

**§17857. Transfer from special plan**

**1. Special plan defined.** As used in this section, unless the context otherwise indicates, "special plan" means any of the retirement programs in section 17851, subsection 4, 5, 6, 7, 8, 9, 10 or 11 and section 17851-A.

[PL 1997, c. 769, §19 (AMD).]

**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, including a member who completes the requirements of section 17851-A, subsection 2, paragraph A, may transfer to a position not under a special plan and earn service credit for additional service retirement benefits.

(1) The part of the member's service retirement benefit based upon membership service before being transferred must 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 must be computed in accordance with section 17852, subsection 1. [PL 1997, c. 769, §19 (AMD).]

B. [PL 2001, c. 442, §2 (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 receive service retirement benefits as follows. This paragraph does not apply to section 17851-A, subsection 2, paragraph A.

(1) If the benefit is greater, the part of the member's service retirement benefit based upon membership service before being transferred must 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 must be computed in accordance with section 17852, subsection 1. [PL 1997, c. 769, §19 (AMD).]

D. A member who has not completed the service requirements for retirement under a special plan, including a member who completes the requirements of section 17851-A, subsection 2, paragraph A, on becoming disabled as defined in section 17901, or, after September 30, 1989, section 17921, and on becoming reemployed in a position not under a special plan on retirement receives 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 17901, or, after September 30, 1989, section 17921, 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 17852, 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 17903 or, after September 30, 1989, section 17926.

(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 shall cease. [PL 1997, c. 769, §19 (AMD); PL 2021, c. 548, §45 (REV).]

[PL 2001, c. 442, §2 (AMD); PL 2021, c. 548, §45 (REV).]

**3. Reduction of benefits; 10 years of creditable service on July 1, 1993.** Upon retirement before reaching age 60, 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:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 10, paragraph C or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 17852, subsection 3. [PL 1999, c. 731, Pt. CC, §11 (AMD).]

B. [PL 2001, c. 699, §2 (RP).]

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3. [PL 1997, c. 769, §19 (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 that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 10, paragraph C or, if the member was covered under section 17851-A, the retirement benefit must be reduced as provided in that section; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3. [PL 1999, c. 731, Pt. CC, §11 (AMD).]

[PL 2001, c. 699, §2 (AMD).]

**3-A. Reduction of benefits; less than 10 years of creditable service on July 1, 1993.** On and after July 1, 1993, upon retirement before reaching the age of 62, 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:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the

retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 17852, subsection 3-A. [PL 1999, c. 731, Pt. CC, §12 (AMD).]

B. If the member was a retiree restored to service subject to subsection 2, former paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service must be reduced in accordance with section 17852, subsection 3-A. [PL 2001, c. 667, Pt. A, §4 (AMD).]

C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3-A. [PL 1993, c. 410, Pt. L, §42 (NEW).]

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 that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the retirement benefit must be reduced as provided in that section; or

(2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3-A. [PL 1999, c. 731, Pt. CC, §12 (AMD).]

This subsection applies to members who on July 1, 1993 have less than 10 years of creditable service under this Part. For the purpose of calculating creditable service under this subsection only, creditable service includes time during which a member participated in the voluntary cost savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV, or 10 years of combined creditable service under this Part and Title 3, chapter 29, or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

[PL 2001, c. 667, Pt. A, §4 (AMD).]

**3-B. Reduction of benefits; less than 5 years of creditable service on July 1, 2011.** On and after July 1, 2011, upon retirement before reaching the 65 years of 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:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before being transferred must be reduced as provided in that section; and

- (2) The portion of the retirement benefit based upon creditable service earned after being transferred must be reduced in accordance with section 17852, subsection 3-B. [PL 2011, c. 380, Pt. T, §20 (NEW).]
- B. If the member was a retiree restored to service subject to subsection 2, former paragraph B:
- (1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced as provided in that section; and
- (2) The portion of the retirement benefit based upon creditable service earned after being restored to service must be reduced in accordance with section 17852, subsection 3-B. [PL 2011, c. 380, Pt. T, §20 (NEW).]
- C. If the member was transferred subject to subsection 2, paragraph C, the retirement benefit must be reduced in accordance with section 17852, subsection 3-B. [PL 2011, c. 380, Pt. T, §20 (NEW).]
- 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 that the member was under previously, if applicable, the retirement benefit must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the retirement benefit must be reduced as provided in that section; or
- (2) If the member does not complete the service or service and age requirements for retirement under the special plan that the member was under previously, the retirement benefit must be reduced in accordance with section 17852, subsection 3-B.

This subsection applies to members who on July 1, 2011 have less than 5 years of creditable service under this Part. For the purpose of calculating creditable service under this subsection, creditable service includes: creditable service under this Part; creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; creditable service available to a member that the member was eligible to purchase on June 30, 2011 and that the member does purchase in accordance with rules adopted by the board; and creditable service for which the member makes payment for certain days off without pay during fiscal year 2009-10 or fiscal year 2010-11. The amount of the required payment must be made in accordance with section 17704-B and payment may be made at any time prior to retirement. [PL 2011, c. 380, Pt. T, §20 (NEW).]

[PL 2011, c. 380, Pt. T, §20 (NEW).]

**4. Computation of benefit.** The computation of the retirement benefit must be based upon the member's average final compensation, as defined in section 17001, subsection 4. [PL 1997, c. 769, §19 (AMD).]

#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1989, c. 79, §§1,2 (AMD). PL 1993, c. 410, §L42 (AMD). PL 1997, c. 769, §19 (AMD). PL 1999, c. 731, §§CC11,12 (AMD). PL 2001, c. 442, §2 (AMD). PL 2001, c. 667, §A4 (AMD). PL 2001, c. 699, §2 (AMD). PL 2011, c. 380, Pt. T, §20 (AMD). PL 2021, c. 548, §45 (REV).

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