

**§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. [RR 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. [PL 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. [PL 1989, c. 79, §3 (NEW).]

B. [PL 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. [PL 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 chief executive officer 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. [RR 2011, c. 2, §4 (COR); PL 2021, c. 548, §45 (REV).]

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**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. [PL 2013, c. 391, §13 (AMD).]

B. [PL 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. [PL 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. [PL 2013, c. 391, §13 (AMD).]

[PL 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.

[PL 1989, c. 79, §3 (NEW).]

#### SECTION HISTORY

PL 1989, c. 79, §3 (NEW). RR 2001, c. 2, §A12 (COR). PL 2001, c. 699, §§5,6 (AMD). RR 2011, c. 2, §4 (COR). PL 2013, c. 391, §13 (AMD). PL 2021, c. 548, §45 (REV).

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