

**§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. Except as provided by section 18252-C, 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. [PL 2023, c. 405, Pt. A, §16 (RPR).]

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. Except as provided by section 18252-C, a person must make an election within 90 days of the date on which the employer provides a plan under section 18252-B.

(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. [PL 2023, c. 405, Pt. A, §17 (RPR).]

C. [PL 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. [PL 2009, c. 415, Pt. A, §6 (RPR).]

E. An election under paragraph A or B to not be a member or not remain a member is not irrevocable if:

(1) The employee contribution rate for the plan provided by the employer under section 18252-B is not lower than the employee contribution rate for the applicable plan under the Participating Local District Retirement Program; and

(2) Employee contributions after joining or rejoining the Participating Local District Retirement Program qualify for treatment as pick-up contributions for federal tax purposes and the person's membership otherwise complies with the United States Internal Revenue Code as applicable to governmental qualified defined benefit plans. [PL 2021, c. 90, §3 (NEW).]

[PL 2023, c. 405, Pt. A, §§16, 17 (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. [PL 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. [PL 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 chief executive officer and for making all administrative decisions, including the final administrative decision, in any dispute over the election process or 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 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. [PL 2021, c. 548, §33 (AMD).]

D. With respect to matters related to participation and membership other than those specified as the responsibility of the employer 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 on membership eligibility based on employee membership elections as reported by the employer pursuant to this section, the applicable retirement system laws and rules and the requirements of the Internal Revenue Code and United States Treasury regulations applicable to governmental qualified defined benefit plans. [PL 2021, c. 548, §34 (AMD).]

[PL 2021, c. 548, §§33, 34 (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; [PL 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; [PL 2007, c. 491, §194 (AMD).]

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

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

[PL 2007, c. 491, §§194, 195 (AMD).]

#### SECTION HISTORY

PL 1997, c. 709, §4 (NEW). PL 2003, c. 387, §7 (AMD). PL 2003, c. 630, §§A5,6 (AMD). PL 2007, c. 137, §§18, 19 (AMD). PL 2007, c. 490, §2 (AMD). PL 2007, c. 491, §§192-195 (AMD). PL 2009, c. 415, Pt. A, §6 (AMD). PL 2009, c. 474, §§32, 33 (AMD). PL 2011, c. 449, §15 (AMD). PL 2021, c. 90, §§1-3 (AMD). PL 2021, c. 286, §§3, 4 (AMD). PL 2021, c. 548, §§33, 34 (AMD). PL 2023, c. 405, Pt. A, §§16, 17 (AMD).

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