §14 (AMD). 2003, c. 630, §§A7,8 (AMD). 2007, c. 491, §§212, 213 (AMD).

§18305. BACK CONTRIBUTIONS

(REPEALED)

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§35,48 (AMD). 1989, c. 710, §16 (AMD). 2003, c. 630, §A9 (AMD). 2007, c. 491, §§214, 215 (AMD). 2009, c. 474, §37 (RP).

§18305-A. BACK CONTRIBUTIONS FOR OPTIONAL MEMBERS

(REPEALED)

SECTION HISTORY
2003, c. 630, §A10 (NEW). 2007, c. 491, §§216, 217 (AMD). 2009, c. 474, §38 (RP).

§18305-B. CONTINUED ELIGIBILITY TO PURCHASE SERVICE CREDIT

A member whose membership date is prior to August 1, 2010, and who was eligible to purchase service credit under former section 18305 or 18305-A prior to August 1, 2010, retains eligibility to purchase that service credit under the conditions of those sections as in effect prior to repeal. [2009, c. 474, §39 (NEW).]

SECTION HISTORY
2009, c. 474, §39 (NEW).

§18305-C. BACK CONTRIBUTIONS FOR CERTAIN DAYS OFF WITHOUT PAY

1. **Election.** If the retirement system determines at the time a member retires that the member's benefit would be increased as a result of the inclusion of compensation that would have been paid for days off without pay in fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, the retirement system shall advise the member of that result and shall allow the member to elect to have that compensation included in the calculation of the member's benefit and to make payments as set forth in subsection 2.

[2009, c. 630, §2 (NEW) .]

2. **Payment.** The amount that a member who makes the election permitted in subsection 1 must pay is the amount equal to the employee contribution that member would have made on compensation that would have been paid to that member on the days off without pay during fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A, plus interest at the same rate as that required for repayment of withdrawn contributions pursuant to section 18304. If the member elects to make the payment, the retirement system shall withhold the required amount from the member's first retirement benefit check.

[2009, c. 630, §2 (NEW) .]

3. **Benefit calculation.** If a member fails to make the election within 31 days of the notification provided under subsection 1, the retirement system shall calculate the member's retirement benefit without inclusion of compensation that would have been paid for days off without pay during fiscal year 2009-10 or 2010-11, or a combination thereof, as provided in section 17001, subsection 4, paragraph A.

[2009, c. 630, §2 (NEW) .]

SECTION HISTORY
2009, c. 630, §2 (NEW).

§18306. REFUND OF ACCUMULATED CONTRIBUTIONS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §25 (RPR). 1987, c. 739, §§36,48 (AMD). 1991, c. 619, §§14-16 (AMD). 1991, c. 619, §18 (AFF). 1993, c. 387, §§A17,18 (AMD). 1997, c. 651, §6 (AMD). 2003, c. 630, §A11 (AMD). 2007, c. 137, §20 (RP).

§18306-A. REFUND OF ACCUMULATED CONTRIBUTIONS

1. **Conditions for refund.** If the service of any member has terminated, except by death or by retirement under this Part, or if an employee of a district that withdraws from participation under section 18203 wishes to have accumulated contributions refunded, the member or employee must be paid the amount of the member's accumulated contributions under the following conditions:

A. The member must have properly applied for a refund of accumulated contributions; [2007, c. 137, §21 (NEW).]

B. Payment must be made after termination of service and not less than 22 days nor more than 60 days after receipt of the application and receipt of the last payroll upon which the name of the member appears; [2007, c. 137, §21 (NEW).]

C. An application for refund is void if the member filing the application returns to membership in any retirement program administered by the retirement system before issuance of the payment; [2007, c. 491, §218 (AMD).]

D. Except when inclusion of a portion of employer contributions is required by paragraph E, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this section; and [2007, c. 695, Pt. A, §9 (AMD).]

E. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156. [2007, c. 137, §21 (NEW).]

[2011, c. 449, §18 (AMD) .]

SECTION HISTORY
2007, c. 137, §21 (NEW). 2007, c. 491, §218 (AMD). 2007, c. 695, Pt. A, §9 (AMD). 2011, c. 449, §18 (AMD).

§18307. INACTIVE ACCOUNTS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§37,48 (AMD). 2007, c. 137, §22 (RP).

§18307-A. INACTIVE ACCOUNTS

1. **Conditions for refund.** The retirement system may make an automatic refund of contributions to a member who has not properly applied for a refund as provided in section 18306-A and who has terminated service, except by death or by retirement under this Part and who has not met the minimum creditable service requirement for eligibility to receive a service retirement benefit at the applicable age under the following conditions:

A. The member account has been inactive for 3 or more years; [2007, c. 491, §219 (AMD).]

B. Except when inclusion of a portion of employer contributions is required by this subsection, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this subsection; [2007, c. 137, §23 (NEW).]

C. The amount of the refund of accumulated contributions related to a member's compensation for service rendered as a part-time, seasonal or temporary employee after December 31, 1991 must be at least equal to 7.5% of the member's compensation for that service plus interest as provided by section 17156; and [2007, c. 137, §23 (NEW).]

D. A member who receives an automatic refund under this subsection may, within 30 days of the issuance of the refund, return the full refunded amount to the retirement system. Upon receipt, the retirement system shall restore the accumulated contributions to the member's credit. [2007, c. 137, §23 (NEW).]

Pursuant to the Code, Section 401(a)(31)(B), the amount of an automatic refund under this subsection for a member who has not reached normal retirement age may not exceed $1,000.

[2011, c. 449, §19 (AMD) .]

SECTION HISTORY
2007, c. 137, §23 (NEW). 2007, c. 491, §219 (AMD). 2009, c. 474, §40 (AMD). 2011, c. 449, §19 (AMD).

§18308. CETA SERVICE

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "CETA employee" means an employee enrolled in a program under the United States Comprehensive Employment and Training Act of 1973, as amended. [1985, c. 801, §§5, 7 (NEW).]

B. "Employer" means the State or the participating local district with which the CETA employee is placed for training and employment. [1985, c. 801, §§5, 7 (NEW).]

C. "Prime sponsor" means the CETA prime sponsor, a unit of government responsible for planning and operating all CETA programs within the geographic jurisdiction encompassed by that unit of government. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Eligibility for membership.** CETA employees are considered eligible for membership in the Participating Local District Retirement Program from the date of their enrollment in a CETA program, whether or not they become members.

[2007, c. 491, §220 (AMD) .]

3. **Employer's contributions.** Employer's contributions are governed as follows.

A. Notwithstanding this chapter and chapter 421, subchapter 4, neither the State nor a participating local district is required to contribute to a retirement program of the Maine Public Employees Retirement System for CETA employees. [2007, c. 491, §220 (AMD).]

B. If an employee elects, under section 18361, to purchase his CETA time for past creditable service, the employee's CETA prime sponsor shall then pay to the applicable retirement program an amount equal to the employer's contribution, plus regular interest, for the employee's CETA time, using only CETA funds. [2007, c. 491, §220 (AMD).]

[2007, c. 491, §220 (AMD) .]

4. **Employee's contributions.** Employee's contributions are governed as follows.

A. Notwithstanding section 18301, a CETA employee is not required to contribute to a retirement program of the Maine Public Employees Retirement System. [2007, c. 491, §220 (AMD).]

B. A CETA employee may contribute during the employee's period of CETA employment or may defer contributions until the employee's post-CETA employment status is known. [2007, c. 491, §220 (AMD).]

C. If an employee who has not contributed during the employee's CETA employment or who has withdrawn the employee's contributions later elects, under section 18361, to purchase the employee's CETA time for past creditable service, the employee shall pay to the applicable retirement program of the Maine Public Employees Retirement System an amount equal to the employee's contributions, plus interest, at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed beginning at the end of the year when those contributions or pick-up contributions would have been made to the date of payment. [2009, c. 474, §41 (AMD).]

D. If an employee or member who has not contributed during that employee's or member's CETA employment or who has withdrawn that employee's or member's contributions later elects, under section 18361, subsection 3, to purchase that employee's or member's CETA time for past creditable service before any retirement benefit becomes effective for that member, that employee or member must pay into the Members' Contribution Fund, by a single direct payment or annual direct payments to the applicable retirement program of the Maine Public Employees Retirement System, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 18301, subsection 4. Additional amounts paid under this paragraph become a part of the employee's or member's accumulated contributions. If any retirement benefit becomes effective before the completion of the payment under this paragraph, the employee or member is entitled to service credit for a portion of the additional creditable service in the same proportion that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [2007, c. 491, §220 (AMD).]

[2009, c. 474, §41 (AMD) .]

5. **Return of contributions.** Any CETA employee who contributed to a retirement program of the Maine Public Employees Retirement System during that employee's CETA employment and who does not meet the requirements of section 18361 must be refunded that employee's employee contributions, plus regular interest, upon request to the retirement system.

[2007, c. 491, §220 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1999, c. 241, §3 (AMD). 2007, c. 491, §220 (AMD). 2009, c. 474, §41 (AMD).

§18309. FIRE FIGHTERS

1. **Contribution rate.** Except as provided in subsections 2 and 3, each firefighter, including the chief of a fire department, employed by a participating local district that provides a special retirement benefit under section 18453, subsection 4 or 5, shall contribute to the Participating Local District Retirement Program or have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as employed as a firefighter.

[2013, c. 391, §2 (AMD) .]

2. **Exception.** A participating local district may elect to reduce the rate of contribution set out in subsection 1 to 6.5% of earnable compensation for all fire fighters who continue employment after attaining eligibility for retirement during the remainder of their employment as fire fighters.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which firefighters who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2013, c. 391, §3 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §26 (AMD). 1987, c. 739, §§38,48 (AMD). 2007, c. 491, §221 (AMD). 2013, c. 391, §§2, 3 (AMD).

§18310. POLICE OFFICERS

1. **Contribution rate.** Except as provided in subsections 2 and 3, each police officer, including the chief of a police department, employed by a participating local district that provides a special retirement benefit under section 18453, subsection 7 or 8, shall contribute to the Participating Local District Retirement Program or have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as employed as a police officer.

[2013, c. 391, §4 (AMD) .]

2. **Exception.** A participating local district may elect to reduce the rate of contribution set out in subsection 1 to 6.5% of earnable compensation for all police officers who continue employment after attaining eligibility for retirement during the remainder of their employment as police officers.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which police officers who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2013, c. 391, §5 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §27 (AMD). 1987, c. 739, §§39,48 (AMD). 2007, c. 491, §222 (AMD). 2013, c. 391, §§4, 5 (AMD).

§18311. ARMED FORCES

1. **Service after becoming a member.** For employees who qualify to have their membership in the Participating Local District Retirement Program continued under section 18258, subsection 1, because of service in the Armed Forces of the United States, the participating local district shall contribute to the Members' Contribution Fund the same amount that the member would have been required to contribute if the member had been serving the participating local district during the period of service in the armed forces in the same capacity in which the employee was serving at the time the employee joined the armed forces. Any member whose contributions to the Members' Contribution Fund are paid by the participating local district under this subsection, who withdraws or ceases to be a member of the Participating Local District Retirement Program, may not withdraw any of the contributions made by the participating local district under this subsection.

[2007, c. 491, §223 (AMD) .]

2. **Service before becoming a member.** A member who qualifies under section 18360, subsection 2, shall contribute to the Participating Local District Retirement Program for the period after service in the armed forces under the following terms and conditions.

A. If the member qualifies under section 18360, subsection 2, contributions are calculated at the percentage rate required of active members during the period of time covered by the service in the armed forces applied to the member's earnable compensation during the first year as an employee subsequent to service in the armed forces under the following terms and conditions:

(1) If 2 or more percentage rates were in effect during the period of service in the armed forces, the highest percentage rate is used;

(2) The minimum rate is 5%; and

(3) Interest at a rate set by the board not to exceed regular interest by 2 or more percentage points is paid on the unpaid balance beginning January 1, 1976, or the date of attaining 15 years of creditable service, if later, to the date payment is made. [1991, c. 23, §1 (AMD).]

B. [1991, c. 23, §2 (RP).]

C. The payment must be made to the Participating Local District Retirement Program by a single direct payment or annual direct payments made in accordance with section 18301, subsection 4. [2007, c. 491, §224 (AMD).]

[2007, c. 491, §224 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §§17,18 (AMD). 1991, c. 23, §§1,2 (AMD). 2007, c. 491, §§223, 224 (AMD).

§18312. EMERGENCY MEDICAL SERVICES PERSONS

1. **Contribution rate.** Except as provided in subsections 2 and 3, an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, employed by a participating local district that provides a special retirement benefit under section 18453, subsection 4 or 5 shall contribute to the Participating Local District Retirement Program or must have pick-up contributions made by the employer at a rate of 8% of earnable compensation as long as the person is employed as an emergency medical services person.

[2013, c. 602, Pt. B, §1 (NEW) .]

2. **Exception.** A participating local district may elect to reduce the rate of contribution set out in subsection 1 to 6.5% of earnable compensation for all emergency medical services persons who continue employment after attaining eligibility for retirement during the remainder of their employment as emergency medical services persons.

[2013, c. 602, Pt. B, §1 (NEW) .]

3. **Member contributions to Participating Local District Consolidated Retirement Plan.** The board may establish by rule the rate at which emergency medical services persons who participate in the consolidated plan described in chapter 427 contribute to that plan. Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter 375, subchapter 2-A.

[2013, c. 602, Pt. B, §1 (NEW) .]

SECTION HISTORY
2013, c. 602, Pt. B, §1 (NEW).

Subchapter 4: CREDITABLE SERVICE

§18351. DETERMINATION OF ONE YEAR'S SERVICE CREDIT

The determination of one year's service credit shall be governed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **All service in one calendar year.** The board may not allow more than one year's service credit for all the service occurring in one calendar year.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Absence without pay.** The board may not allow service credit for a period of absence without pay of more than a month's duration for a full-time position.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Board determination.** The board shall determine by appropriate rules how much service in any year qualifies for one year's service credit. Service rendered for the full normal working time in any year shall be equivalent to one year's service credit.

[1987, c. 256, §28 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §28 (AMD).

§18352. SERVICE CREDIT FOR PRIOR SERVICE

1. **Determination.** Service credit for prior service may be allowed in accordance with section 18358.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Election by district.** A participating local district may elect to include for all employees of the district service credit for prior service in excess of 25 years.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Verification of prior service.** Upon verification of the length of service rendered before the applicable date of establishment of the retirement system for a particular member, the board shall grant service credit for that service.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18353. SERVICE CREDIT FOR BACK CONTRIBUTIONS

Upon complete payment of the back contributions under section 18305-B, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 18305-B, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [2009, c. 474, §42 (AMD).]

1. **Entitlement to service credit.**

[1989, c. 95, §11 (RP) .]

2. **Retirement benefit effective before completion of payment.**

[1989, c. 95, §11 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §11 (RPR). 2009, c. 474, §42 (AMD).

§18354. OUT-OF-STATE SERVICE

1. **Generally.** For members who began membership before January 1, 1976, additional service credit shall be allowed for out-of-state service, subject to the following conditions.

A. The member must have creditable service in the State of at least 20 years in the aggregate; [1985, c. 801, §§ 5, 7 (NEW).]

B. The member, before any retirement benefit becomes effective, must make contributions into the Members' Contribution Fund for the years of out-of-state service on the same basis as the member would have made contributions had the service been in the State, including interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest must be computed from the end of the year when those contributions would have been made, if the service had been in the State, to the date of payment. The payment must be made to the Participating Local District Retirement Program by a single direct payment or by annual direct payments made in accordance with section 18301, subsection 4; [2007, c. 491, §225 (AMD).]

C. The member's last 10 years of creditable service before the date of retirement must be in the State and no more than 10 years of service credit may be allowed for out-of-state service; and [1989, c. 95, §12 (AMD).]

D. Upon complete payment of the back contributions under paragraph B, the member shall be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under paragraph B, the member shall be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1989, c. 95, §13 (NEW).]

[2007, c. 491, §225 (AMD) .]

2. **Alternative.** If service credit for out-of-state service is not allowed under subsection 1, additional service credit for out-of-state service must be allowed for any member in the determination of retirement benefit under this Part if the member, before any retirement benefit becomes effective for that member, pays into the Members' Contribution Fund, by a single direct payment or annual direct payments to the Participating Local District Retirement Program, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 18301, subsection 4.

A. Additional amounts paid under this subsection must become a part of the member's accumulated contributions. [2007, c. 491, §226 (AMD).]

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [1989, c. 710, §20 (AMD).]

[2007, c. 491, §226 (AMD) .]

3. **Service credit not to be used in another state.** Notwithstanding anything to the contrary, any application for a retirement benefit that becomes effective after May 11, 1966, and for which out-of-state service credit is to be granted must be accompanied by a certified statement from the appropriate retirement system that the out-of-state service credit granted has not been or will not be used to obtain benefits in another state.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §§12,13 (AMD). 1989, c. 710, §§19,20 (AMD). 2007, c. 491, §§225, 226 (AMD).

§18355. DISABILITY RETIREMENT SERVICE CREDIT

A beneficiary shall receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which the beneficiary receives disability retirement benefits under subchapter V, articles 3 and 3-A. [1989, c. 409, §§9, 12 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 409, §§9,12 (AMD).

§18356. UNUSED ACCRUED OR ACCUMULATED SICK LEAVE OR UNUSED VACATION LEAVE

1. **Election.** A participating local district may elect to provide service credit for unused accrued or accumulated sick leave or unused vacation leave or a combination of both, for which a member is credited on termination of service, but for which the member does not receive payment.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Limitation.** Leave qualifying for service credit under subsection 1 may not exceed a total of 90 days, except as provided in subsection 3.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Exceptions.** Leave beyond 90 days may qualify as service credit, up to the maximum number of days of leave, set by personnel rules or by contract, that a person is allowed to accumulate, if the participating local district pays into the Participating Local District Retirement Program the actuarial equivalent of the benefit.

[2007, c. 491, §227 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §227 (AMD).

§18357. FORMER MEMBERS

Upon complete payment of the back contributions under section 18304, the member shall be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 18304, the member shall be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1989, c. 95, §14 (NEW).]

1. **Service credit reinstated.**

[1989, c. 95, §14 (RP) .]

2. **Retirement benefit effective before completion of repayment.**

[1989, c. 95, §14 (RP) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §14 (RPR).

§18358. PRIOR SERVICE; SERVICE PREVIOUS TO MEMBERSHIP

1. **Employee in service when district participation begins.** Any employee who is in service on the date when participation of the local district begins and who elects to join the Participating Local District Retirement Program after that date is entitled to:

A. Service credit for prior service for the periods of previous service certified by the participating local district as creditable prior service rendered to that district for which the participating local district makes contributions; and [1987, c. 256, §29 (AMD).]

B. Service credit for all membership service for which contributions are paid into the Participating Local District Retirement Program by the member or picked up by the employer. [2007, c. 491, §228 (AMD).]

[2007, c. 491, §228 (AMD) .]

2. **Optional members joining the Participating Local District Retirement Program.** A person who joins the Participating Local District Retirement Program under section 18251, 18252 or 18252-A begins to accrue membership service credit on the effective date of first contributions or pick-up contributions to the program.

A. [2009, c. 474, §43 (RP).]

B. [2009, c. 474, §43 (RP).]

[2009, c. 474, §43 (RPR) .]

SECTION HISTORY

1985, c. 801, §§5,7 (NEW). 1987, c. 256, §29 (AMD). 1987, c. 739, §§40,41,48 (AMD). 2003, c. 630, §A12 (AMD). 2007, c. 491, §§228, 229 (AMD). 2009, c. 474, §43 (AMD).

§18359. EMPLOYEES COVERED BY THE SOCIAL SECURITY ACT

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 823, §§7,8 (AMD). 2003, c. 630, §A13 (RP).

§18360. SERVICE IN THE ARMED FORCES

Service credit for service in the Armed Forces of the United States is governed as follows. Except as provided in subsection 1, paragraph B, subparagraph (1), service credit under this section is limited to 5 years. [2003, c. 387, §8 (AMD).]

1. **Service after becoming a member.** A member is entitled to service credit for the period of time during which the member's membership is continued under section 18258, subsection 1, under the following terms and conditions.

A. A member who is otherwise entitled to service credit for military leave may not be deprived of these credits if the member's return to membership service is delayed beyond 90 days after the member's separation from the service in the Armed Forces of the United States, under conditions other than dishonorable, if the delay is caused by an illness or disability incurred in the service in the armed forces. [2003, c. 387, §9 (AMD).]

B. A member may not receive service credit for military leave beyond the end of the period of first enlistment or induction or beyond 5 years from the date of original call to active duty in the armed forces, whichever is less, unless:

(1) The member's return to active duty in the armed forces or the extension of the period of service beyond 5 years is required by some mandatory provision; and

(2) The member presents proof of the return to or extension of service satisfactory to the board. [2003, c. 387, §9 (AMD).]

[2003, c. 387, §9 (AMD) .]

2. **Service before becoming a member.** If a participating local district elects to provide service credit for service in the Armed Forces of the United States under this subsection, a member who served as a full-time active duty member of the Armed Forces of the United States before becoming a member of the Participating Local District Retirement Program is entitled to service credit for the period of time the member served in the armed forces, under the following terms and conditions.

A. Except as provided in paragraph I, on the date of retirement, the member must have at least 15 years of creditable service. [2001, c. 114, §4 (AMD).]

B. [1991, c. 479, §6 (RP).]

C. The member must have separated from the armed forces under conditions other than dishonorable. [1985, c. 801, §§5, 7 (NEW).]

D. Except as provided in paragraph E, the member must have begun membership before January 1, 1976. [1985, c. 801, §§5, 7 (NEW).]

E. Except as provided in paragraph I, a member who served in the armed forces during any federally recognized period of conflict, is entitled to service credit under this subsection. For purposes of this paragraph, "federally recognized period of conflict" means World War I, April 6, 1917 to November

11, 1918 or to March 31, 1920 if service was in Russia; World War II, December 7, 1941 to December 31, 1946; the Korean Conflict, June 27, 1950 to January 31, 1955; the Vietnam War, August 5, 1964 to May 7, 1975 and the period beginning on February 28, 1961 and ending on May 7, 1975 in the case of a veteran who served in the Republic of Vietnam during that period; and the Persian Gulf War, August 7, 1990 to the date that the United States Government recognizes as the end of the Persian Gulf War. [2007, c. 249, §29 (AMD).]

F. Except for members qualifying under paragraph E, this subsection:

(1) Applies to all persons, active or retired, but, for those already retired, the effective date of any adjustment must be not earlier than the date on which the time or credit is certified to the retirement system; and

(2) Does not apply to any member who begins membership on or after January 1, 1976. [2007, c. 491, §230 (AMD).]

G. Upon complete payment of the back contributions under section 18311, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 18311, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [2007, c. 491, §230 (AMD).]

H. A participating local district may elect, with regard to special plans under section 18453, subsections 2 to 9, that service credits under this subsection apply only to additional retirement benefits under section 18453, subsections 10 and 11, and that the service credits not apply to age or service requirements of retirement. Nothing in this paragraph may be construed to affect in any way the rights of public employees to collectively bargain for terms and conditions of employment. [1985, c. 801, §§5, 7 (NEW).]

I. A member who fails to meet one or more of the terms and conditions required under paragraphs A, D and E may purchase service credit as provided in this paragraph. The member must have at least 5 years of creditable service and, before any retirement benefit becomes effective for that member, must pay into the Members' Contribution Fund, by a single direct payment or annual direct payments to the Participating Local District Retirement Program, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual direct payments must be made in accordance with section 17701, subsection 4. Any member who purchases service credit under this paragraph who subsequently, without inclusion of the purchased service credit and prior to retirement, meets the terms and conditions of paragraphs A, D and E is entitled to purchase the service credit under section 18311, subsection 2 and to receive a refund of the amount paid under this paragraph that exceeds the cost to purchase the service credit under section 18311. [2007, c. 491, §230 (AMD).]

[2007, c. 491, §230 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 95, §15 (AMD). 1991, c. 23, §3 (AMD). 1991, c. 479, §§5,6 (AMD). 2001, c. 114, §§4-6 (AMD). 2003, c. 387, §§8,9 (AMD). 2007, c. 249, §29 (AMD). 2007, c. 491, §230 (AMD).

§18361. CETA SERVICE

1. **Service credit allowed.** Service credit for the period of CETA employment occurring after June 30, 1979, shall be granted to any person who, after June 30, 1979, satisfies the following conditions.

A. The person was a CETA employee; [1985, c. 801, §§5, 7 (NEW).]

B. The person, within 90 days of termination of CETA employment, became a non-CETA employee of the employer; [1985, c. 801, §§5, 7 (NEW).]

C. The person, within 90 days of becoming a non-CETA employee, signified in writing to the retirement system his intention to purchase time credit under section 18308, subsection 4; [1985, c. 801, §§5, 7 (NEW).]

D. The person has not received a return of any contributions made under section 18308, subsection 4 or has deposited his contributions within 18 months of obtaining non-CETA employment with the employer under section 18308, subsection 4; and [1985, c. 801, §§5, 7 (NEW).]

E. The employer contribution required by section 18308, subsection 3, has been paid. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Retirement benefit effective before completion of payment.** If any retirement benefit becomes effective before the completion of the deposit under section 18308, subsection 4, the person is entitled to credit for that portion of his CETA time which the amount of the deposit actually made bears to the total amount which would have been required to purchase the person's entire CETA time.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Service credit allowed.** Service credit for the period of CETA employment occurring before July 1, 1979 must be granted to any person who satisfies the following conditions:

A. The person was a CETA employee; [1999, c. 241, §4 (NEW).]

B. The person within 90 days of termination of CETA employment became a non-CETA employee of the employer; and [1999, c. 241, §4 (NEW).]

C. The employee contribution required by section 18308, subsection 4, paragraph D has been paid. [1999, c. 241, §4 (NEW).]

[1999, c. 241, §4 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1999, c. 241, §4 (AMD).

§18362. TEACHERS IN PRIVATE, PAROCHIAL AND OTHER SCHOOLS

1. **Parochial school or public or private academy.** A member who taught in a parochial school or in a public or private academy may purchase up to 10 years of service credit for that service under the following conditions.

A. The member must have taught in a school approved by the Department of Education or the education department of another state while holding an appropriate teaching certificate. [1989, c. 78, §4 (NEW); 1989, c. 700, Pt. A, §27 (AMD).]

B. The member must have 20 years of creditable service as a member of the participating local district. [1991, c. 558, §2 (AMD).]

C. The member must, before any retirement benefit becomes effective for the member, make contributions into the Members' Contribution Fund, for the years of private or parochial school teaching on the same basis as the member would have made contributions had the service been as a state employee or teacher in this State, including interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points. The member's earnings for the years of private or parochial school teaching must be assumed to have been the same as the average salary for teachers in this State as determined by the Department of Education for each of the years when the private or parochial school teaching took place. Interest must be computed beginning at the end of the year when those contributions would have been made, if the service had been as a state employee or teacher in this State,

to the date of payment. Payment must be made by a single direct payment or annual direct payments to the Participating Local District Retirement Program in accordance with section 18301, subsection 4. [2007, c. 491, §231 (AMD).]

D. The member must have begun membership before January 1, 1976. [1991, c. 558, §2 (NEW).]

E. The member's last 10 years of creditable service before the date of retirement must be as a member of the participating local district. [1991, c. 558, §2 (NEW).]

F. Upon complete payment of the contributions under paragraph C, the member must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the contributions under paragraph C, the member must be granted service credit on a pro rata basis in accordance with rules adopted by the board. [1991, c. 558, §2 (NEW).]

[2007, c. 491, §231 (AMD) .]

1-A. **Alternative.** In the determination of the retirement benefit under this Part, if service credit for private or parochial school teaching is not allowed under subsection 1 based upon the member not meeting the requirements of subsection 1, paragraph B or D, additional service credit for private or parochial school teaching is allowed for any member who meets the requirements of subsection 1, paragraphs A and E, if the member, before any retirement benefit becomes effective for that member, pays into the Members' Contribution Fund by a single direct payment or annual direct payments to the Participating Local District Retirement Program an amount that, together with regular interest on that amount, is the actuarial equivalent at the effective date of the retirement benefit of the portion of the retirement benefit based on the additional creditable service.

Annual payments must be made in accordance with section 18301, subsection 4.

A. Additional amounts paid under this subsection become a part of the member's accumulated contributions. [1993, c. 387, Pt. A, §19 (NEW).]

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service that the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service. [1993, c. 387, Pt. A, §19 (NEW).]

[2007, c. 491, §232 (AMD) .]

2. **Other schools and programs.** A member who terminates service in the State and teaches under the Volunteers in Service to America Program, the Fulbright Exchange Program or the Peace Corps, foreign or domestic, or teaches children of United States Foreign Corps personnel outside the continental limits of the United States is entitled to service credit for that service under the following conditions.

A. The service credit may not exceed 2 years. [1989, c. 78, §4 (NEW).]

B. The member must return to active service as a member of the Participating Local District Retirement Program within one year of the completion of the teaching outside of the State described in this section. [2007, c. 491, §233 (AMD).]

C. The member must, before any retirement benefit becomes effective for the member, pay into the Members' Contribution Fund, by a single direct payment or annual direct payments to the Participating Local District Retirement Program, an amount that, together with regular interest on that amount, is

the actuarial equivalent, at the effective date of the member's retirement benefit, of the portion of the member's retirement benefit based on the additional creditable service. Annual payments must be made in accordance with section 18301, subsection 4. [2007, c. 491, §234 (AMD).]

[2007, c. 491, §§233, 234 (AMD) .]

SECTION HISTORY
1989, c. 78, §4 (NEW). 1989, c. 700, §A27 (AMD). 1989, c. 710, §§21,22 (AMD). 1991, c. 558, §2 (AMD). 1993, c. 387, §A19 (AMD). 2007, c. 491, §§231-234 (AMD).

Subchapter 5: BENEFITS

Article 1: GENERAL PROVISIONS

§18401. AMENDMENT NOT TO CAUSE REDUCTION IN BENEFIT

No amendment to this Part may cause any reduction in the amount of benefits which would be due to a member based on creditable service, earnable compensation, employee contributions, pick-up contributions and the provisions of this Part on the date immediately preceding the effective date of the amendment. [1987, c. 739, §§42, 48 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§42,48 (AMD).

§18402. ELIGIBILITY FOR BENEFITS

Only members of the Participating Local District Retirement Program or their spouses, surviving spouses, children, dependent children, parents or beneficiaries are eligible to receive benefits from the Participating Local District Retirement Program. [2007, c. 491, §235 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §235 (AMD).

§18403. ELECTION OF METHODS OF PAYMENT

1. **Definition.** As used in this article, unless the context otherwise indicates, the term "qualifying member" means:

A. A member; or [1985, c. 801, §§ 5, 7 (NEW).]

B. A former member who is receiving a disability retirement benefit. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Election.** In order to receive a benefit, a qualifying member must elect to have his service retirement benefit payable under any of the methods in section 18404.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Time and manner of election.** A qualifying member must elect a method of payment before the beginning of payment of a service retirement benefit. This election must be by written notice to the executive director stating the date on which he desires to retire.

[1987, c. 256, §30 (AMD) .]

4. **Change of election.** A qualifying member may revoke his election of benefits and may elect another method of payment by giving written notice to the executive director at any time before the first payment of the service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §30 (AMD).

§18404. METHODS OF PAYMENT

Except as provided in subsection 6, payment of a service retirement benefit shall begin on the first day of the month following the month in which the qualifying member becomes eligible to receive payment of the member's service retirement benefit under section 18451 or 18507. A full month's benefit shall be paid to the beneficiary or estate of the recipient for the month in which the member dies. A qualifying member may select payments in one of the following methods. [1989, c. 95, §16 (AMD).]

1. **Full benefits.** All retirement benefits shall be payable for life in equal monthly installments with no further payment made after the month in which the retiree dies. If a participating local district adopts section 18454, the benefits set forth in section 18454 will be considered full benefits for purposes of this section.

[1987, c. 256, §32 (AMD) .]

2. **Option 1.** The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the excess, if any, of his accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent amount to the accumulated contributions, paid in a lump sum to the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director or, if no one has been nominated as beneficiary, to his estate. No contributions deducted from the compensation of a teacher before July 1, 1947, or required of a teacher for service credit before July 1, 1947, may be included in the accumulated contributions.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Option 2.** The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Option 3.** The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

5. **Option 4.**

[1999, c. 744, §17 (AFF); 1999, c. 744, §12 (RP) .]

5-A. **Option 4.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under subsection 3 or 4 payable to the beneficiary that the qualifying member has designated, if

the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member during the qualifying member's life plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system.

[1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF) .]

5-B. **Option 5.** The qualifying member may elect to have a reduced retirement benefit payable in part to the qualifying member and in part to the beneficiary, who must be the sole beneficiary, while both are alive and, at the death of either, to have the higher benefit paid to the survivor for the survivor's life. The total value of the benefit paid to the qualifying member and beneficiary, during the qualifying member's life, plus the benefit to be paid after the death of either is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The method used to determine the benefit must be approved by the board, and the beneficiary must be designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system.

[1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF) .]

5-C. **Option 6.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued in the same amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit shall be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF) .]

5-D. **Option 7.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and, at the qualifying member's death, to have the benefit continued at 1/2 that amount for the life of the beneficiary, who must be the sole beneficiary, that the qualifying member has designated by written designation, duly notarized and filed with the executive director on a form provided or specified by the retirement system, if the beneficiary survives the qualifying member. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF) .]

5-E. **Option 8.** The qualifying member may elect to have a reduced retirement benefit payable to the qualifying member while alive and at the qualifying member's death to have some benefit other than that available under subsection 3 or 4 payable to the beneficiary, who must be the sole beneficiary, that the member has designated, if the beneficiary survives the qualifying member. The total value of the benefit paid to the qualifying member plus the benefit paid after the qualifying member's death is the actuarial equivalent of the benefit that the qualifying member would have received without optional modification. If the qualifying member's beneficiary predeceases the qualifying member, the qualifying member's benefit must be changed, effective the first day of the month following the date of the beneficiary's death, to be the actuarial equivalent

of the benefit that the qualifying member would have received without optional modification. The reduced retirement benefit must be actuarially calculated to reflect the fact that the benefit may be changed to the larger amount should the beneficiary predecease the member.

[2001, c. 118, §8 (AMD) .]

5-F. **Change of beneficiary.** If the recipient of a service retirement benefit has elected an optional method of payment under subsection 3, 4, 5, 5-A, 5-B, 5-C, 5-D or 5-E, and has designated someone other than a spouse or ex-spouse as sole beneficiary, the recipient is permitted a one-time change in the designated beneficiary except as provided in paragraph D, but may not change the already elected payment option or the amount of the benefits under that option, by filing a written designation of the new beneficiary, duly notarized, with the executive director on a form provided or specified by the retirement system. The change of beneficiary permitted by this subsection may only be made prior to the death of the prior designated beneficiary.

A. The benefit payable to the recipient and the new beneficiary must be paid under the same payment option. The amount of the recipient's benefit may not change, and the amount of the new beneficiary's benefit must be the same as the amount of the prior beneficiary's benefit. [1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF).]

B. The effective date of the designation of the new beneficiary is the date the designation is received by the executive director. As of the first day of the month following the effective date of the designation of the new beneficiary, the prior beneficiary is no longer entitled to any benefit payment and, if concurrent payment under subsection 5-B has been elected, the new beneficiary's benefit must become effective on the same date. [1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF).]

C. The new beneficiary's entitlement to benefits ceases on the earlier of:

(1) The date of the new beneficiary's death; or

(2) The date established when the amount of the prior beneficiary's benefit was established, which is the initial commencement date of benefits to the retiree increased by the life expectancy of the prior beneficiary computed in years and months using actuarial equivalence assumptions recommended by the system's actuary.

Payment of benefits to the new beneficiary must cease as of the first day of the month following the earlier of subparagraph (1) or (2). [1999, c. 744, §13 (NEW); 1999, c. 744, §17 (AFF).]

D. A recipient who exercises a one-time option under this subsection may revert back to the original designated beneficiary, who will be treated as the new beneficiary for purposes of paragraphs A to C. [2007, c. 523, §3 (NEW).]

[2007, c. 523, §3 (AMD) .]

6. **Monthly payment of $10 or less.** If the monthly benefit payable to a qualifying member or the beneficiary of a qualifying member is $10 or less, there shall be paid, in lieu of those payments, a lump sum which is the actuarial equivalent, on the date the first monthly payment would otherwise be paid, of the benefit to which the qualifying member or beneficiary is entitled. A beneficiary who receives a lump sum payment under this subsection shall not forfeit any other benefit to which the beneficiary would be entitled if the beneficiary were receiving a monthly benefit payment.

[1989, c. 95, §17 (NEW) .]

7. **Notice to spouse.** A qualifying member who is married on the effective date of retirement, who elects the method of payment under subsection 1, or who elects a method of payment other than that provided under subsection 1 and who designates a beneficiary other than the qualifying member's spouse must notify the spouse that the spouse is not the beneficiary. Proof that the spouse has been notified must be provided:

A. By written certification of the spouse, duly notarized, on a form provided or specified by the retirement system indicating that notice has been received from the qualifying member; or [1999, c. 744, §14 (NEW); 1999, c. 744, §17 (AFF).]

B. When notice has been given but certification by the spouse has not been provided, by written certification of the qualifying member, duly notarized, on a form provided or specified by the retirement system indicating that notice has been given to the spouse. [1999, c. 744, §14 (NEW); 1999, c. 744, §17 (AFF).]

Payment of the qualifying member's service benefit may not commence until certification has been received by the executive director.

[1999, c. 744, §14 (NEW); 1999, c. 744, §17 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§31-33 (AMD). 1989, c. 95, §§16,17 (AMD). 1999, c. 744, §§12-14 (AMD). 1999, c. 744, §17 (AFF). 1999, c. 790, §K2 (AMD). 1999, c. 790, §K5 (AFF). 2001, c. 118, §8 (AMD). 2007, c. 523, §3 (AMD).

§18405. REMARRIAGE AFTER RETIREMENT

If the recipient of a reduced service retirement benefit under section 18404, subsection 3, 4, 5-A or 5-B remarries after the recipient's spouse dies, the following provisions apply. [1999, c. 744, §15 (AMD); 1999, c. 744, §17 (AFF).]

1. **Election of benefit for new spouse.** The recipient may elect to have the reduced retirement benefit paid under the same option to the new spouse after the recipient's death instead of continuing the original reduced retirement benefit to the recipient during his lifetime, under the following conditions.

A. The original spouse must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4, 5-A or 5-B; and [2001, c. 118, §9 (AMD).]

B. [1987, c. 612, §8 (RP).]

C. [1987, c. 612, §8 (RP).]

D. The recipient shall have been married to the new spouse for at least 6 months. [1987, c. 612, §9 (NEW).]

[2001, c. 118, §9 (AMD) .]

2. **Time and manner of election.** The recipient may make the election under subsection 1 at any time after the death of the original spouse and remarriage to the new spouse by:

A. Sending a written request to the executive director; and [1985, c. 801, §§5, 7 (NEW).]

B. [1987, c. 612, §10 (RP).]

C. Submitting evidence of the death of the former spouse and date of marriage to the new spouse. [1987, c. 612, §10 (NEW).]

[1987, c. 612, §10 (AMD) .]

3. **Amount of benefit.** The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefits the qualifying member has been receiving.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Effective date of coverage of new spouse.** The effective date of the designation of the new spouse as the recipient's new beneficiary will be the date the request is received or 6 months after the date of remarriage, whichever comes later. The recipient's retirement benefit shall be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[1987, c. 612, §11 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 612, §§7-11 (AMD). 1999, c. 744, §15 (AMD). 1999, c. 744, §17 (AFF). 2001, c. 118, §9 (AMD).

§18405-A. DIVORCE

If the recipient of a reduced service retirement benefit under section 18404, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E is granted a divorce either after retirement or before a retirement beneficiary is named, the following provisions apply. [2001, c. 118, §10 (AMD).]

1. **Election of benefit for different beneficiary.** The recipient may elect to have the reduced retirement benefit paid under the same option to a different beneficiary except when the former spouse is named as retirement beneficiary at the time the divorce is granted, in which case the election may be made only under the following conditions:

A. The spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4, 5-A, 5-B, 5-C, 5-D or 5-E; and [2001, c. 118, §11 (AMD).]

B. The recipient and the spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood. [1995, c. 604, §6 (AMD).]

[2005, c. 560, §4 (AMD) .]

2. **Time and manner of election.** The recipient may make the election at any time after the divorce is granted by:

A. Sending a written request to the executive director; and [1991, c. 302, §2 (NEW).]

B. Submitting evidence of the divorce. [1991, c. 302, §2 (NEW).]

[1991, c. 302, §2 (NEW) .]

3. **Amount of benefit.** The amount of the benefit payable under the option elected is the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefit the recipient has been receiving, plus the amount expected to be paid to the original spouse after the recipient's death.

[1991, c. 320, §2 (NEW) .]

4. **Effective date of coverage of new beneficiary.** The effective date of the designation of the recipient's new beneficiary is the date the request is received. The recipient's retirement benefit must be adjusted on the first day of the month following the effective date of the new designation of beneficiary.

[1991, c. 320, §2 (NEW) .]

SECTION HISTORY
1991, c. 320, §2 (NEW). 1995, c. 604, §§4-6 (AMD). 1999, c. 744, §16 (AMD). 1999, c. 744, §17 (AFF). 2001, c. 118, §§10,11 (AMD). 2005, c. 560, §4 (AMD).

§18406. LIABILITY FOR PAYMENT OF BENEFITS

1. **Retirement system.** The retirement system's liability for payment of benefits is governed as follows.

A. The retirement system is not liable for the payment of any benefits to employees or retirees of any participating local district for which reserves have not been previously created from funds contributed by the participating local district or its employees for those benefits. [1985, c. 801, §§ 5, 7 (NEW).]

B. The retirement system is liable for payment of survivor benefits to beneficiaries of a participating local district member if the participating local district has elected survivor benefits. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Participating local districts.** If, when the contributions of a participating local district are computed for any fiscal year in accordance with sections 18302 and 18303, any of the reserve funds of the participating local district are less than the liabilities of the reserve fund, then the amount of the contributions to be paid shall be increased either:

A. By the amount the liabilities exceed the reserve funds; or [1985, c. 801, §§ 5, 7 (NEW).]

B. At the option of the participating local district, by the total amount of benefits payable during the fiscal year from the reserve funds that have a deficit. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18407. COST-OF-LIVING ADJUSTMENT TO RETIREMENT BENEFIT

Cost-of-living adjustments to the retirement benefits being paid to retired participating local district employees shall be governed as follows. [1985, c. 801, §§5, 7 (NEW).]

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Covered district" means a participating local district that provides coverage under the United States Social Security Act for its employees. [1985, c. 801, §§5, 7 (NEW).]

B. "Noncovered district" means a participating local district that does not provide coverage by the United States Social Security System for its employees. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Noncovered districts.** Notwithstanding section 18202 and except as provided in this subsection, subsections 3 to 5 apply to all retired employees of noncovered districts and to beneficiaries of those retired employees.

A. A noncovered district that has withdrawn from participation in the Participating Local District Retirement Program on or before June 30, 1987, under section 18203 is not required to provide cost-of-living adjustments for its retired employees or their beneficiaries. [2007, c. 491, §236 (AMD).]

B. A noncovered district which, on or after September 19, 1985, engages in collective bargaining or has in force a collective bargaining agreement under Title 26, chapter 9-A, with some or all of the district's members is not required by this section to provide cost-of-living adjustments for its retired employees or their beneficiaries. When the district subsequently agrees through the collective bargaining process to provide the cost-of-living adjustment under this section, the adjustment shall apply to all the district's retired employees or their beneficiaries receiving retirement allowances. [1985, c. 801, §§5, 7 (NEW).]

[2007, c. 491, §236 (AMD) .]

3. **Covered districts.** A covered district may provide cost-of-living adjustments for its retired employees or their beneficiaries by application to the board of trustees supplying the necessary information. Upon acceptance of such a plan, the district shall supply a certified copy of its action and a statement of agreement of payment and costs.

[1985, c. 801, §§5, 7 (NEW) .]

4. **Determination of adjustment for participating local districts not covered by chapter 427.** The cost-of-living adjustment is determined as follows.

A. Except as provided in paragraph A-1, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 4%. [2009, c. 473, §5 (AMD).]

A-1. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, then the adjustment needed for cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met. [2009, c. 473, §6 (AMD).]

B. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 4%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase of 4% and shall report that adjustment and the actual increase in the Consumer Price Index to the Legislature by February 1st of the following year. [2013, c. 391, §6 (AMD).]

C. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective date of his retirement or on July 1, 1977, whichever amount is greater. [1985, c. 801, §§5, 7 (NEW).]

[2013, c. 391, §6 (AMD) .]

5. **Cost.** The board shall determine the costs of the adjustments under this section and shall include those costs in the annual valuation.

[1985, c. 801, §§5, 7 (NEW) .]

6. **Eligibility.** Cost-of-living adjustments under subsection 4 must be applied to the retirement benefits of all retirees who have been retired for at least 6 months before the date that the adjustment becomes payable. Beneficiaries of deceased retirees and members are eligible for the cost-of-living adjustment at the same time the deceased retiree would have become eligible.

[2013, c. 391, §7 (AMD) .]

7. **Determination of adjustment for participating local districts covered by chapter 427.** The cost-of-living adjustment is determined as follows.

A. Prior to July 1, 2014, the determination of cost-of-living adjustments for retirees from participating local districts covered by chapter 427 is governed by subsection 4. [2013, c. 391, §8 (NEW).]

B. Except as provided in paragraph C, whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase in retirement benefits, beginning in September, up to a maximum annual increase of 3%. [2013, c. 391, §8 (NEW).]

C. If there is a percentage decrease in the Consumer Price Index from July 1st to June 30th, the board shall set the percentage change at 0% for that September. The adjustment for the following year must be set based on the actuarially compounded Consumer Price Index for both years in a cost-neutral manner. If the Consumer Price Index in the subsequent year or years is not sufficient to allow for the adjustment to be cost-neutral for the 2 years, the adjustment needed for the cost-neutrality must continue to be applied to following years until such time as the cost-neutrality requirement is met. [2013, c. 391, §8 (NEW).]

D. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 3%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase of 3% and shall report that adjustment and the actual increase in the Consumer Price Index to the Legislature by February 1st of the following year. [2013, c. 391, §8 (NEW).]

E. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective date of retirement or on July 1, 1977, whichever amount is greater. [2013, c. 588, Pt. E, §3 (AMD).]

[2013, c. 588, Pt. E, §3 (AMD) .]

8. **Eligibility.** Cost-of-living adjustments under subsection 7 must be applied to the retirement benefits of retirees as follows.

A. For retirees who retire prior to September 1, 2015, a cost-of-living adjustment is applied if the retiree has been retired for at least 6 months before the date that the adjustment becomes payable. [2013, c. 391, §8 (NEW).]

B. For retirees who retire on or after September 1, 2015, a cost-of-living adjustment is applied if the retiree has been retired for at least 12 months before the date that the adjustment becomes payable. [2013, c. 391, §8 (NEW).]

C. A beneficiary of a deceased retiree or member is eligible for the cost-of-living adjustment at the same time the deceased retiree or member would have become eligible. [2013, c. 391, §8 (NEW).]

[2013, c. 391, §8 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1993, c. 595, §10 (AMD). 2007, c. 249, §30 (AMD). 2007, c. 491, §236 (AMD). 2009, c. 433, §§5, 6 (AMD). 2009, c. 473, §§5, 6 (AMD). 2013, c. 391, §§6-8 (AMD). 2013, c. 588, Pt. E, §3 (AMD).

§18408. PAYMENT OF BENEFITS WHEN A DISTRICT DISBANDS OR DISSOLVES

If the membership of the employees of a participating local district ceases under section 18255, the funds that have been established under the Participating Local District Retirement Program for that district must be used to provide benefits for members or beneficiaries at the date of the cessation of membership. [2007, c. 491, §237 (AMD).]

1. **Allocation.** The amount of the funds that have been established under the Participating Local District Retirement Program for the district at the date of the cessation of membership must be allocated by the board in an equitable manner to provide benefits for the members or beneficiaries:

A. In accordance with this Part as in effect at the date of the cessation; and [1985, c. 801, §§ 5, 7 (NEW).]

B. Based upon years of creditable service, average final compensation and accumulated contributions as of the date of the cessation, in the following order of priority:

(1) For the benefit of members to the extent of the then value of their accumulated contributions in the Members' Contribution Fund;

(2) If any funds remain after allocation under subparagraph (1), then for the benefit of beneficiaries then receiving payment of benefits after cessation of payments to those beneficiaries, in proportion to the then actuarial value of their respective benefits, but not to exceed the amount of those values;

(3) If any funds remain after allocation under subparagraph (2), then for the benefit of members with at least 10 years of creditable service who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions, allocating the funds on the basis of the oldest ages first; and

(4) If any funds remain after allocation under subparagraph (3), then for the benefit of members in service with the district on the date of the cessation with less than 10 years of creditable service, who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions, allocating the funds on the basis of the oldest ages first. [1985, c. 801, §§ 5, 7 (NEW).]

[2007, c. 491, §238 (AMD) .]

2. **Manner of payment.** The allocation of the funds under subsection 1, as decided by the board, may be carried out through the continuance of the benefit payments or the funds may be distributed in one lump sum to the persons entitled to the benefits under subsection 1.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Right to benefits.** No member may be deprived of his right to any benefits under this section solely because he later terminates employment with the participating local district before his service retirement date.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §§237, 238 (AMD).

§18409. PAYMENT FROM CERTAIN FUNDS

All benefits payable under this chapter must be paid from the Retirement Allowance Fund, except those payable from the Members' Contribution Fund or as specifically provided in this chapter. [2007, c. 249, §31 (AMD).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 249, §31 (AMD).

§18410. INCORRECT RECORDS

If any error in any record of the retirement system results in a member or beneficiary receiving more or less from the system than he would have been entitled to receive had the record been correct, payments shall, as far as practicable, be adjusted so that the actuarial equivalent of the benefit to which he was correctly entitled is paid. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18411. EARNABLE COMPENSATION CONTINUED

For purposes of determining benefits under this chapter, the earnable compensation of a member retired with a disability retirement allowance under article 3 is assumed to be continued after his date of termination of service: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Rate.** At the same rate as received immediately before the date of termination of service; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Percentage adjustments.** Subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 18407.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18412. LIMITATION ON BENEFITS

Benefits are limited as follows: [1987, c. 256, §34 (NEW).]

1. **One benefit only.** A beneficiary may select only one benefit, regardless of how many benefits he qualifies for; and

[1987, c. 256, §34 (NEW) .]

2. **Election final.** Except as provided in section 18403, subsection 4, and section 18553, subsection 8, if a beneficiary elects a benefit after receiving reasonable notification of available options from the retirement system, the beneficiary's election of a benefit is final and may not be changed or revoked at a later date.

[1991, c. 548, Pt. A, §3 (AMD) .]

SECTION HISTORY
1987, c. 256, §34 (NEW). 1991, c. 548, §A3 (AMD).

§18413. ELECTION TO REDUCE OR DISCONTINUE BENEFITS

Any retiree or member who is retired or will retire may elect to reduce or discontinue receiving any benefit upon written request, duly certified and acknowledged, to the executive director. [1993, c. 387, Pt. A, §20 (NEW).]

SECTION HISTORY
1993, c. 387, §A20 (NEW).

Article 2: SERVICE RETIREMENT BENEFITS

§18451. QUALIFICATION FOR BENEFITS FOR MEMBERS NOT COVERED UNDER CHAPTER 427

Qualification for service retirement benefits for a member not covered under chapter 427 is governed by subsection 1, 2 or 3, unless the requirements of section 18453 are satisfied, in which case one or more of the subsections of section 18453 governs. [2013, c. 391, §9 (AMD).]

1. **Member in service.** A member who is in service when reaching 60 years of age, or is in service after reaching 60 years of age, qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age and has been in service for a minimum of one year immediately before retirement; [1999, c. 756, §16 (AMD).]

B. [1999, c. 756, §17 (RP).]

C. [1987, c. 256, §36 (RP).]

D. Except as provided in paragraph E, has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Legislative Retirement Program; or [2007, c. 491, §239 (AMD).]

E. Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program, and:

(1) Was in service on October 1, 1999;

(2) Had left prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or

(3) Was first in service on or after October 1, 1999. [2007, c. 491, §240 (AMD).]

[2007, c. 491, §§239, 240 (AMD) .]

2. **Member not in service.** A member who is not in service when reaching 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age and, except as provided in paragraph D, has at least 10 years of creditable service, which, for the purpose of determining completion of the 10-year requirement, may include creditable service as a member of the Legislative Retirement Program; or [2007, c. 491, §241 (AMD).]

B. [1999, c. 756, §20 (RP).]

C. [1987, c. 256, §37 (RP).]

D. Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program, and:

(1) Was in service on October 1, 1999;

(2) Had left service prior to October 1, 1999 with or without withdrawing contributions and on or after October 1, 1999 returned to service; or

(3) Was first in service on or after October 1, 1999. [2007, c. 491, §242 (AMD).]

[2007, c. 491, §§241, 242 (AMD) .]

3. **Member with creditable service of 25 years or more.** A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8.

A. [1987, c. 256, §38 (RP).]

B. [1987, c. 256, §38 (RP).]

[2007, c. 491, §243 (AMD) .]

3-A. **Five-year minimum creditable service requirement for eligibility to receive service retirement benefit at applicable age; applicability.** The minimum requirement of 5 years of creditable service for eligibility to receive service retirement benefits under subsection 1, paragraph E or subsection 2, paragraph D applies only to:

A. A member who is in service on October 1, 1999; [1999, c. 756, §23 (NEW).]

B. Upon return to service, a member who had left service prior to October 1, 1999 with or without withdrawing that member's contributions and on or after October 1, 1999 returned to service; or [1999, c. 756, §23 (NEW).]

C. A member who was first in service on or after October 1, 1999. [1999, c. 756, §23 (NEW).]

For those members to whom the 5-year minimum creditable service requirement does not apply, the 10-year minimum creditable service requirement for eligibility to receive service retirement benefits remains in effect on and after October 1, 1999.

[1999, c. 756, §23 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§35-38 (AMD). 1987, c. 402, §A74 (AMD). 1989, c. 78, §§5,6 (AMD). 1999, c. 756, §§16-23 (AMD). 2007, c. 491, §§239-243 (AMD). 2013, c. 391, §9 (AMD).

§18451-A. QUALIFICATION FOR BENEFITS FOR MEMBERS COVERED UNDER CHAPTER 427

Qualification for service retirement benefits for a member covered under chapter 427 is governed by subsection 1 or 2, unless the requirements of a special plan, as established by the board by rule, have been met. [2013, c. 391, §10 (NEW).]

1. **Members prior to July 1, 2014.** Qualification for a service retirement benefit for a member covered under chapter 427 who was a member of a plan provided under chapter 427 prior to July 1, 2014 is governed by section 18451.

[2013, c. 391, §10 (NEW) .]

2. **Members after June 30, 2014.** Qualification for a service retirement benefit for a member who is first covered under chapter 427 after June 30, 2014 is governed as follows.

A. A member who is in service when reaching 65 years of age, or is in service after reaching 65 years of age, qualifies for a service retirement benefit if the member:

(1) Retires upon or after reaching 65 years of age and has been in service for a minimum of one year immediately before retirement; or

(2) Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program. [2013, c. 588, Pt. E, §4 (AMD).]

B. A member who is not in service when reaching 65 years of age qualifies for a service retirement benefit if the member:

(1) Retires upon or after reaching 65 years of age; and

(2) Has at least 5 years of creditable service, which, for the purposes of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program. [2013, c. 391, §10 (NEW).]

C. A member, whether or not in service at retirement, who has completed 25 or more years of creditable service qualifies for a service retirement benefit if the member retires at any time after completing 25 years of service, which may include, for the purpose of meeting eligibility requirements, creditable service as a member of the Legislative Retirement Program. [2013, c. 391, §10 (NEW).]

[2013, c. 588, Pt. E, §4 (AMD) .]

SECTION HISTORY
2013, c. 391, §10 (NEW). 2013, c. 588, Pt. E, §4 (AMD).

§18452. COMPUTATION OF BENEFIT

1. **Member in service.** The total amount of the service retirement benefit for members qualified under section 18451, subsection 1, equals:

A. 1/50 of the member's average final compensation multiplied by the number of years of his membership service; and [1985, c. 801, §§5, 7 (NEW).]

B. If the member has prior service, 1/50 of his average final compensation multiplied by the number of years of prior service provided, that the number of years of prior service used in this computation may not exceed 25 years unless the participating local district has made the election provided under section 18352, subsection 2. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

2. **Member not in service.** The amount of the service retirement benefit for members qualified under section 18451, subsection 2, shall be computed in accordance with subsection 1.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Member with creditable service of 25 years or more.** The amount of the service retirement benefit for members qualified under section 18451, subsection 3 is computed in accordance with subsection 1, except that:

A. The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 60 years of age bears to the life annuity due at the age of retirement. [2013, c. 391, §11 (AMD).]

B. For the purpose of making the computation under paragraph A, the board-approved tables of annuities in effect at the date of the member's retirement is used. [2013, c. 391, §11 (AMD).]

The amount of the service retirement benefit for members qualified under section 18451-A, subsection 2, paragraph C is computed in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the member's age precedes 65 years of age.

[2013, c. 391, §11 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2013, c. 391, §11 (AMD).

§18453. SPECIAL RETIREMENT BENEFITS

A participating local district may, by filing with the board a duly certified copy of its action, provide, in lieu of any other retirement benefit in this Part, special retirement benefit plans in this section. If a member retires after becoming qualified to retire under section 18451 or 18451-A, the member's retirement benefit must be computed in accordance with section 18452, if that amount is greater than the amount computed under this section. [2013, c. 391, §12 (AMD).]

1. **Employee Special Plan #1.** A retirement benefit equal to 1/2 average final compensation for members who have reached 60 years of age and who have at least 30 years of creditable service.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Employee Special Plan #2.** A retirement benefit to police officers, firefighters, sheriffs, full-time deputy sheriffs, county corrections employees, emergency medical services persons as defined in Title 32, section 83, subsection 12, including but not limited to first responders, emergency medical technicians, advanced emergency medical technicians and paramedics, or any other participating local district employees who have completed 20 to 25 years of creditable service, the number of years to be selected by the participating local district. For the purposes of this subsection, "county corrections employees" means employees of the county who are employed at a county jail and whose duties include contact with prisoners or juvenile detainees. The benefits must be computed as follows:

A. Except as provided in paragraph B, 1/2 of the member's average final compensation; or [2001, c. 368, §1 (AMD).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current annual salary on the date of retirement or current final compensation, whichever is greater, and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §21 (AMD).]

[2013, c. 602, Pt. B, §2 (AMD) .]

3. **Firefighter and Emergency Medical Services Person Special Plan #1.** A retirement benefit equal to 1/2 of the member's average final compensation to a firefighter, including the chief of a fire department, and an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55.

[2013, c. 602, Pt. B, §3 (AMD) .]

4. **Firefighter and Emergency Medical Services Person Special Plan #2.** A retirement benefit to a firefighter, including the chief of a fire department, and an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. The benefits shall be computed as follows:

A. Except as provided in paragraph B, 2/3 of the member's average final compensation; or [2013, c. 602, Pt. B, §4 (AMD).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §22 (AMD).]

[2013, c. 602, Pt. B, §4 (AMD) .]

5. **Firefighter and Emergency Medical Services Person Special Plan #3.** A retirement benefit to a firefighter, including the chief of a fire department, and an emergency medical services person as defined in Title 32, section 83, subsection 12, including but not limited to a first responder, emergency medical technician, advanced emergency medical technician and paramedic, who has completed 20 to 25 years of creditable service in that capacity, the number of years to be selected by the participating local district and who retires at any age. The benefits shall be computed as follows:

A. Except as provided under paragraph B, 2/3 of the member's average final compensation; or [2013, c. 602, Pt. B, §5 (AMD).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §23 (AMD).]

[2013, c. 602, Pt. B, §5 (AMD) .]

6. **Police Officer Special Plan #1.** A retirement benefit equal to 1/2 of his average final compensation to a police officer, including the chief of a police department, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55.

[1985, c. 801, §§5, 7 (NEW) .]

7. **Police Officer Special Plan #2.** A retirement benefit to a police officer, including the chief of a police department, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. The benefits shall be computed as follows:

A. Except as provided under paragraph B, 2/3 of his average final compensation; or [1985, c. 801, §§5, 7 (NEW).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §24 (AMD).]

[1993, c. 387, Pt. A, §24 (AMD) .]

8. **Police Officer and County Corrections Employee Special Plan #3.** A retirement benefit equal to 2/3 of average final compensation to a police officer, including the chief of a police department, or county corrections employee who has completed 20 to 25 years of creditable service in that capacity, the number of years to be selected by the participating local district and who retires at any age. For the purposes of this subsection, "county corrections employee" means an employee of a county who is employed at a county jail and whose duties include contact with prisoners or juvenile detainees. The benefits must be computed as follows:

A. Except as provided under paragraph B, 2/3 of the member's average final compensation; or [2001, c. 368, §2 (AMD).]

B. If the member's benefit would be greater, the part of the service retirement benefit based upon membership service before July 1, 1977, is determined, on a pro rata basis, on the member's current final compensation and the part of the service retirement benefit based upon membership service after June 30, 1977, is determined in accordance with paragraph A. [1993, c. 387, Pt. A, §25 (AMD).]

[2001, c. 368, §2 (AMD) .]

9. **Sheriff, Deputy Sheriff and other county corrections employee special plan.** A retirement benefit equal to 1/2 of the average final compensation to a sheriff, deputy sheriff or county corrections employee who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. For the purposes of this subsection, "county corrections employee" means an employee of a county who is employed at a county jail and whose duties include contact with prisoners or juvenile detainees.

[2001, c. 368, §3 (AMD) .]

10. **Additional Benefits #1.** An additional retirement benefit for all employees qualifying under subsections 1 to 9 of 2% of average final compensation for each year of membership service not included in the age and service conditions for retirement under those subsections.

[1987, c. 256, §39 (AMD) .]

11. **Additional Benefits #2.** An additional retirement benefit for any class of employees qualifying under subsections 1 to 9 of 2% of average final compensation for each year of membership service in the qualifying employment served after completion of the age and service conditions under those subsections and after the effective date of the action by the participating local district.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §39 (AMD). 1993, c. 387, §§A21-25 (AMD). 2001, c. 368, §§1-3 (AMD). 2013, c. 391, §12 (AMD). 2013, c. 602, Pt. B, §§2-5 (AMD).

§18454. SPOUSE OPTION; NO REDUCTION

A participating local district may, by filing with the board a duly certified copy of its action, provide for all of its employees, in lieu of the benefit provided by section 18404, subsection 1, a benefit in accordance with the following terms and conditions. [1989, c. 78, §7 (RPR).]

1. **Limitation on beneficiary.** Beneficiaries eligible to receive the benefit under this section are limited to a surviving spouse or a dependent child or children.

A. [1989, c. 78, §7 (RP).]

B. [1989, c. 78, §7 (RP).]

C. [1989, c. 78, §7 (RP).]

[1989, c. 78, §7 (RPR) .]

2. **Payment to retiree.** A retirement benefit based upon section 18404, subsection 1, shall be paid to the retiree during the retiree's lifetime. Upon the death of the retiree, 1/2 of the amount being paid to the retiree shall be paid to the beneficiary the retiree has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the retiree.

[1989, c. 78, §7 (RPR) .]

3. **Surviving spouse.** If the designated beneficiary is a surviving spouse, the benefit shall continue during the lifetime of the beneficiary.

[1989, c. 78, §7 (RPR) .]

4. **Dependent child or children.** If the designated beneficiary is a dependent child or dependent children, the benefit shall be paid to the dependent child, or if 2 or more dependent children are designated beneficiaries, the benefit shall be divided equally among them. When a dependent child ceases to meet the definition of dependent child, the benefit shall be divided among the remaining dependent children or paid to the remaining dependent child. Payment of the benefit shall continue until the remaining dependent child dies or ceases to meet the definition of "dependent child" under section 17001, subsection 12.

[1989, c. 78, §7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 78, §7 (RPR).

§18455. LAW GOVERNING BENEFIT DETERMINATION

1. **Termination on or after January 1, 1976.** If a member's final termination of service occurred on or after January 1, 1976, the retirement system law in effect on the date of termination shall govern the member's service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Termination before January 1, 1976.** If a member's final termination of service occurred before January 1, 1976, the retirement system law in effect on January 1, 1976, shall govern the member's service retirement benefit.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18456. MINIMUM BENEFIT

Any member who has 10 or more years of creditable service at retirement is entitled to a minimum service retirement benefit of $100 a month. Any former participating local district employee who had 10 or more years of creditable service and who is receiving a retirement allowance, including adjustments provided by section 18407, which is less than $100 a month, shall have his retirement benefit increased to $100 a month the first day of the month following adoption of this section by the participating local district. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18457. RESTORATION TO SERVICE

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 739, §§43,48 (AMD). 2001, c. 699, §4 (RP).

§18458. RECOMPUTATION OF BENEFIT

When a participating local district adopts the benefits provided by the Public Laws of 1973, chapter 542, benefits for former employees receiving a retirement benefit shall be recomputed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **1/50 basis.** Each person receiving a service retirement benefit is entitled to a recomputation of benefits based upon the change in formula to a 1/50 basis.

A. The amount resulting from the recomputation, not including retirement benefit adjustments granted under section 18407, shall be paid to the retirement benefit recipient effective the first day of the month following the effective date of adoption of these benefits by the participating local district. [1985, c. 801, §§ 5, 7 (NEW).]

B. Adjustments granted under section 18407 may not be changed by a recomputation of benefits under this section. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Three-year average basis.** Each person who is receiving a service retirement benefit which had been computed on the basis of a 5-year average highest compensation is entitled to a recomputation of benefits based on a 3-year average highest compensation.

A. If the recomputed benefit represents less than a 2% increase on the basic retirement benefit, not including amounts accrued under section 18407, the recomputed benefit will not be paid. [1985, c. 801, §§ 5, 7 (NEW).]

B. If the recomputed benefit represents more than a 2% increase on the basic retirement benefit, the retirement system shall pay the recomputed benefits, effective the first day of the month following the effective date of adoption of these benefits by the participating local district. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18459. INTERCHANGEABLE BENEFITS FOR LAW ENFORCEMENT OFFICERS

Any service retirement benefits earned by a law enforcement officer under this article which are substantially similar or equal are interchangeable. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18460. DISCONTINUATION AND SUBSTITUTION OF BENEFITS

A participating local district electing retirement programs under section 18453, subsections 1 to 9, may, by filing with the board a duly certified copy of its action: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Discontinue benefits.** Discontinue any benefit under any of those subsections to any person qualifying for the benefit who was hired after the effective date of the district's action; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Substitution of benefits.** Substitute for the discontinued benefit any other benefit provided in this Part.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18461. COLLECTIVE BARGAINING RIGHTS

Nothing in section 18453, subsections 1 to 9, may be construed to affect in any way the rights of public employees to engage in collective bargaining for terms and conditions of employment. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18462. TRANSFER FROM SPECIAL PLAN

A participating local district may provide, by filing with the board a duly certified copy of its action, an additional benefit for employees under special plans who transfer to positions not under special plans. The benefits under subsection 2, paragraph A are not applicable to employees of participating local districts which have not adopted the provisions of section 18453, subsection 10 or 11. [2001, c. 2, Pt. A, §12 (COR).]

1. **Special plan defined.** As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 18453, subsections 2 to 9.

[1989, c. 79, §3 (NEW) .]

2. **Additional creditable service.** Additional creditable service is earned by a former participant in a special plan as follows.

A. A member who has completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and earn service credit for additional service retirement benefits.

(1) The part of a member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 18452, subsection 1. [1989, c. 79, §3 (NEW).]

B. [2001, c. 699, §5 (RP).]

C. A member who has not completed the service requirements for retirement under a special plan may transfer to a position not under a special plan and shall receive service retirement benefits as follows.

(1) If the benefit is greater, the part of the member's service retirement benefit based upon membership service before being transferred shall be computed according to the formula for computing benefits under the special plan that the member was under previously.

(2) The part of the member's benefit based upon membership service after being transferred shall be computed in accordance with section 18452, subsection 1. [1989, c. 79, §3 (NEW).]

D. A member who has not completed the service requirements for retirement under a special plan, on becoming disabled as defined in section 18501, and on becoming reemployed in a position not under a special plan must on retirement receive retirement benefits as follows.

(1) The part of the member's service retirement based on membership service before becoming disabled must be computed according to the formula for computing benefits under the member's previous special plan.

(2) The part of the member's service retirement based on membership service after becoming reemployed in a position not under a special plan must be computed according to the formula for computing benefits under the member's previous special plan.

(3) If the member is found to be no longer disabled, as defined in section 18501, the member may:

(a) Return to a position under the member's previous special plan; or

(b) Remain in the position that is not under a special plan and have the part of the member's service retirement benefit based on post-disability service computed in accordance with section 18452, subsection 1.

(4) The executive director may require that a member subject to this paragraph undergo medical examinations or tests once each year to determine the member's disability in accordance with section 18503.

(a) If the member refuses to submit to the examination or tests under this subparagraph, the member's retirement benefit must be based on section 17852, subsection 1, until the member withdraws the refusal.

(b) If the member's refusal under division (a) continues for one year, all the member's rights to any further benefits under this paragraph cease. [2011, c. 2, §4 (COR).]

[2011, c. 2, §4 (COR) .]

3. **Reduction of benefits.** Upon retirement before reaching normal retirement age, the service retirement benefit of a member who transferred or who was restored to service subject to subsection 2 must be reduced as follows.

A. If the member transferred under the provisions of subsection 2, paragraph A, the portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 18452, subsection 3. [2013, c. 391, §13 (AMD).]

B. [2001, c. 699, §6 (RP).]

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 18452, subsection 3. [2013, c. 391, §13 (AMD).]

D. If the member was transferred subject to subsection 2, paragraph D, and:

(1) If the member completes the service or service and age requirements for retirement under the special plan the member was under previously, the retirement benefit may not be reduced; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan the member was under previously, the retirement benefit must be reduced in accordance with section 18452, subsection 3. [2013, c. 391, §13 (AMD).]

[2013, c. 391, §13 (AMD) .]

4. **Computation of benefit.** The computation of the retirement benefit shall be based upon the member's average final compensation, as defined in section 17001, subsection 4.

[1989, c. 79, §3 (NEW) .]

SECTION HISTORY
1989, c. 79, §3 (NEW). RR 2001, c. 2, §A12 (COR). 2001, c. 699, §§5,6 (AMD). RR 2011, c. 2, §4 (COR). 2013, c. 391, §13 (AMD).

Article 3: DISABILITY RETIREMENT BENEFITS

§18501. DEFINITION

As used in this article, unless the context otherwise indicates, "disabled" means mentally or physically incapacitated: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Permanent.** To the extent that it is impossible to perform the duties of his employment position and the incapacity can be expected to be permanent; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Revealed by examination.** Such that the incapacity will be revealed by medical examination or tests conducted in accordance with section 18503.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18501-A. APPLICABILITY

This article applies to all disabilities for which written applications are received by the executive director before October 1, 1989. All disabilities for which written applications are received by the executive director after September 30, 1989, are subject to article 3-A. [1989, c. 409, §§10, 12 (NEW).]

SECTION HISTORY
1989, c. 409, §§10,12 (NEW).

§18502. APPLICATION

1. **Written application.** In order to receive a benefit under this article, the person must apply in writing to the executive director in the format specified by the executive director.

A. The executive director shall obtain medical consultation on each applicant for disability retirement benefits in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical

consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known. [1995, c. 643, §17 (NEW).]

[1995, c. 643, §17 (AMD) .]

2. **Approval.** The written application must be approved by the executive director.

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1995, c. 643, §17 (AMD).

§18503. EXAMINATION OR TESTS

The examination or tests to determine whether a member is disabled under section 18501 are governed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Agreed upon physician.** The examination or tests shall be conducted by a qualified physician mutually agreed upon by the executive director and member claiming to be disabled.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Agreed upon place.** The examination or tests shall be conducted at a place mutually agreed upon by the executive director and member claiming to be disabled.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Costs.** The costs incurred under subsections 1 and 2 shall be paid by the retirement system.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18504. QUALIFICATION FOR BENEFIT

1. **Qualification.** Except as provided in subsection 2, a member qualifies for a disability retirement benefit if the member becomes disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 12, before normal retirement age.

A. [1991, c. 887, §12 (RP).]

B. [1991, c. 887, §12 (RP).]

[1997, c. 384, §10 (AMD) .]

2. **Exception.** A member with fewer than 5 years of continuous creditable service preceding that member's last date of service is not eligible for a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the

Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

[2009, c. 322, §9 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 434, §3 (AMD). 1991, c. 887, §12 (AMD). 1997, c. 384, §10 (AMD). 2007, c. 491, §244 (AMD). 2009, c. 322, §9 (AMD).

§18505. COMPUTATION OF BENEFIT

When a member qualified under section 18504 retires, the member is entitled to receive a disability retirement benefit equal to 59% of the member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts. [1995, c. 643, §18 (AMD).]

A member who by election remains covered, as to qualification for benefits, under section 18504 as written prior to its amendment by Public Law 1991, chapter 887, section 12, qualifies for a disability retirement benefit on meeting the requirements of section 18504, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation. [1997, c. 384, §11 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 887, §13 (AMD). 1993, c. 595, §11 (AMD). 1995, c. 643, §18 (AMD). 1997, c. 384, §11 (AMD).

§18506. REDUCTION IN AMOUNT OF BENEFIT

1. **Excess compensation.** If the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds $20,000 in calendar year 2000 or in any subsequent calendar year exceeds that amount cumulatively increased by the same percentage adjustments granted under section 18407:

A. The excess must be deducted from the disability or service retirement benefits during the next calendar year, the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; and [2001, c. 443, §3 (AMD); 2001, c. 443, §7 (AFF).]

B. The beneficiary shall reimburse the retirement system for any excess payments not deducted under paragraph A. [1985, c. 801, §§5, 7 (NEW).]

[2013, c. 391, §14 (AMD) .]

2. **Disability payments under other laws.** The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the beneficiary for the same disability under either or both of the following:

(1) The workers' compensation or similar law, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that Act at the date of disability retirement. [1993, c. 680, Pt. A, §17 (AMD).]

B. Disability retirement benefits shall be calculated as follows:

(1) The initial disability retirement benefit shall be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the beneficiary's average final compensation;

(2) Subsequent cost-of-living adjustments applied to any benefit listed under paragraph A shall be excluded from the calculations under subparagraph (1);

(3) Adjustments under section 18407 shall be applied to that portion of disability retirement benefits calculated under subparagraph (1); and

(4) If a beneficiary receives a benefit under paragraph C, the 80% limit under subparagraph (1) shall not include adjustments under section 18407. [1987, c. 458, §2 (RPR).]

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit which is the actuarial equivalent of the member's accumulated contributions at the time of his retirement. [1985, c. 801, §§5, 7 (NEW).]

D. Lump-sum settlements of benefits that would reduce the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to vocational rehabilitation, attorneys' fees, physicians, nurses, hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

(2) These prorated lump-sum settlements must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection. [1993, c. 680, Pt. A, §18 (AMD).]

E. Any dispute about amounts paid or payable under workers' compensation or about the amount of the lump-sum settlement and its attributions must be determined, on petition, by a single member of the Workers' Compensation Board, in accordance with Title 39-A. These determinations may be appealed under Title 39-A, section 322. [1991, c. 885, Pt. E, §14 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[1993, c. 680, Pt. A, §§17, 18 (AMD) .]

3. Restoration to service. If any recipient of a disability retirement benefit is restored to service, and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceed the recipient's average final compensation at retirement, increased by the same percentage adjustments as have been received under section 18407, the excess must be deducted from the disability retirement benefit payments during the next calendar year.

A. The deductions must be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board. [2007, c. 491, §245 (AMD).]

B. The recipient of the disability retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section. [1985, c. 801, §§5, 7 (NEW).]

C. If the retirement benefit payments are eliminated by operation of this subsection:

(1) The person again becomes a member of the Participating Local District Retirement Program and begins contributing at the current rate; and

(2) When the person again retires, the person must receive benefits computed on the person's entire creditable service and in accordance with the law in effect at that time. [2007, c. 491, §245 (AMD).]

[2013, c. 391, §15 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 458, §2 (AMD). 1989, c. 78, §8 (AMD). 1991, c. 885, §§E13,14 (AMD). 1991, c. 885, §E47 (AFF). 1993, c. 680, §§A17,18 (AMD). 2001, c. 443, §3 (AMD). 2001, c. 443, §7 (AFF). 2007, c. 491, §245 (AMD). 2013, c. 391, §§14, 15 (AMD).

§18507. PAYMENT OF BENEFIT

1. **Beginning.** If the executive director receives the written application for disability retirement benefits within 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date of termination of active service of the member. If the executive director receives the written application for disability retirement benefits more than 6 months after the date of termination of active service of the member, payment of benefits shall begin on the first day of the month following the date 6 months prior to the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, provided that payment of benefits shall begin on the first day of the month following the date of termination of active service of the member if it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and [1987, c. 256, §40 (RPR).]

B. The application was made as soon as was reasonably possible. [1987, c. 256, §40 (RPR).]

[1987, c. 256, §40 (RPR) .]

2. **Cessation.** Payment of disability retirement benefits shall continue as long as a person is disabled, except that:

A. A disability retirement benefit ceases and eligibility for a service retirement benefit begins on the last day of the month in which the service retirement benefit of the beneficiary equals or exceeds the amount of the member's disability retirement benefit. For a member who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 14, the disability retirement benefit ceases:

(1) On the last day of the month in which the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23, occurs; or

(2) On the last day of the month in which the service retirement benefit of the beneficiary would equal or exceed the amount of the disability retirement benefit, if that occurs before the 10th anniversary of the beneficiary's normal retirement age. [1997, c. 384, §12 (AMD).]

B. After the disability has continued for 5 years, the disability of the beneficiary must render the beneficiary unable to engage in any substantially gainful activity for which the beneficiary is qualified by training, education or experience. For purposes of this paragraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed $20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 18407.

(1) The executive director may require, once each year, a recipient of a disability retirement benefit to undergo medical examinations or tests, conducted in accordance with section 18503, to determine the disability of the beneficiary.

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), the beneficiary's disability retirement benefit is discontinued until the beneficiary withdraws the refusal.

(3) If the beneficiary's refusal under subparagraph (2) continues for one year, all the beneficiary's rights to any further benefits under this article cease.

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of the beneficiary's disability retirement benefit ceases. [2003, c. 675, §3 (AMD).]

C. The person's average final compensation at retirement shall include the same percentage adjustments, if any, that would apply to the amount of retirement benefit of the beneficiary under section 18407. [1985, c. 801, §§5, 7 (NEW).]

D. A full month's benefit shall be paid to the beneficiary or estate of the disability retirement recipient for the month in which he dies. [1987, c. 256, §42 (NEW).]

[2003, c. 675, §3 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §§40-42 (AMD). 1991, c. 887, §14 (AMD). 1997, c. 384, §12 (AMD). 2003, c. 675, §3 (AMD).

§18508. STATEMENT OF HEALTH

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1995, c. 643, §19 (RP).

§18509. STATEMENT OF COMPENSATION

1. **Requirement.** The executive director shall require each beneficiary of a disability retirement benefit to submit, each calendar year, a statement of his compensation received from engaging in any gainful occupation during that year.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Failure to submit statement.** Failure to submit the statement under subsection 1, shall result in the following.

A. If the beneficiary fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request for the statement, the beneficiary's disability retirement benefit shall be discontinued until the statement is submitted. [1985, c. 801, §§ 5, 7 (NEW).]

B. If the beneficiary fails to submit the statement required under subsection 1 within one year of receipt of the executive director's request for the statement, all the beneficiary's rights to any further benefits shall cease. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18510. OPTIONAL ELECTION

1. **Election.** Any beneficiary entitled to a disability retirement benefit under section 1122 of the former retirement system law, as in effect immediately before July 1, 1977, may elect to be governed by this article instead of the law applicable to the disability retirement benefit which he is receiving.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Manner of election.** The election under subsection 1 must be made by written application to the executive director within 6 months after adoption of this article by the participating local district.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Effect of election.** If the election under subsection 1 is made, this article shall apply from the date of the beneficiary's original eligibility for disability retirement, but any increases in benefits may only be granted from the date of election.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18511. PRESUMPTION OF DISABILITY FOR ACTIVE FIREFIGHTERS

1. **Definition.** For purposes of this section, a person is considered to be an active member of a municipal fire department or of a volunteer fire department or volunteer firefighters' association if the person aids in the extinguishment of fires, whether or not the person has administrative duties or other duties as a member of the department or association.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Presumption.** It is presumed that a member incurred a disability in the line of duty that occurred while in actual performance of duty at some definite time and place and that was not caused by the willful negligence of the member if:

A. The disability is the result of a cardiovascular injury that occurred, or a cardiovascular or pulmonary disease that developed, within 6 months of having participated in firefighting or in a training or drill that involved firefighting; and [2009, c. 322, §10 (AMD).]

B. The member was an active member of a municipal fire department or of a volunteer fire association, as defined in Title 30-A, section 3151, for at least 2 years before the injury or the onset of the disease. [2009, c. 322, §10 (AMD).]

C. [2009, c. 322, §10 (RP).]

[2009, c. 322, §10 (AMD) .]

3. **Rebuttal.** This presumption is subject to rebuttal in accordance with the Maine Rules of Evidence, Rule 301.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 878, §B6 (AMD). 2009, c. 322, §10 (AMD).

§18512. REHABILITATION

Upon agreement of the executive director and the person, rehabilitation services may be provided to any person who is the recipient of a disability retirement benefit under this article as a means to the person being able to return to substantially gainful activity. As a condition of entering into an agreement to provide rehabilitation services, the executive director must determine that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article, that the recipient is suitable for rehabilitation services and that rehabilitation services are likely to lead to substantially gainful activity. When appropriate, determination of suitability must include consultation with the medical board to determine any medical indications that the recipient should not engage in a rehabilitation program or to identify a recipient too severely disabled to benefit from rehabilitation services in accordance with the purposes of this article. Services must be provided by private and public rehabilitation counselors, government agencies and others approved by the executive director as qualified to provide rehabilitation services. The executive director shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified. This section does not affect the ongoing requirement that a person remain disabled in order to continue to receive disability benefits. [2003, c. 387, §10 (NEW).]

For the purposes of this section, "person" means any person who is the recipient of a disability retirement benefit. [2003, c. 387, §10 (NEW).]

1. **Rehabilitation plan.** If the executive director makes the determinations necessary to provide rehabilitation services under this section and rehabilitation agreed to by the parties, the retirement system shall designate a rehabilitation provider to evaluate the person and develop a rehabilitation plan.

[2003, c. 387, §10 (NEW) .]

2. **Costs.** The executive director may contract with rehabilitation providers to develop and carry out approved rehabilitation plans.

A. Except as provided in paragraph B, the executive director shall pay these providers from funds accumulated in the Retirement Allowance Fund, established under section 17251. [2003, c. 387, §10 (NEW).]

B. If the person is entitled to other benefits to meet the cost of rehabilitation services, that person must first apply for and use those benefits to the extent available to pay for the goods and services provided. [2003, c. 387, §10 (NEW).]

[2003, c. 387, §10 (NEW) .]

3. **Approval of rehabilitation plan.** The executive director and the person shall approve any rehabilitation plan developed under subsection 1 and shall indicate in writing their approval of and agreement to the rehabilitation plan. The person shall approve the plan within 30 days or, within that time period, submit to the executive director the name of an alternate provider for the executive director's consideration. If the rehabilitation plan includes return to employment with the employer for whom the person worked before becoming disabled, the employer also shall indicate in writing approval of the plan.

[2003, c. 387, §10 (NEW) .]

4. **Monitoring of rehabilitation plan.** Each rehabilitation plan approved by the executive director must contain a provision for periodic review of progress being made by the person toward achieving the goal of the plan and substantially gainful activity. The provision relating to review must include authority for the executive director to terminate the plan or to amend the plan with the same provider or with a change of provider, based upon results of the review or at the request of the person or the provider. Subsections 1, 2 and 3 apply to any amended plans under this subsection. A person is entitled to a single rehabilitation plan during

the course of the person's incapacity except when the person demonstrates that a termination of the plan was reasonable and for good cause. Any entitlement to amend a rehabilitation plan or establish a new plan ends with a determination by the executive director that the person is no longer disabled.

[2003, c. 387, §10 (NEW) .]

5. **Return to service.** If the rehabilitation plan includes return to employment with the person's former employer, that person must be reemployed in accordance with the plan. The executive director shall notify the former employer, in writing, that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan.

[2003, c. 387, §10 (NEW) .]

6. **Employment exception.** A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 17929 or until the person is reemployed consistent with this section.

[2003, c. 387, §10 (NEW) .]

SECTION HISTORY
2003, c. 387, §10 (NEW).

Article 3-A: DISABILITY RETIREMENT BENEFITS AFTER SEPTEMBER 30, 1989

§18521. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 409, §§11, 12 (NEW).]

1. **Disabled.** "Disabled" means that the member is mentally or physically incapacitated under the following conditions:

A. The incapacity is expected to be permanent; [1989, c. 409, §§11, 12 (NEW).]

B. That it is impossible to perform the duties of the member's employment position; [1989, c. 409, §§11, 12 (NEW).]

C. After the incapacity has continued for 2 years, the incapacity must render the member unable to engage in any substantially gainful activity for which the member is qualified by training, education or experience; and [1989, c. 409, §§11, 12 (NEW).]

D. The incapacity may be revealed by examinations or tests conducted in accordance with section 18526. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

2. **Employment position.** "Employment position" means:

A. The position in which the member is employed at the time the member becomes incapacitated; or [1989, c. 409, §§11, 12 (NEW).]

B. A position of comparable stature and equal or greater compensation and benefits which is made available to the member by the member's employer. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

§18522. APPLICABILITY

This article applies to all disabilities for which written applications are received by the executive director after September 30, 1989. [1989, c. 409, §§11, 12 (NEW).]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

§18523. STATEMENT OF HEALTH

(REPEALED)

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1995, c. 643, §20 (RP).

§18524. QUALIFICATION FOR BENEFIT

1. **Qualification.** Except as provided in subsection 2, a member qualifies for a disability retirement benefit if disabled while in service and, for a member who by election remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 15, before normal retirement age.

A. [1991, c. 887, §15 (RP).]

B. [1991, c. 887, §15 (RP).]

[1997, c. 384, §13 (AMD) .]

2. **Exception.** A member with fewer than 5 years of continuous creditable service preceding that member's last date of service is not eligible for a disability retirement benefit if the disability is the result of a physical or mental condition that existed before the member's membership in a retirement program of the Maine Public Employees Retirement System, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty but from events or circumstances not usually encountered within the scope of the member's employment.

[2009, c. 322, §11 (AMD) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 434, §4 (AMD). 1991, c. 887, §15 (AMD). 1997, c. 384, §13 (AMD). 2007, c. 491, §246 (AMD). 2009, c. 322, §11 (AMD).

§18525. APPLICATION

1. **Written application.** In order to receive a benefit under this article, the person must apply in writing to the executive director in the format specified by the executive director.

A. The executive director shall obtain medical consultation on each applicant for disability in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known. [1995, c. 643, §21 (AMD).]

B. [1997, c. 393, Pt. A, §14 (RP).]

[1997, c. 393, Pt. A, §14 (AMD) .]

2. **Workers' compensation.** If the incapacity upon which the application is based is a result of an injury or accident received in the line of duty, the application must include proof that the member has made application for benefits under the workers' compensation laws.

[1995, c. 643, §21 (AMD) .]

3. **Social security.** If the employment for which creditable service with the employer is allowed was also covered under the United States Social Security Act, the application must include proof that the member has made application for benefits under this Act.

[1995, c. 643, §21 (AMD) .]

4. **Approval.** The written application must be approved by the executive director upon finding that the member has met the requirements of section 18524.

[1995, c. 643, §21 (AMD) .]

5. **Reapplication.** A member who has had a disability retirement benefit application denied may file a new application based on the same medical conditions only if that member has had a bona fide return to service with an employer whose employees are covered by this article or chapter 423, subchapter 5, article 3-A. If the executive director finds that the member has met the requirements of section 18524, the new application must be approved notwithstanding the earlier denial.

[2015, c. 392, §2 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1995, c. 643, §§21,22 (AMD). 1997, c. 393, §A14 (AMD). 2015, c. 392, §2 (AMD).

§18526. EXAMINATIONS OR TESTS

Any examinations or tests recommended by the medical board in accordance with section 17106 or required by the executive director under section 18521, subsection 1, paragraph D; section 18524; section 18529, subsection 2, paragraph B; or section 18533, subsection 3, paragraph A, are governed as follows. [1995, c. 643, §23 (AMD).]

1. **Agreed upon physician.** The examinations or tests shall be conducted by a qualified physician and, when appropriate, a qualified psychologist mutually agreed upon by the executive director and the member claiming to be disabled.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Agreed upon place.** The examinations or tests shall be conducted at a place mutually agreed upon by the executive director and the member claiming to be disabled.

[1989, c. 409, §§11, 12 (NEW) .]

3. **Costs.** The costs incurred under subsections 1 and 2 shall be paid by the retirement system.

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1995, c. 643, §23 (AMD).

§18527. REHABILITATION

Upon agreement of the executive director and the person, rehabilitation services may be provided to any person who is the recipient of a disability retirement benefit under this article as a means to the person being able to return to substantially gainful activity. As a condition of entering into an agreement to provide rehabilitation services, the executive director must determine that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article, that the recipient is suitable for rehabilitation services and that rehabilitation services are likely to lead to substantially gainful activity. When appropriate, determination of suitability must include consultation with the medical board to determine any medical indications that the recipient should not engage in a rehabilitation program or to identify a recipient too severely disabled to benefit from rehabilitation services in accordance with the purposes of this article. Services must be provided by private and public rehabilitation counselors, government agencies and others approved by the executive director as qualified to provide rehabilitation services. The executive director shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified. This section does not affect the ongoing requirement that a person remain disabled in order to continue to receive disability benefits. [2003, c. 387, §11 (AMD).]

For the purposes of this section, "person" means any person who is the recipient of a disability retirement benefit. [2003, c. 387, §11 (NEW).]

1. **Rehabilitation plan.** If the executive director makes the determinations necessary to provide rehabilitation services under this section and rehabilitation is agreed to by the parties, the retirement system shall designate a rehabilitation provider to evaluate the person and develop a rehabilitation plan.

[2003, c. 387, §11 (AMD) .]

2. **Costs.** The executive director may contract with rehabilitation providers to develop and carry out approved rehabilitation plans.

A. Except as provided in paragraph B, the executive director shall pay these providers from funds accumulated in the Retirement Allowance Fund, established under section 17251. [2003, c. 387, §11 (AMD).]

B. If the person is entitled to other benefits to meet the cost of rehabilitation services, that person must first apply for and use those benefits to the extent available to pay for the goods and services provided. [1989, c. 409, §§11, 12 (NEW).]

[2003, c. 387, §11 (AMD) .]

3. **Approval of rehabilitation plan.** The executive director and the person shall approve any rehabilitation plan developed under subsection 1 and shall indicate in writing their approval of and agreement to the rehabilitation plan. The person shall approve the plan within 30 days or, within that time period, submit

to the executive director the name of an alternate provider for the executive director's consideration. If the rehabilitation plan includes return to employment with the employer for whom the person worked before becoming disabled, the employer shall also indicate in writing approval of the plan.

[2003, c. 387, §11 (AMD) .]

4. **Decline of rehabilitation.**

[2003, c. 387, §11 (RP) .]

5. **Monitoring of rehabilitation plan.** Each rehabilitation plan approved by the executive director shall contain a provision for periodic review of progress being made by the person toward achieving the goal of the plan and substantially gainful activity. The provision relating to review must include authority for the executive director to terminate the plan or to amend the plan with the same provider or with a change of provider, based upon results of the review or at the request of the person or the provider. Subsections 1, 2 and 3 apply to any amended plans under this subsection. A person is entitled to a single rehabilitation plan during the course of the person's incapacity, except when the person demonstrates that a termination of the plan was reasonable and for good cause. Any entitlement to amend a rehabilitation plan or establish a new plan ends with a determination by the executive director that the person is no longer disabled.

[2003, c. 387, §11 (AMD) .]

6. **Return to service.** If the rehabilitation plan includes return to employment with the person's former employer, that person must be reemployed in accordance with the plan. The executive director shall notify the former employer, in writing, that the person has completed the rehabilitation plan and is ready to return to employment. The former employer shall reemploy the person in the first available position for which that person is qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan.

[2003, c. 387, §11 (AMD) .]

7. **Other employment under system.** A person is not required to accept employment that reasonably necessitates relocation or for which the person is not qualified, taking into consideration that person's prior compensation and benefits, training, education and experience, including training and education received under that person's rehabilitation plan. The disability retirement benefit may not be discontinued except as provided by section 18529 or until the person is reemployed consistent with this section.

[2003, c. 387, §11 (AMD) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 580, §§15,16 (AMD). 1995, c. 643, §§24,25 (AMD). 2003, c. 387, §11 (AMD).

§18528. COMPUTATION OF BENEFIT

When a member qualified under section 18524 retires, after approval for disability retirement by the executive director in accordance with section 18525, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts. [1995, c. 643, §26 (AMD).]

A member who by election remains covered, as to qualification for benefits, under section 18524 as written prior to its amendment by Public Law 1991, chapter 887, section 15, qualifies for a disability retirement benefit on meeting the requirements of section 18524, subsection 1, paragraphs C and D. When a member so qualified retires after approval for disability retirement by the executive director in accordance with this Article, the member is entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation. [1997, c. 384, §14 (NEW).]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 887, §16 (AMD). 1993, c. 595, §12 (AMD). 1995, c. 643, §26 (AMD). 1997, c. 384, §14 (AMD).

§18529. PAYMENT OF BENEFIT

1. **Beginning.** Payment of disability retirement benefits shall begin on the first day of the month following the date of termination of active service of the member, but not more than 6 months before the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, unless it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and [1989, c. 409, §§11, 12 (NEW).]

B. The application was made as soon as reasonably possible. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

2. **Cessation.** Payment of disability retirement benefits shall continue as long as a person is disabled, except that:

A. The disability retirement benefit ceases and a service retirement benefit begins when the service retirement benefit of a person equals or exceeds the amount of the disability retirement benefit.

(1) When calculating the person's service retirement benefit, the average final compensation is the average final compensation at the time that person terminated active service before receiving disability retirement benefits adjusted by the same percentage adjustments, if any, that were applied to the disability retirement benefits under section 18407.

(2) The person is entitled to receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which that person receives disability retirement benefits under this article; and [1991, c. 887, §17 (AMD).]

A-1. For a person who by election or by having retired on disability retirement prior to October 16, 1992, remains covered under this section as written prior to its amendment by Public Law 1991, chapter 887, section 17, the disability retirement benefit ceases:

(1) On the 10th anniversary of that person's normal retirement age, as defined in section 17001, subsection 23; or

(2) When the service retirement benefit of that person equals or exceeds the amount of the disability retirement benefit, if that occurs before the beneficiary's normal retirement age. [1997, c. 384, §15 (NEW).]

B. The executive director may require, once each year, that the person undergo examinations or tests, conducted in accordance with section 18526, to determine the person's disability. The executive director may refer the records documenting the results of the examinations or tests and the person's file to the medical board for medical consultation regarding rehabilitation in accordance with section 17106, subsection 3, paragraph E.

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 18407. The disability retirement benefit continues if the person can effectively demonstrate to the executive director that the person is actively seeking work. For purposes of this subparagraph, the ability to engage in substantially gainful activity is demonstrated by the ability to perform work resulting in annual earnings that exceed $20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater, adjusted by the same percentage adjustments granted under section 18407.

(2) If the person refuses to submit to the examinations or tests under this paragraph, the disability retirement benefit is discontinued until that person withdraws the refusal.

(3) If the person's refusal under subparagraph (2) continues for one year, all rights to any further benefits under this article cease.

(4) If it is determined, on the basis of the examinations or tests under this paragraph, that the disability of a person no longer exists, the payment of the disability retirement benefit ceases.

(5) The executive director shall notify the person in writing of the decision to discontinue the disability retirement allowance under subparagraph (2) or (4).

(a) The decision is subject to appeal under section 17451.

(b) If the person appeals the executive director's decision, the disability retirement allowance may not be discontinued until all appeals have been exhausted. [2003, c. 675, §4 (AMD).]

[2003, c. 675, §4 (AMD) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 1991, c. 887, §17 (AMD). 1995, c. 643, §27 (AMD). 1997, c. 384, §15 (AMD). 2003, c. 675, §4 (AMD).

§18530. REDUCTION IN AMOUNT OF BENEFIT

1. **Definition.** As used in this section, unless the context otherwise indicates, "adjusted final compensation" means the rate of pay of the person immediately before termination and becoming the recipient of a disability retirement benefit adjusted by the same percentage adjustment as has been received under section 18407.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Compensation from employment not covered by this article.** If any person who is the recipient of a disability retirement benefit receives compensation in any year from engaging in any gainful activity or from employment with an employer whose employees are not covered by this article or chapter 423, subchapter 5, article 3-A, which exceeds $20,000, increased by the same percentage adjustments as are granted under section 18407, or the difference between the person's disability retirement benefit for that year and the person's average final compensation at the time that the person became a recipient of a disability retirement benefit, increased by the same percentage adjustments as have been granted by section 18407, whichever is greater:

A. The excess must be deducted from the disability or service retirement benefits during the next calendar year; the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; [2001, c. 443, §4 (AMD); 2001, c. 443, §7 (AFF).]

B. The person shall reimburse the retirement system for any excess payments not deducted under paragraph A. If the retirement benefit payments are eliminated by this subsection, the disability is deemed to no longer exist, the payment of the disability retirement benefit must be discontinued and, except as provided in paragraph C, all of the person's rights to benefits under this article cease; [2001, c. 443, §4 (AMD); 2001, c. 443, §7 (AFF).]

C. If, during the first 5 years of reemployment, the person again becomes disabled, terminates employment and is not covered by any other disability program, the retirement system shall resume paying the disability retirement benefit payable prior to the reemployment with all applicable cost-of-living adjustments and shall provide rehabilitation services under section 18527 if recommended by the medical board. If the benefit payable under the other disability program is not equal to or greater than the benefit under this article, the retirement system shall pay the difference between the amount of the benefit payable under the other disability program and the amount of the benefit payable under this article. The executive director shall require examinations or tests to determine whether the person is disabled as described in section 18521; and [1989, c. 409, §§11, 12 (NEW).]

D. At any time before the elimination of disability retirement benefit payments by this subsection, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received. [1989, c. 409, §§11, 12 (NEW).]

[2013, c. 391, §16 (AMD) .]

3. **Compensation from employment covered by this article.** If any person who is the recipient of a disability retirement benefit is reemployed by that person's prior employer or any other employer whose employees are covered by this article or chapter 423, subchapter V, article 3-A, and if the total of the person's disability benefit for any year and the person's total earnable compensation for that year exceeds the adjusted final compensation:

A. The disability or service retirement benefits will be reduced during the next calendar year by the amount that the total compensation exceeds the adjusted final compensation; [1989, c. 409, §§11, 12 (NEW).]

B. The deductions shall be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year during which the benefits are received; [1989, c. 409, §§11, 12 (NEW).]

C. The person shall reimburse the retirement system for any excess payments not deducted under paragraph A; [1989, c. 409, §§11, 12 (NEW).]

D. If the retirement benefit payments are eliminated by this subsection:

(1) The person again becomes a member of the Participating Local District Retirement Program and begins contributing at the current rate; and

(2) When the person again retires, the person must receive benefits computed on the basis of that person's entire creditable service and in accordance with the law in effect at that time; [2007, c. 491, §247 (AMD).]

E. If, during the first 5 years of reemployment, the person again becomes disabled and terminates employment, the retirement system shall resume paying the disability retirement benefit payable prior to the reemployment with all applicable cost-of-living adjustments, or if greater, a disability retirement benefit based upon the person's current average final compensation and shall provide rehabilitation services under section 18527 if recommended by the medical board. The executive director shall require examinations or tests to determine whether the person is disabled as defined in section 18521; and [1989, c. 409, §§11, 12 (NEW).]

F. At any time before the elimination of disability retirement benefit payments by this subsection, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received. [1989, c. 409, §§11, 12 (NEW).]

[2007, c. 491, §247 (AMD) .]

4. **Disability payments under other laws.** The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article must be reduced by any amount received by the person for the same disability under either or both of the following:

(1) The workers' compensation or similar laws, except amounts that may be paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that Act at the date of disability retirement. [1991, c. 885, Pt. E, §15 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

B. The reduction in the disability retirement benefit is governed as follows:

(1) The initial disability retirement benefit must be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the person's average annual earnings. For the purposes of this subparagraph, "average annual earnings" means the total of the person's average final compensation plus other wages and earnings from employment for the calendar year in which the person has the highest total of other wages and earnings from employment during the 5 years immediately preceding the year in which the person became disabled;

(2) The amount determined by the calculation under subparagraph (1) shall not be adjusted when cost-of-living adjustments are applied to the benefits listed under paragraph A; and

(3) Adjustments under section 18407 shall be applied to the reduced disability retirement benefit calculated under subparagraph (1) or paragraph C. [2003, c. 328, §1 (AMD).]

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit which is the actuarial equivalent of the member's accumulated contributions at the time of retirement. [1989, c. 409, §§11, 12 (NEW).]

D. Lump-sum settlements of benefits that reduce the disability retirement benefit under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to rehabilitation, attorneys', physicians', nurses', hospital, medical, surgical or related fees or charges or any amount paid or payable under former Title 39, section 56-B or Title 39-A, section 212, subsection 3.

(2) These prorated lump-sum settlements must reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection. [1991, c. 885, Pt. E, §15 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

E. Any dispute about amounts paid or payable under workers' compensation or the amount of the lump-sum settlement and its attributions must be determined on petition by a single member of the Workers' Compensation Board in accordance with Title 39-A. These determinations may be appealed under Title 39-A, section 322. [1991, c. 885, Pt. E, §15 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[2003, c. 328, §1 (AMD) .]

SECTION HISTORY

1989, c. 409, §§11,12 (NEW). 1991, c. 885, §E15 (AMD). 1991, c. 885, §E47 (AFF). 2001, c. 443, §4 (AMD). 2001, c. 443, §7 (AFF). 2003, c. 328, §1 (AMD). 2007, c. 491, §247 (AMD). 2013, c. 391, §16 (AMD).

§18531. STATEMENT OF COMPENSATION

1. **Requirement.** The executive director shall require each person who is the recipient of a disability retirement benefit to submit, each calendar year, a statement of compensation received from any gainful occupation during that year.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Failure to submit statement.** Failure to submit the statement under subsection 1 shall result in the following:

A. If the person fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request for the statement, the disability retirement benefit shall be withheld until the statement is submitted; or [1989, c. 409, §§11, 12 (NEW).]

B. If the person fails to submit the statement required under subsection 1 within one year of receipt of the executive director's request for the statement, all rights to further benefits shall cease.

(1) The executive director shall notify the person in writing of the decision to discontinue the disability retirement benefit.

(2) The decision shall be subject to appeal under section 17451.

(3) If the person appeals the executive director's decision, the disability retirement allowance shall not be discontinued until all appeals have been exhausted. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

§18532. VOLUNTARY RETURN TO SERVICE

1. **Right to reinstatement.** If a person who is the recipient of a disability retirement benefit decides that the person is no longer incapacitated and is able to perform the duties of that person's employment position, the employer for whom the person last worked before becoming disabled shall reinstate the person to the first available position for which the person is qualified and which is consistent with the person's prior work experience. If a collective bargaining agreement applies to such a position, the employer may offer only a position which the person may claim by virtue of seniority accumulated at the time of the disability, unless otherwise specified in the collective bargaining agreement.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Dispute over mental or physical capacity.** If there is a dispute between the person and the former employer over the person's mental or physical capacity to perform a specific job, at the option of the person that dispute shall be resolved by a majority of 3 physicians, one appointed and reimbursed by the person, one appointed and reimbursed by the employer and one appointed and reimbursed by the retirement system. If the 3 physicians resolve the dispute in favor of the person, the former employer shall reimburse the physician appointed by the person.

[1989, c. 409, §§11, 12 (NEW) .]

3. **Termination or reduction in benefits.** At any time before the elimination of disability retirement benefit payments under section 18530, subsection 3, the person may request that benefit payments be terminated and the executive director shall terminate benefit payments at the end of the month in which the request is received.

[1989, c. 409, §§11, 12 (NEW) .]

4. **Reinstatement of benefits.** If, during the first 5 years of reinstatement, the person again becomes disabled and terminates employment, the retirement system shall resume paying the disability retirement benefit payable before the reinstatement with all applicable cost-of-living adjustments, or if greater, a disability retirement benefit based upon the person's current average final compensation. The executive director may require examinations or tests to determine whether the person is disabled under section 18521.

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

§18533. SERVICE RETIREMENT

1. **Average final compensation.** The service retirement benefit of a person who returns to employment with that person's former employer or any other employer whose employees are covered by this article or chapter 423, subchapter V, article 3-A, after having been the recipient of a disability retirement benefit, shall be computed in its entirety using the average final compensation as defined by section 17001, subsection 4, on the date of that person's termination from service immediately before becoming the recipient of a service retirement benefit.

[1989, c. 409, §§11, 12 (NEW) .]

2. **Cost of benefits.** The cost of benefits based upon service credits earned before and during disability must be charged to the Retirement Allowance Fund. The cost of benefits based upon service credits earned after becoming reemployed must be charged to the account of the employer through whom the service credits were earned.

[2007, c. 249, §32 (AMD) .]

3. **Special plans.** The service credits earned after return to employment by a person who was employed under a special plan before becoming the recipient of a disability retirement benefit shall be credited toward completing the service requirements for retirement under that special plan. As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 17851, subsections 4 to 11 or section 18453, subsections 2 to 9.

A. The executive director may require, once each year, that the member undergo examinations or tests, conducted in accordance with section 18526, to determine that the member is still disabled to the extent that it is impossible to perform the duties of that member's former employment position. [1989, c. 409, §§11, 12 (NEW).]

B. If the member refuses to submit to the examinations or tests under paragraph A, the service credits earned after that date shall be based upon the plan applicable to the position in which the member is currently employed. [1989, c. 409, §§11, 12 (NEW).]

C. If it is determined on the basis of the examinations or tests under paragraph A that the member is no longer disabled to the extent that it is impossible to perform the duties of the former employment position, the member shall:

(1) Return to employment in a position covered by the same special plan or a comparable special plan that covered the former employment position; or

(2) Remain in the current employment position and have the service credits earned thereafter based upon the plan applicable to the position in which the member is currently employed. [1989, c. 409, §§11, 12 (NEW).]

[1989, c. 409, §§11, 12 (NEW) .]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW). 2007, c. 249, §32 (AMD).

§18534. OPTIONAL ELECTION

Any person entitled to receive a disability retirement benefit under article 3, as in effect immediately before October 1, 1989, or under section 1122 of the former retirement system law, as in effect immediately before July 1, 1977, may elect to be governed by this article instead of article 3 by making written application to the executive director within 6 months after adoption of this article by the participating local district. If the election is made, this article shall apply from the date of the person's original eligibility for disability retirement, but any increase in benefits may only be granted from the date of election. [1989, c. 409, §§11, 12 (NEW).]

SECTION HISTORY
1989, c. 409, §§11,12 (NEW).

Article 3-B: MEMBER ELECTION OF DISABILITY PLAN

§18541. MEMBER ELECTION OF DISABILITY PLAN

(REPEALED)

SECTION HISTORY
1991, c. 887, §18 (NEW). 1995, c. 643, §28 (RP).

Article 3-C: DISABILITY UNDER FORMERLY AVAILABLE DISABILITY PLANS AFTER OCTOBER 16, 1992

§18542. DISABILITY UNDER FORMERLY AVAILABLE DISABILITY PLANS AFTER OCTOBER 16, 1992

In the case of a participating local district having a Participating Local District Retirement Program disability plan other than that provided by article 3 or 3-A, which plan is in force on October 15, 1992, the following provisions apply on and after October 16, 1992: [2007, c. 491, §248 (AMD).]

1. **Eligibility.** A member who is an employee of the district who applies for a disability retirement benefit after the effective date of the member's election to be covered under the plan as amended to meet the requirements of the federal Older Workers Benefit Protection Act is eligible to apply regardless of the member's age at time of application;

[1991, c. 887, §19 (NEW) .]

2. **Ordinary disability allowance.** In the case of ordinary disability under such a plan, the disability retirement allowance must be calculated as provided under the plan except that until July 1, 1996 the amount of the retirement allowance may not exceed 59% of the member's average final compensation at the time of disability retirement; and

[1993, c. 595, §13 (AMD) .]

3. **Occupational disability allowance.** In the case of occupational disability under such a plan, the disability retirement allowance is, until July 1, 1996, equal to 59% of the member's average final compensation at the time of disability retirement.

[1993, c. 595, §13 (AMD) .]

SECTION HISTORY
1991, c. 887, §19 (NEW). 1993, c. 595, §13 (AMD). 2007, c. 491, §248 (AMD).

Article 4: ORDINARY DEATH BENEFITS

§18551. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Designated beneficiary.** "Designated beneficiary" means the beneficiary designated under section 18552.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Qualifying member.** "Qualifying member" means a member in service or a former member who is receiving a disability retirement benefit. Beginning July 1, 1993, for purposes of section 18553, subsection 1, "qualifying member" also means a member not in service. For purposes of section 18553, subsection 5-B, "qualifying member" also means a member not in service who has qualified for a service retirement benefit.

[1991, c. 469, §4 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 469, §4 (AMD).

§18552. DESIGNATED BENEFICIARY

A qualifying member may designate a beneficiary to receive benefits upon the qualifying member's death by filing a written designation of beneficiary with the executive director. The last designation of any beneficiary revokes all previous designations. In order to be in effect, the written designation must be received by the retirement system office or be postmarked before the qualifying member's death. [2011, c. 449, §20 (AMD).]

1. **Designation of more than one beneficiary.** A member may designate more than one person as a beneficiary subject to the following limitations.

A. If more than one person is designated as a beneficiary and:

(1) If one of the persons designated is eligible to receive benefits under section 18553, subsection 3 and the other persons designated are eligible to receive benefits under section 18553, subsection 4, there is no limit to the number of persons eligible to receive benefits under section 18553, subsection 4 who may be designated;

(2) If all of the persons designated are eligible to receive benefits under section 18553, subsection 4, there is no limit to the number of persons who may be designated; or

(3) If all of the persons designated are eligible to receive benefits under section 18553, subsection 5, no more than 2 persons may be designated. [1989, c. 658, §5 (NEW).]

B. If the person designated as a beneficiary is the member's spouse, that designation includes all of the member's dependent children so long as the person designated meets the definition of spouse in section 17001, subsection 39. [1989, c. 658, §5 (NEW).]

[1989, c. 658, §5 (NEW) .]

2. **Limitations.** If a member designates as beneficiaries 2 or more persons, all must meet the requirements of one, and only one, of the subparagraphs of subsection 1, paragraph A, otherwise their eligibility to receive a benefit under this article shall be limited to section 18553, subsection 1 or section 18554.

[1989, c. 658, §5 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 658, §5 (AMD). 2011, c. 449, §20 (AMD).

§18553. DEATH BEFORE SERVICE RETIREMENT

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

Before July 1, 1993, if a qualifying member dies at any time before completing the age and service requirements for service retirement, the payment of ordinary death benefits is governed as follows. Beginning July 1, 1993, if a qualifying member dies before the member's service retirement benefit becomes effective, the payment of ordinary death benefits is governed as follows. In either case, the member's beneficiary may select only one of the death benefits. [1991, c. 469, §5 (AMD).]

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Refund of contributions.** The amount of the qualifying member's accumulated contributions, as determined under section 18306-A, is paid:

A. To the qualifying member's designated beneficiary, if any; [1991, c. 469, §5 (AMD).]

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:

(1) Surviving spouse;

(2) Child or children, regardless of age, sharing equally among themselves; and

(3) The older parent; or [1985, c. 801, §§5, 7 (NEW).]

C. To the qualifying member's estate. [1991, c. 469, §5 (AMD).]

[2007, c. 137, §24 (AMD) .]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Refund of contributions.** The amount of the qualifying member's accumulated contributions is paid:

A. To the qualifying member's designated beneficiary, if any; [1991, c. 469, §5 (AMD).]

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:

(1) Surviving spouse;

(2) Child or children, regardless of age, sharing equally among themselves; and

(3) The older parent; or [1985, c. 801, §§5, 7 (NEW).]

C. To the qualifying member's estate. [1991, c. 469, §5 (AMD).]

[1991, c. 469, §5 (AMD) .]

2. **Survivor benefits.** Survivor benefits are governed as follows.

A. Instead of accepting the payment provided in subsection 1, the first listed of the following who are living at the death of the qualifying member may elect the benefits described in subsections 3 to 5-B:

(1) The designated beneficiary, if any; or

(2) If no beneficiary is designated, the surviving spouse, the dependent child or dependent children, or the parent or parents. [1991, c. 469, §5 (AMD).]

B. If the surviving spouse elects a benefit under this subsection, the dependent child or dependent children are entitled to receive the benefit under subsection 4. [1991, c. 469, §5 (AMD).]

C. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under article 5.

(1) In order to elect these survivor benefits, both the qualifying member and the beneficiary must comply with each requirement of article 5.

(2) If no election is made under this paragraph, benefits payable under this section are in lieu of any benefits payable under article 5. [1991, c. 469, §5 (AMD).]

[1991, c. 469, §5 (AMD) .]

3. **Amount of survivor benefit payment to surviving spouse.** If the surviving spouse of the qualifying member elects a benefit under subsection 2, paragraph A, only one of the following options may be paid at one time.

A. A surviving spouse of the qualifying member is paid a $150 benefit each month beginning the first month after the death occurs and continuing during the surviving spouse's lifetime, if:

(1) The deceased qualifying member had 10 years of creditable service at the time of death; or

(2) The surviving spouse is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment.

A full month's benefit is paid to the estate of the surviving spouse for the month in which the surviving spouse dies. [1991, c. 469, §5 (AMD).]

B. A surviving spouse of the qualifying member who has the care of the dependent child or children of the deceased qualifying member and who is not eligible to receive a benefit under paragraph A is paid a $150 minimum benefit each month, beginning the first month after the death of the qualifying member and continuing during the surviving spouse's lifetime until the end of the month in which the dependent child or children are no longer in the surviving spouse's care. [1991, c. 469, §5 (AMD).]

C. A surviving spouse of the qualifying member who is not eligible to receive a benefit under paragraph A or B is paid a $150 minimum benefit each month, beginning the first month after the surviving spouse reaches 60 years of age and continuing during the surviving spouse's lifetime.

A full month's benefit is paid to the estate of the surviving spouse for the month in which the surviving spouse dies. [1991, c. 469, §5 (AMD).]

D. The $150 benefit specified under paragraphs A, B and C is increased to $225 on July 1, 1989 and $300 on July 1, 1990. Starting July 1, 1991, a participating local district may increase the $300 benefit by the cost of living, in accordance with the provisions of subsection 10. [1991, c. 469, §5 (AMD).]

E. Only one beneficiary of a qualifying member is entitled to receive the benefit under this subsection. [1991, c. 469, §5 (AMD).]

[1991, c. 469, §5 (AMD) .]

4. **Amount of survivor benefit to dependent children.** If the dependent child or children or surviving spouse of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits to the dependent child or children is governed as follows.

A. The amount of the survivor benefit is determined as follows.

(1) Until January 1, 1989:

(a) One dependent child is paid $150 each month;

(b) Two dependent children are paid $225 each month which must be divided equally between them; and

(c) Three or more dependent children are paid $300 each month which must be divided equally among them.

(2) Starting January 1, 1989, each dependent child receives a benefit of $150 a month.

(3) Starting July 1, 1989, each dependent child receives a benefit of $175 a month.

(4) Starting July 1, 1990, each dependent child receives a benefit of $200 a month.

(5) Starting July 1, 1991, each dependent child receives a benefit of $225 a month.

(6) Starting July 1, 1992, each dependent child receives a benefit of $250 a month.

(7) Starting July 1, 1993, a participating local district may increase the $250 benefit under subparagraph (6) by the cost of living in accordance with the provisions of subsection 10. [1991, c. 469, §5 (AMD).]

B. The benefits begin the first month after the death of the qualifying member and are payable to each dependent child, in accordance with Title 18-A, article V, until the end of the month in which the child no longer meets the definition of "dependent child" in section 17001, subsection 12. [1991, c. 469, §5 (AMD).]

C. When any dependent child becomes ineligible to receive benefits under this subsection, the other dependent children, if any, continue to receive benefits in accordance with this subsection. [1991, c. 469, §5 (AMD).]

D. The combined benefits under subsection 3 and this subsection may not exceed 80% of the deceased qualifying member's average final compensation adjusted annually at the same time and at the same percentage as adjustments under subsection 10. [1987, c. 529, §3 (NEW).]

[1991, c. 469, §5 (AMD) .]

5. **Amount of survivor benefit to parents.** If the parent of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits is governed as follows.

A. The amount of the benefit is determined as follows.

(1) A parent who is alive at the time of the death of the qualifying member is paid $150 a month if the parent is at least 60 years of age or, if not, upon reaching that age.

(2) If both parents are eligible for benefits under this article and the older parent elects benefits under this subsection, the older parent is paid $150 a month and the younger parent is paid $105 a month upon reaching 60 years of age.

(3) Upon the death of either parent, the surviving parent receives $150 a month. [1991, c. 469, §5 (AMD).]

B. The payment of benefits to any parent begins the first month after the death of the qualifying member and continues until the death of the parent. [1991, c. 469, §5 (AMD).]

C. Benefits are payable under this subsection only if no other benefits have been paid under subsection 3 or 4. [1985, c. 801, §§5, 7 (NEW).]

D. Starting July 1, 1991, a participating local district may increase the $150 benefit under paragraph A by the cost of living in accordance with the provisions of subsection 10. [1991, c. 469, §5 (AMD).]

E. No more than 2 beneficiaries of a qualifying member may be entitled to receive the benefit under this subsection. [1989, c. 658, §7 (NEW).]

[1991, c. 469, §5 (AMD) .]

5-A. **Amount of survivor benefit to designated beneficiary.** If a designated beneficiary, other than the surviving spouse, dependent child, dependent children or the parent or parents of a deceased qualifying member, elects a benefit under subsection 2, paragraph A, the payment of benefits is governed as follows.

A. A designated beneficiary who is alive at the time of the death of the qualifying member is paid $150 per month beginning the first month after the death occurs and continuing until the date of the designated beneficiary's death, if the designated beneficiary is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment. [1991, c. 469, §5 (AMD).]

B. A designated beneficiary who is alive at the time of the death of the qualifying member and is a person under 18 years of age, or under 22 years of age if the person is a full-time student, is paid $150 per month beginning the first month after the death occurs and continuing until the person no longer meets the age criteria of this paragraph. [1991, c. 469, §5 (AMD).]

C. A designated beneficiary of the qualifying member who has the care of the dependent child or children of the deceased qualifying member, and who is not eligible to receive a benefit under paragraph A, has the option:

(1) To be paid $150 per month, beginning the first month after the death of the qualifying member and continuing during the designated beneficiary's lifetime for as long as the dependent child or children are in the designated beneficiary's care;

(2) To transfer the right to receive a benefit to the children of the deceased qualifying member under subsection 4; or

(3) To elect a benefit under paragraph D. [1991, c. 469, §5 (AMD).]

D. A designated beneficiary who is not eligible to receive a benefit under paragraph A, B or C is paid $150 per month, beginning the first month after the designated beneficiary reaches 60 years of age and continuing until the date of the beneficiary's death. [1991, c. 469, §5 (AMD).]

E. Only one beneficiary of a qualifying member is entitled to receive the benefit under this subsection. [1991, c. 469, §5 (AMD).]

[1991, c. 469, §5 (AMD) .]

5-B. **Reduced retirement benefits.** Beginning July 1, 1993, instead of accepting the benefits under subsection 1 or 2, the first listed person under paragraph A living at the time of death of the qualifying member may elect the benefits in this subsection.

A. The persons eligible to make the election under this subsection are the qualifying member's:

(1) Designated beneficiary;

(2) Surviving spouse;

(3) Child or children; or

(4) Parent or parents. [1991, c. 469, §5 (NEW).]

B. Benefits under this subsection are paid as follows, notwithstanding that the qualified member may not be eligible to retire under section 18452, subsection 3.

(1) The benefit is computed in accordance with section 18452, subsection 3, if applicable, as if the service retirement of the qualifying member had taken place on the date of the member's death.

(2) The beneficiary is paid beginning on the first day of the month after the death of the qualifying member and continuing until the last day of the month in which the beneficiary's death occurs.

(3) Benefits under this subsection are paid in accordance with section 18404, subsection 3. [2001, c. 118, §12 (AMD).]

C. If the monthly benefit payable under this subsection is $10 or less, in lieu of those payments a lump sum that is the actuarial equivalent of the benefit to which the beneficiary is entitled must be paid on the date the first monthly payment would otherwise be paid. A beneficiary who receives a lump sum payment under this subsection does not forfeit any other benefit to which the member would be entitled if the member were receiving a monthly benefit payment. [1991, c. 469, §5 (NEW).]

[2001, c. 118, §12 (AMD) .]

6. **Transfer of funds.** If benefits are paid under subsections 3 to 5-B, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund is transferred to the Retirement Allowance Fund.

[2007, c. 249, §33 (AMD) .]

7. **Death of beneficiary before payment.** If any person becomes entitled to the payment of benefits under this article and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, the person is considered to have predeceased the qualifying member.

[1991, c. 469, §5 (AMD) .]

8. **Change of choice of payment option.** Any beneficiary under this article may change the choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

[1991, c. 469, §5 (AMD) .]

9. **Defeat of survivor's option.** A qualifying member may specify that the refund of the member's accumulated contributions be paid to a designated beneficiary or to the qualifying member's estate in lieu of any payment to survivors under subsections 3 to 5-B by filing an affidavit expressing that intent with the executive director.

[1991, c. 469, §5 (AMD) .]

10. **Cost-of-living adjustment.** A participating local district may provide an adjustment to survivor benefits in accordance with section 18407 by:

A. Applying to the board; and [1985, c. 801, §§5, 7 (NEW).]

B. Supplying to the board a certified copy of its action together with a statement of agreement to pay costs of the adjustments. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

11. **Special options.** Instead of accepting the payment provided in subsection 1, 2, 5-A or 5-B, a beneficiary may elect to receive benefits under article 5.

A. To elect these benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions. [1991, c. 469, §5 (NEW).]

B. If an election is not made under this subsection, benefits payable under this section are in lieu of any benefits payable under article 5. [1991, c. 469, §5 (NEW).]

[1991, c. 469, §5 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 529, §§3,4 (AMD). 1987, c. 769, §A31 (AMD). 1987, c. 823, §§9-11 (AMD). 1989, c. 658, §§6-8 (AMD). 1991, c. 469, §5 (AMD). 1991, c. 619, §17 (AMD). 2001, c. 118, §12 (AMD). 2007, c. 137, §24 (AMD). 2007, c. 249, §33 (AMD).

§18554. DEATH AFTER ELIGIBILITY FOR RETIREMENT

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 469, §6 (AMD).

§18555. APPLICABILITY

Notwithstanding section 18202, the provisions of former section 1124 of the state retirement system law, in effect on June 30, 1982, except former section 1124, subsection 4, are applicable to each participating local district which has adopted section 18553 or former section 1124, as part of its plan, whether or not the district has adopted amendments enacted after it adoption of section 18553 or former section 1124, as part of its plan. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18556. SPECIAL SURVIVOR BENEFIT OPTION

1. **Manner of adoption.** A participating local district may adopt the special survivor benefit option under this section in addition to the benefits provided under section 18553 in the manner set forth in section 18202.

[1991, c. 469, §7 (AMD) .]

2. **Limitation of beneficiaries.** A participating local district which adopts this section may limit the designated beneficiaries eligible for these benefits and may limit the undesignated beneficiaries eligible for benefits if no beneficiary is designated. Any later change in the designation of the beneficiaries must be made in accordance with section 18202.

[1985, c. 801, §§5, 7 (NEW) .]

3. **Effective date.** A participating local district that elects to adopt this section shall designate January 1, 1987 for purposes of determining which persons currently receiving benefits under section 18553, subsections 3 to 5, may elect benefits under this section, if eligible. Benefit recomputation and payment for any person electing benefits under this section become effective on the first day of the month following notification to the board of the adoption of this section.

[1997, c. 2, §23 (COR) .]

4. **Retroactive adoption of this section.** In a participating local district which has adopted this section retroactively, a person currently receiving benefits under section 18553, subsections 3 to 5 may, if eligible, elect to receive benefits under this section in lieu of benefits under section 18553, subsections 3 to 5 under the following conditions.

A. The person must apply in writing to the executive director. [1985, c. 801, §§5, 7 (NEW).]

B. The application must be received by the executive director within 6 months after the notification to the board by the participating local district adopting this section. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

5. **Election of benefit.** In lieu of accepting the benefits under section 18553, the first listed of the beneficiaries under paragraph A or B, whichever applies, may, if living at the death of the qualifying member, elect the benefits in this section, if the deceased qualifying member had 20 years of creditable service at the time of his death.

A. If a beneficiary was designated under section 18552, the following designated beneficiaries of the deceased are eligible to make the election under this subsection:

(1) Surviving spouse;

(2) Dependent child or dependent children; or

(3) Parent or parents. [1985, c. 801, §§5, 7 (NEW).]

B. If no beneficiary was designated under section 18552, the following relatives of the deceased, if any, alive at the qualifying member's death are eligible to make the election under this subsection:

(1) Surviving spouse;

(2) Dependent child or dependent children; or

(3) Parent or parents. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

6. **Payment of benefits.** Benefits under this section shall be paid as follows.

A. The benefit shall be computed in accordance with section 18452, subsection 1, and shall be reduced in accordance with section 18452, subsection 3, as if the service retirement of the qualifying member had taken place on the date of his death. [1985, c. 801, §§5, 7 (NEW).]

B. The beneficiary shall be paid, beginning the first month after the death of the qualifying member and continuing until the date of the beneficiary's death. [1985, c. 801, §§5, 7 (NEW).]

C. Benefits under this section shall be paid in accordance with section 18404, subsection 3. [1985, c. 801, §§5, 7 (NEW).]

[1985, c. 801, §§5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 469, §7 (AMD). RR 1997, c. 2, §23 (COR).

§18557. SURVIVOR'S BENEFIT CONTRIBUTION

1. **Information from fiscal officer.** Before a participating local district elects survivor benefits under section 18553 or 18556, the chief fiscal officer of the participating local district shall submit to the board that information prescribed by the board to assist the board in determining the cost of the initial survivor benefit contribution of the participating local district.

A. The determination of the initial survivor benefit contribution shall be made on the actuarial basis adopted by the board. [1985, c. 801, §§ 5, 7 (NEW).]

B. The expense of determining the cost of the initial survivor benefit contribution shall be assessed against and paid by the participating local district on whose account it is made. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Annual determination.** Annually, the board shall actuarially determine the survivor benefit contribution of a participating local district which has elected survivor benefits, on the basis of information it may prescribe.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Increase.** The board may increase, by not more than 25% in any year, the survivor benefit contribution of a participating local district, if, in the opinion of the board, the benefits paid on behalf of beneficiaries of members of the participating local district is greater than the benefits expected to be paid on the actuarial basis.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Certification.** The board shall certify to the chief fiscal officer of the participating local district:

A. The survivor benefit contribution for the participating local district, computed in accordance with this section; plus [1985, c. 801, §§ 5, 7 (NEW).]

B. A pro rata share of the cost of the administration of the survivor benefit program, based on the gross payroll of employees and the expense of determining the annual survivor benefit contribution. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

5. **Charge.** The amounts certified under subsection 4 shall be a charge against the participating local district.

[1985, c. 801, §§ 5, 7 (NEW) .]

6. **Member contribution.** A participating local district may require each of its members to make a contribution, not to exceed 1/4 of 1% of earnable compensation, as long as the member is employed.

[2007, c. 249, §34 (AMD) .]

7. **Payment.** All survivor benefit contributions by participating local districts that have elected survivor benefits and all contributions by members of those districts must be paid into the Retirement Allowance Fund.

[2007, c. 249, §35 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 249, §§34, 35 (AMD).

§18558. TRANSFER OF FUNDS

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §43 (RP).

Article 5: ACCIDENTAL DEATH BENEFITS

§18601. DEFINITIONS

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [2009, c. 513, §3 (AFF); 2009, c. 513, §1 (RPR).]

1. **Professional firefighter.** "Professional firefighter" means an employee of a municipal fire department who is a member of the Participating Local District Retirement Program or who is a participating member under chapter 425 and who aids in the extinguishment of fires, whether or not the employee has other administrative duties.

[2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF) .]

2. **Qualifying member.** "Qualifying member" means:

A. A member who dies as a result of an injury arising out of and in the course of employment as an employee; [2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF).]

B. After October 31, 2004, an active member who is a professional firefighter who dies as a result of an injury or disease as described in Title 39-A, section 328 if the injury or disease that causes the death is the result of a condition that develops within 30 days of the active member's participating in firefighting or training or a drill that involves firefighting. If the professional firefighter dies after 30 days but within 6 months of participating in firefighting or training or a drill that involves firefighting, there is a rebuttable presumption that the death is the result of an injury arising out of and in the course of employment as a professional firefighter; or [2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF).]

C. A former member receiving a disability retirement benefit who dies as a result of an injury arising out of and in the course of employment as an employee. [2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF).]

[2009, c. 513, §1 (NEW); 2009, c. 513, §3 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2009, c. 513, §3 (AFF). 2009, c. 513, §1 (RPR).

§18602. QUALIFICATION FOR BENEFIT

The beneficiary of a qualifying member shall receive a benefit in accordance with section 18603. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18603. COMPUTATION OF BENEFIT

1. **Surviving spouse; no dependent children.** If the qualifying member is survived by a spouse and no dependent child, the surviving spouse shall be paid 2/3 of the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Surviving spouse having care of dependent children.** If the qualifying member is survived by a spouse who has the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall be paid an annual sum equal to the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Surviving spouse not having care of dependent children.** If the qualifying member is survived by a spouse who does not have the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall share with the dependent child or dependent children an annual sum equal to the average final compensation of the qualifying member, the benefit to be divided equally among the surviving spouse and the dependent child or dependent children.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **No surviving spouse.** If no spouse survives the qualifying member, the dependent child or dependent children shall be paid an annual sum equal to the average final compensation of the qualifying member.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18604. METHOD OF PAYMENT

All benefits paid under this article shall be paid in equal monthly installments beginning the first month after the death of the qualifying member. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18605. ADJUSTMENT OF BENEFITS

1. **Cessation of eligibility.** When a person sharing benefits under section 18603 ceases to be eligible to receive benefits, the subsequent benefits of the remaining beneficiaries shall be recalculated as if the remaining beneficiaries had been the only beneficiaries to survive the qualifying member.

[1985, c. 801, §§5, 7 (NEW) .]

2. **Workers' compensation or similar law.** The amount payable under this article must be reduced by any amount received by the surviving spouse and dependent child or dependent children under former Title 39, the Workers' Compensation Act or Title 39-A, Part 1, the Maine Workers' Compensation Act of 1992, or a similar law. For purposes of this article, a death benefit paid to a law enforcement officer, firefighter or emergency medical services person under Title 25, chapter 195-A is not considered a benefit paid under a "similar law" and may not be used to reduce the amount payable under this article.

A. Lump-sum settlements of benefits that would reduce the accidental death benefits under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board. [1991, c. 885, Pt. E, §16 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

B. The prorated lump-sum settlement amounts must reduce the accidental death benefits payable monthly under this article. [1991, c. 885, Pt. E, §16 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[2001, c. 439, Pt. CCCCC, §3 (AMD) .]

3. **Cost-of-living adjustments.** Benefits under this article are subject to adjustment as provided in section 18407.

[1995, c. 462, Pt. A, §15 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 885, §E16 (AMD). 1991, c. 885, §E47 (AFF). 1993, c. 595, §14 (AMD). 1995, c. 462, §A15 (AMD). 2001, c. 439, §CCCCC3 (AMD).

§18606. TERMINATION OF BENEFITS

The benefits under this article shall be paid to: [1985, c. 801, §§ 5, 7 (NEW).]

1. **Surviving spouse.** The surviving spouse until he dies; and

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Dependent children.** The dependent child or dependent children until they die or until they no longer meet the definition of "dependent child" under section 17001, subsection 12.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18607. BENEFITS IN LIEU OF ARTICLE 4

(REPEALED)

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1987, c. 256, §44 (RP).

Subchapter 6: GROUP LIFE INSURANCE

§18651. AUTHORIZATION

The board, and only the board, may purchase for the retirement system, from one or more life insurance companies, a policy or policies of life insurance, as defined by Title 24-A, section 702. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Procedure.** Proposals for the purchase of insurance may be solicited from one or more insurance companies on a competitive basis or an existing policy or policies may be renegotiated.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Licensed company.** Any policy or policies purchased shall be purchased from a company or companies licensed under the laws of this State.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18652. NATURE OF POLICY

1. **Limitation.** All provisions of a policy or policies purchased under section 18651 shall be subject to the limitations of Title 24-A, chapter 31.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **No reduction of benefits.** No provisions of a policy or policies purchased under section 18651 may reduce the benefits granted under this subchapter.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18653. RULES

The board may promulgate and publish, in accordance with chapter 375, subchapter II, whatever rules are necessary and proper to give effect to the intent, purposes and provisions of this subchapter. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18654. ADMINISTRATION

1. **Expenses.** All expenses of a group life insurance program shall be reimbursed from premium rate adjustments, dividends or interest earnings on reserves.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Report.** A report of the activities of the group life insurance program shall be published annually.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18655. PARTICIPATION

1. **Local district.** A local district may participate in the group life insurance program by filing with the board a duly certified copy of the resolution or record of the vote of the body that would be entitled to approve participation in the Participating Local District Retirement Program under section 18201. The resolution or record of the vote must state which portions of the life insurance program established under this chapter apply to the participating local district.

[2007, c. 491, §249 (AMD) .]

2. **Effective date.** The effective date of participation of a local district may not be more than 6 months following receipt of the certified copy of the vote or resolution.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Employee.** The board may, by rule, provide standards for inclusion or exclusion of employees on the basis of nature and type of employment or conditions. No employee or group of employees may be excluded solely on the basis of the hazardous nature of employment.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §249 (AMD).

§18656. COVERAGE

1. **Basic insurance.** Life insurance and accidental death and dismemberment insurance, to be known as "basic insurance," is available to all eligible participants.

A. The amount of life insurance to be paid upon death is equal to the participant's annual base compensation rounded up to the next $1,000.

(1) A participant insured under a basic insurance policy is automatically covered for any change in the maximum due to a change in annual base compensation.

(2) The date of change in coverage under subparagraph (1) is the first day of the month of April following the effective date of the change in annual base compensation. [1991, c. 480, §8 (AMD).]

B. The accidental death and dismemberment insurance shall provide payments as follows.

(1) Losses and amounts payable shall be determined according to the following table.

LOSS	AMOUNT PAYABLE
Loss of life by Accident	An additional amount equal to that provided under subsection 1, paragraph A
Loss of one hand or foot or sight of one eye	One-half the amount provided under subsection 1, paragraph A
Loss of 2 or more limbs or loss of sight of both eyes or loss of one limb and loss of sight of one eye	The amount provided under subsection 1, paragraph A

(2) For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid may not exceed the amount provided under subsection 1, paragraph A. [1985, c. 801, §§ 5, 7 (NEW).]

[1991, c. 480, §8 (AMD) .]

2. **Supplemental insurance.** Additional insurance coverage of equal amounts to those described in subsection 1, to be known as "supplemental insurance," shall be available to each participant purchasing insurance under subsection 1.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Dependent insurance.** Each participant may elect to insure the life of a dependent not insured in the group covered under subsections 1 and 2.

A. A participant may elect either Plan A or Plan B, but not both.

	Plan A	Plan B
Spouse	$5,000	$10,000
Full-time unmarried students to age 22	$5,000	$5,000
Children, 6 months to age 19	$5,000	$5,000
Children, 0 to 6 months	$1,000	$2,500

[1985, c. 801, §§ 5, 7 (NEW).]

B. Insurance purchased under this subsection is subject to the limitations of Title 24-A, section 2611-A. [1985, c. 801, §§ 5, 7 (NEW).]

C. The number of dependents may not affect the premium rate for insurance purchased under this subsection. [1993, c. 387, Pt. A, §26 (AMD).]

D. Any participant who is a participant through employment with 2 or more employers may not insure that participant's dependents more than once. [1991, c. 480, §9 (NEW).]

[1993, c. 387, Pt. A, §26 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §23 (AMD). 1991, c. 480, §§8,9 (AMD). 1993, c. 387, §A26 (AMD).

§18657. PAYMENTS ON DEATH

Any amount of group life insurance and group accidental death insurance in force on any employee at the date of the employee's death must be paid, upon the establishment of a valid claim, in the following order of precedence. [2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF).]

1. **Designated beneficiary.** First, to the beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the retirement system office or postmarked before the employee's death.

[1991, c. 480, §10 (AMD) .]

2. **Widow or widower.** Second, if no beneficiary qualifies under subsection 1, to the widow or widower of the employee.

[2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF) .]

2-A. **Executor or personal representative.** Third, if no one qualifies under subsection 1 or 2, to the employee's duly appointed executor or personal representative for distribution according to the provisions of a lawfully executed will. This subsection is applicable only if the retirement system is notified of the appointment of the executor or personal representative within 6 months of the date of death of the employee.

[2009, c. 515, §2 (NEW); 2009, c. 515, §3 (AFF) .]

3. **Children.** Fourth, if no one qualifies under subsection 1 , 2 or 2-A, to the child or children of the employee and descendants of deceased children by representation.

[2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF) .]

4. **Parents.** Fifth, if no one qualifies under subsection 1, 2, 2-A or 3, to the surviving parent or parents of the employee.

[2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF) .]

5. **Executor or conservator.**

[2009, c. 515, §3 (AFF); 2009, c. 515, §2 (RP) .]

6. **Next of kin.** Sixth, if no one qualifies under subsection 1, 2, 2-A, 3 or 4, to other next of kin of the employee entitled under the laws of domicile of that employee at the time of the employee's death.

[2009, c. 515, §2 (AMD); 2009, c. 515, §3 (AFF) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 480, §10 (AMD). 2009, c. 515, §2 (AMD). 2009, c. 515, §3 (AFF).

§18658. INSURANCE; AUTOMATIC APPLICATION

1. **Employees insured.** Each employee shall complete an application for insurance coverage within 31 days of becoming eligible. Each employee who completes an application and is found eligible for basic insurance under this subchapter is insured for the amount of basic coverage applicable under this subchapter, beginning on the first day of the month following one month of employment after the employee becomes eligible.

A. The employee shall indicate the types of coverage elected. [1991, c. 480, §11 (NEW).]

B. If the employee elects coverage within 31 days of the employee's first becoming eligible, and elects coverage in addition to basic, that additional coverage becomes effective on the first day of the month following one month of employment after the employee becomes eligible. [2011, c. 449, §21 (AMD).]

C. If the employee does not elect coverage within 31 days of the employee's first becoming eligible, the employee may subsequently apply for insurance coverage but must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [2011, c. 449, §21 (AMD).]

[2011, c. 449, §21 (AMD) .]

2. **Employees not wanting to be insured.** Any employee not wanting to be insured under this subchapter, at the time the employee first becomes eligible, shall, on the application form, give written notice to the employee's employing officer and to the retirement system that the employee does not want to be insured.

A. If, after being insured, the employee wishes to cancel or reduce coverage, written notice must be given by the employee to the employee's employing officer and to the retirement system. [1991, c. 480, §11 (AMD).]

B. The employee's insurance coverage must cease, or be reduced at the end of the month in which the notice is received by the employing office. [1991, c. 480, §11 (AMD).]

C. Any employee who does not want to be insured or who cancels insurance coverage may subsequently apply for insurance, but must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [1991, c. 480, §11 (AMD).]

D. [2011, c. 449, §22 (RP).]

[2011, c. 449, §22 (AMD) .]

3. **Dependent coverage.** An employee may apply for coverage for a dependent in the application provided in subsection 1. If an employee has no dependents at the time the application provided in subsection 1 is completed and if application is made for coverage within 31 days of acquiring a dependent, coverage becomes effective the first day of the month following the month in which the application is received by the employing office. An employee who does not apply for dependent coverage within 31 days, may subsequently apply for dependent coverage, but must produce evidence of insurability at the employee's own expense. Coverage for subsequently acquired dependents is effective immediately.

[1991, c. 480, §11 (NEW) .]

4. **Evidence of insurability.** When the insurance underwriter approves an application for coverage or increase in coverage with which evidence of insurability has been filed as provided under subsection 1, paragraph C or subsection 2, paragraph C, the coverage or increased coverage becomes effective as of the first day of the first month following completion of one month of employment after the date of approval.

[1991, c. 480, §11 (NEW) .]

5. **Employee on leave of absence.** Insurance coverage for an employee on an authorized leave of absence is governed as follows.

A. An employee who, during a period of an unpaid leave of absence, continues to pay premiums due for the period of the leave continues to be covered. Coverage for an employee who, during the period of the leave, does not pay the premiums due ceases at the end of the period covered by the last premium paid. [2011, c. 449, §23 (NEW).]

B. Notwithstanding paragraph A, an employee who, during a period of unpaid military leave of absence, does not continue coverage while on unpaid military leave must be reinstated to the levels of coverage in effect immediately prior to the unpaid military leave. A request for reinstatement by the employee must be made within 31 days of the employee's return to work following unpaid military leave. An employee who wants to be reinstated and who does not apply for reinstatement within 31 days of the employee's return to work from unpaid military leave must produce evidence of insurability at the employee's own expense and in accordance with the requirements of the insurance underwriter. [2011, c. 449, §23 (NEW).]

[2011, c. 449, §23 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1991, c. 480, §11 (AMD). 1993, c. 386, §5 (AMD). 2007, c. 17, §2 (AMD). 2007, c. 17, §3 (AFF). 2011, c. 449, §§21-23 (AMD).

§18659. PAYMENT OF PREMIUMS

Payment of premiums for group life insurance shall be on the basis determined by the board to be actuarially sufficient to pay anticipated claims. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18660. REVIEW OF INSURANCE PROGRAM

Each year, upon receipt of the annual report submitted by the underwriter, the board shall review all phases of the group life insurance program and shall, within 90 days of receipt of the annual report, determine the reserves necessary to pay anticipated claims and the method of distribution of any accumulations above those reserves. [1985, c. 801, §§ 5, 7 (NEW).]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18661. TERMINATION OF COVERAGE

1. **Separation from service.** The insurance on any employee shall terminate upon his separation from service, except as extended by:

A. Provisions contained in the policy for waiver of premiums upon total and permanent disability; and [1985, c. 801, §§ 5, 7 (NEW).]

B. Provisions for temporary extension of coverage and conversion to an individual policy of life insurance. [1985, c. 801, §§ 5, 7 (NEW).]

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Retirement.** If, on the date the insurance would otherwise terminate, the employee retires, in accordance with this Part, the United States Social Security Act or other local retirement program, the employee's basic life insurance only must be continued without cost to the employee and in the amounts provided in this subsection.

A. On retirement for reasons other than disability, an amount of basic life insurance equal to the employee's average final compensation must be continued in force at no cost to the participant, if the participant has participated in the group life insurance program for a minimum of 10 years.

(1) Except as provided in paragraph B, the initial amount of basic life insurance that continued into retirement must be reduced at the rate of 15% a year to a minimum of 40% of the initial amount of basic life insurance that continued into retirement or $2,500, whichever is greater.

(2) In determining benefits under this subchapter, the reductions become effective at 12:01 a.m. of the day following the first year anniversary of the date of retirement and each succeeding retirement anniversary thereafter until the minimum has been reached. [1993, c. 386, §6 (AMD).]

B. On retirement for disability, the amount of basic insurance in force at the time of retirement must be continued in force until normal retirement age, after which the amount must be reduced, as provided in paragraph A at no cost to the recipient. The 10-year participation requirement does not apply to recipients of disability retirement benefits. [1991, c. 480, §12 (AMD).]

C. The premiums for the coverage provided by this subsection must be paid by the participating local district which employed the participant immediately before the participant's retirement. Delinquent payments under this section may be collected as provided under section 18303, subsection 3. [1991, c. 480, §12 (NEW).]

[1993, c. 386, §6 (AMD) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 1989, c. 710, §24 (AMD). 1991, c. 480, §12 (AMD). 1993, c. 386, §6 (AMD).

§18662. PARTICIPATION OF LOCAL DISTRICTS

The employees of any local district may participate in the group life insurance program to the full extent of any and all benefits provided for in this subchapter subject to section 18655, subsections 1 and 2. The participation of these employees is governed as follows. [1985, c. 801, §§ 5, 7 (NEW).]

1. **Minimum number.** Initially, the minimum number of persons required for a covered group is 75% of the eligible employees of a local district.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Supplemental and dependent insurance.** Employees of a local district who are covered under the basic group life insurance plan are also eligible for the supplemental insurance under section 18656, subsection 2, and dependent insurance under section 18656, subsection 3, if the local district elects to adopt those benefit plans.

[1985, c. 801, §§ 5, 7 (NEW) .]

3. **Information required.** The chief fiscal officer of a local district shall submit to the board whatever information about the employees of the district is prescribed by the board as necessary to administer this subchapter.

[1985, c. 801, §§ 5, 7 (NEW) .]

4. **Pro rata cost.** The chief fiscal officer of a local district shall pay whatever pro rata cost of premiums and expenses is levied by the board.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW).

§18663. WITHDRAWAL OF LOCAL DISTRICTS

Any local district participating in the group life insurance program under this subchapter may withdraw from further participation by filing with the board a duly certified copy of the results of the vote of the body that would be entitled to approve participation in the Participating Local District Retirement Program under section 18201. This certification must include certification to the board that equivalent coverage has been provided. [2007, c. 491, §250 (AMD).]

1. **Continuous coverage.** In order to provide continuous coverage, withdrawal of a local district under this section is not effective until equivalent coverage is made available to current active and retired employees of the district.

[1985, c. 801, §§ 5, 7 (NEW) .]

2. **Effective date.** Withdrawal is effective on the last day of the last full pay period before the end of the month following the month in which the certification under subsection 1 is received by the board.

[1985, c. 801, §§ 5, 7 (NEW) .]

SECTION HISTORY
1985, c. 801, §§5,7 (NEW). 2007, c. 491, §250 (AMD).

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