

**§17906. 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 as cumulatively increased by the same percentage adjustments granted under section 17806:

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 [PL 2001, c. 443, §1 (AMD); PL 2001, c. 443, §7 (AFF).]

B. The beneficiary shall reimburse the retirement system for any excess payments not deducted under paragraph A. [PL 1985, c. 801, §§5, 7 (NEW).]  
[PL 2021, c. 548, §29 (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 worker's 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. [PL 1991, c. 885, Pt. E, §8 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

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 17806 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 17806. [PL 1987, c. 458, §1 (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. [PL 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. [PL 1991, c. 885, Pt. E, §9 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

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. [PL 1991, c. 885, Pt. E, §10 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

[PL 1991, c. 885, Pt. E, §§8-10 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

**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 exceeds the recipient's average final compensation at retirement, increased by the same percentage adjustments as have been received under section 17806, 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. [PL 2021, c. 548, §30 (AMD).]

B. The recipient of the disability retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section. [PL 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 State Employee and Teacher 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. [PL 2021, c. 548, §30 (AMD).]

[PL 2021, c. 548, §30 (AMD).]

#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 458, §1 (AMD). PL 1987, c. 560, §1 (AMD). PL 1989, c. 78, §3 (AMD). PL 1991, c. 885, §§E8-10 (AMD). PL 1991, c. 885, §E47 (AFF). PL 2001, c. 443, §1 (AMD). PL 2001, c. 443, §7 (AFF). PL 2007, c. 491, §176 (AMD). PL 2021, c. 548, §§29, 30 (AMD).

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