

## CHAPTER 427

## PARTICIPATING LOCAL DISTRICTS CONSOLIDATED PLAN

**§18801. Plan**

There is established the Participating Local District Consolidated Retirement Plan 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. The purpose of the Participating Local District Consolidated Retirement Plan is to provide retirement allowances and other benefits under this chapter for employees of participating local districts that contract with the retirement system in accordance with section 18804. The board shall establish by rule the plan provisions of the Participating Local District Consolidated Retirement Plan. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2017, c. 392, §10 (AMD).]

**1. Plan content.** Benefits provided by the plan must be selected from benefits included in chapter 423, chapter 425 or this chapter and must include, but are not limited to:

A. Service retirement benefits, including:

(1) Several plans, with levels of benefits to meet the needs of various classes of employees and employers; and

(2) Portability of benefits when a member changes plans or employers; [PL 1989, c. 811, §3 (NEW).]

B. Death benefits; [PL 1989, c. 811, §3 (NEW).]

C. Disability retirement benefits; [PL 1989, c. 811, §3 (NEW).]

D. Compulsory requirements except:

(1) Optional membership for those employees permitted optional membership under chapter 425; and

(2) Optional membership for those employees who are not subject to the municipal public employees labor relations laws contained in Title 26, chapter 9-A; and [PL 1991, c. 300, §1 (AMD).]

E. A defined contribution plan consistent with the United States Internal Revenue Code. [PL 1989, c. 811, §3 (NEW).]  
[PL 1991, c. 300, §1 (AMD).]

**2. Amendments.** Any benefit provision selected from chapter 423, chapter 425 or this chapter to be included in the plan that is subsequently amended is not considered to have been amended for purposes of the plan until the rule that established the plan is amended to include the amended version of the benefit provision.

[PL 1991, c. 300, §1 (AMD).]

**3. No reduction of benefits.** The level of service retirement benefits for employees of participating local districts that adopt the plan may not be reduced with relation to either benefits based upon service before adoption of the plan or benefits based upon service after adoption of the plan. As used in this subsection, "level of service retirement benefits" means the service credit accrual rate, the number of years included in the definition of "average final compensation," the age and creditable service

requirements for receiving an unreduced benefit and the basic benefit formula of years of creditable service multiplied by the service credit accrual rate and average final compensation.

[PL 2017, c. 392, §11 (AMD).]

**4. Implementation of plan.** The board, as part of its rules, shall set the minimum number of local districts that must contract for participation and the minimum number of members before the plan is put into operation. The rules must contain provisions related to the transition from participation in chapter 425 to participation in this plan by local districts and for setting the date when participation of the employees of a participating local district in this plan begins. All local districts that are participating local districts under chapter 425 on the date the plan is put into operation must elect to join the consolidated plan, be transferred to the consolidated plan or withdraw from the Participating Local District Retirement Program, in accordance with rules established by the board.

[PL 2007, c. 491, §251 (AMD).]

**5. Disbanded or dissolved local district.** The board, as part of its rules, shall provide for the procedure to be followed regarding the membership and benefits of employees of a participating local district that disbands or is dissolved.

[PL 1989, c. 811, §3 (NEW).]

**6. Plan design and amendments.** The rules adopted by the board must be based entirely upon proposals for the consolidated retirement plan and proposed amendments to the consolidated retirement plan received from the Participating Local District Advisory Committee or from the retirement system staff. The board shall adopt as a rule any proposal received from the Participating Local District Advisory Committee or return the proposal to the advisory committee with a statement setting forth the reasons for not adopting the proposal.

[PL 2003, c. 387, §12 (AMD).]

**7. Rule-making procedure.** The rules and amendments established by the board must be adopted in accordance with and subject to judicial review as set forth in chapter 375, subchapter II, to the extent chapter 375 is applicable.

[PL 1989, c. 811, §3 (NEW).]

#### SECTION HISTORY

PL 1989, c. 811, §3 (NEW). PL 1991, c. 300, §1 (AMD). PL 1993, c. 250, §§3,4 (AMD). PL 2003, c. 387, §12 (AMD). PL 2007, c. 491, §251 (AMD). PL 2009, c. 474, §44 (AMD). PL 2017, c. 392, §§10, 11 (AMD).

#### §18802. Participating Local District Advisory Committee

**(REPEALED)**

#### SECTION HISTORY

PL 1989, c. 811, §3 (NEW). P&SL 1993, c. 67, §1 (AMD). PL 1993, c. 250, §5 (AMD). MRSA T. 5 §18802, sub-§7 (RP).

#### §18802-A. Participating Local District Advisory Committee

**1. Composition; designation.** The Participating Local District Advisory Committee, referred to in this chapter as "the advisory committee," is composed of the following 12 members:

A. Five voting members who are members of labor organizations that represent participating local district employees, duly designated by their respective labor organizations as follows:

- (1) One member duly designated by the Maine Education Association;
- (2) One member duly designated by the American Federation of State, County and Municipal Employees;

- (3) One member duly designated by the Service Employees International Union;
  - (4) One member duly designated by the International Association of Fire Fighters; and
  - (5) One member duly designated by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America; [PL 2007, c. 249, §36 (AMD).]
- B. Five voting members who represent participating local districts duly designated as follows:
- (1) Three members duly designated by the Maine Municipal Association; and
  - (2) Two members duly designated by the Maine School Management Association; [PL 2007, c. 249, §36 (AMD).]
- C. One nonvoting member duly designated by the Governor; and [PL 2007, c. 249, §36 (AMD).]
- D. The executive director or the executive director's designee, to serve as an ex officio nonvoting member. [PL 1997, c. 12, §1 (NEW); PL 1997, c. 12, §2 (AFF).]  
[PL 2007, c. 249, §36 (AMD).]

**2. Compensation of members.** The members of the advisory committee are not entitled to receive compensation for their participation in the advisory committee's activities.  
[PL 1997, c. 12, §1 (NEW); PL 1997, c. 12, §2 (AFF).]

**3. Chair.** The executive director, or a designee, shall serve as chair.  
[PL 1997, c. 12, §1 (NEW); PL 1997, c. 12, §2 (AFF).]

**4. Term.** The terms of the members are as follows.

A. Each member serves a term of 5 years. [PL 2007, c. 249, §37 (AMD).]

B. A member shall continue to serve after the expiration of that member's term until a qualified successor is designated. The member's continuation as a member does not change the expiration of that member's term. [PL 2007, c. 249, §37 (AMD).]

C. The term of a member designated to succeed a member whose term has expired expires 5 years after the expiration date of the term of the previous member, regardless of the effective date of the new designation. There is no limit to the number of terms to which a member may be designated.  
[PL 2007, c. 249, §37 (AMD).]

D. The designating authority shall designate a person to fill a vacancy caused by death, resignation or ineligibility within 60 days. This designation is for the unexpired portion of the term and must be made from a designation provided by the organization the former member represented, as provided by subsection 1. With the agreement of the member being replaced and of the designating authority, the member being replaced serves until a replacement is designated. Otherwise, a vacancy exists until a replacement is designated. [PL 2007, c. 249, §37 (AMD).]

E. The terms of the initial appointments are as follows.

(1) Members who represent participating local district employees are appointed by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years.

(2) Members who represent participating local districts are appointed by the Governor, one each, to terms of 1, 2, 3, 4 and 5 years. [PL 1997, c. 12, §1 (NEW); PL 1997, c. 12, §2 (AFF).]

F. A member is considered to have resigned if:

(1) The member severs the affiliation with the organization that designated the member in accordance with subsection 1; or

(2) The member is absent from 3 consecutive meetings of the advisory committee without good cause as determined by the advisory committee. [PL 2007, c. 249, §37 (AMD).]

[PL 2007, c. 249, §37 (AMD).]

**5. Transaction of business.** The transaction of business by the advisory committee is governed as follows.

A. Seven voting members constitute a quorum for the transaction of any business. [PL 2003, c. 387, §13 (AMD).]

B. Each member is entitled to one vote. [PL 1997, c. 12, §1 (NEW); PL 1997, c. 12, §2 (AFF).]

C. Affirmative votes of a simple majority of the quorum or, if greater, of the voting members present are necessary for the passage of any resolution or any other action by the advisory committee. [PL 2003, c. 387, §13 (AMD).]

[PL 2003, c. 387, §13 (AMD).]

**6. Proposal for plan design or amendment.** The advisory committee or the retirement system staff may present to the board proposals for the consolidated retirement plan and amendments to the plan. Passage of any resolution or any other action by the advisory committee relating to proposals for the consolidated retirement plan or proposed amendments to the consolidated retirement plan requires affirmative votes of a simple majority of the quorum or, if greater, of the voting members present.

[PL 2003, c. 387, §13 (AMD).]

#### SECTION HISTORY

PL 1997, c. 12, §1 (NEW). PL 1997, c. 12, §2 (AFF). PL 2003, c. 387, §13 (AMD). PL 2007, c. 249, §§36, 37 (AMD).

#### §18803. Assistance by board

**1. Staff assistance.** The board may authorize the retirement system staff to give assistance to the advisory committee.

[PL 1989, c. 811, §3 (NEW).]

**2. Expenses.** The board may authorize the payment of necessary expenses incurred in the operation of the advisory committee from the funds allocated for that purpose based upon a budget submitted by the advisory committee.

[PL 1989, c. 811, §3 (NEW).]

**3. Duties of the board.** Nothing in this chapter alters the duties of the board to administer the retirement plan of participating local districts.

[PL 1989, c. 811, §3 (NEW).]

#### SECTION HISTORY

PL 1989, c. 811, §3 (NEW).

#### §18804. Local district participation

All local districts that are participating local districts under chapter 425 on the date the plan is put into operation may contract for participation in the plan in the manner provided in subsection 1 or 2 for other local districts. A participating local district that elects to be transferred into the consolidated plan must contract for participation according to the terms of its transfer, in accordance with rules established by the board. Other local districts may contract for the participation of their employees in the Participating Local District Retirement Program under this chapter in the manner provided by subsection 1 or 2. [PL 2007, c. 491, §252 (AMD).]

**1. Local districts that are not municipalities.** For a local district that is not a municipality, as 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 a resolution or order, with a record of the vote of the executive body, which must include:

- A. Approval of the participation; [PL 1989, c. 811, §3 (NEW).]
  - B. The benefit plans that are to apply; [PL 1989, c. 811, §3 (NEW).]
  - C. Excluded employees, as required by subsection 3; and [PL 1989, c. 811, §3 (NEW).]
  - D. The name or title of the person authorized to sign the contract on behalf of the local district. [PL 1989, c. 811, §3 (NEW).]
- [PL 1989, c. 811, §3 (NEW).]

**2. Local districts that are municipalities.** For a local district that is a municipality, as defined in Title 1, section 72, subsection 13, the legislative body of the municipality must approve participation and must file with the board a resolution or order, certified by the clerk of the municipality, with a record of the vote of the legislative body, which must include:

- A. Approval of the participation; [PL 1989, c. 811, §3 (NEW).]
  - B. The benefit plans that are to apply; [PL 1989, c. 811, §3 (NEW).]
  - C. Excluded employees, as required by subsection 3; and [PL 1989, c. 811, §3 (NEW).]
  - D. The name or title of the person authorized to sign the contract on behalf of the local district. [PL 1989, c. 811, §3 (NEW).]
- [PL 1989, c. 811, §3 (NEW).]

**3. Excluded employees.** The local district shall designate in its approval any class of employees otherwise provided for by local pension provisions who are excluded from membership in the plan established under this chapter.

[PL 1989, c. 811, §3 (NEW).]

**4. Date participation begins.** The retirement system establishes the schedule for enrolling participating local districts and for the effective date of establishment of a participating local district. The date when the participation of the employees of a participating local district begins is as of the date of first contributions or pick-up contributions to the retirement system.

[PL 2007, c. 490, §3 (AMD).]

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

[PL 2015, c. 384, §3 (NEW).]

**6. Participation in other retirement plans.** If an employee requests and is allowed retroactive membership, and during the time for which these retroactive retirement benefits are sought the 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 plan. 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 plan.

[PL 2015, c. 384, §3 (NEW).]

**7. Withdrawal from participation.** The plan provisions adopted by rule pursuant to section 18801 govern the withdrawal of a local district from participation in the plan and must include withdrawal liability payments by the local district of amounts calculated in an actuarially sound manner and appropriate to protect the funding of the plan and treat members, the withdrawing local district and nonwithdrawing local districts in a fair manner.

[PL 2017, c. 392, §12 (NEW).]

## SECTION HISTORY

PL 1989, c. 811, §3 (NEW). PL 1993, c. 250, §6 (AMD). PL 2007, c. 490, §3 (AMD). PL 2007, c. 491, §252 (AMD). PL 2015, c. 384, §3 (AMD). PL 2017, c. 392, §12 (AMD).

**§18805. Chief fiscal officer**

The chief fiscal officer of a participating local district, in order to assist in the administration of the retirement system shall: [PL 1989, c. 811, §3 (NEW).]

**1. Information.** Submit to the board whatever information the board prescribes about the employees of the participating local district relating to participation in the plan; and [PL 1989, c. 811, §3 (NEW).]

**2. Duties.** Cause to be performed whatever duties the board prescribes, with respect to the employees of the participating local district. [PL 1989, c. 811, §3 (NEW).]

## SECTION HISTORY

PL 1989, c. 811, §3 (NEW).

**§18806. Alternative benefits**

The plan adopted under section 18801 may include benefits provided by this section. [PL 1989, c. 811, §3 (NEW).]

**1. Districts with employees covered by the Social Security Act.** A participating local district with employees covered by the United States Social Security Act may provide service retirement benefits for employees not covered by a special plan that equal 1% of the member's average final compensation multiplied by the number of years of membership service. The board shall establish by rule the rate at which members covered by this benefit shall contribute to the Participating Local District Retirement Program.

[PL 2015, c. 385, §11 (AMD).]

**2. Defined contribution plan.** A participating local district may provide for the participation of its employees who are members of the Participating Local District Retirement Program under this chapter, in a defined contribution plan that is part of the consolidated plan provided by section 18801. Employees who choose not to become members under section 18801, subsection 1, paragraph D may also participate in the defined contribution plan.

[PL 2007, c. 491, §254 (AMD).]

**3. Ancillary benefits.** The plan must include disability benefits and death benefits for those employees who choose not to be members under section 18801, subsection 1, paragraph D and who participate in the defined contribution plan.

[PL 1991, c. 300, §2 (NEW).]

## SECTION HISTORY

PL 1989, c. 811, §3 (NEW). PL 1991, c. 300, §2 (AMD). PL 2007, c. 491, §§253, 254 (AMD). PL 2015, c. 385, §11 (AMD).

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