

TITLE 1: GOVERNMENT  
DIVISION 8: PUBLIC EMPLOYMENT

**§ 8458. Conditions for Transfer Into Defined Contribution Plan by Class I and Class II Members of the Defined Benefit Plan.**

*(a) Class I Members With Less Than 10 Years Contributing Member Service.*

The Administrator shall identify Class I members of the Northern Mariana Islands Retirement Fund. Members with less than 10 years of contributing member service shall have an option, upon written election, to voluntarily and irrevocably elect to become members of the defined contribution plan, on a prospective basis, on or after a date selected by the administrator that is on or after the effective date determined under § 8454. As required by law, this option shall expire 12 months after first taking effect with respect to such members.

The election to participate in the defined contribution retirement plan must be made in writing on forms and in the manner prescribed by the administrator.

Before accepting an election to participate in the defined contribution retirement plan, the administrator must provide the employee planning on making an election to participate in the defined contribution retirement plan with written information, including calculations to illustrate the effect of moving the employee's retirement plan from the defined benefit retirement plan to the defined contribution retirement plan as well as other information to clearly inform the employee of the potential consequences of the employee's election. An election made under this subsection to participate in the defined contribution retirement plan is irrevocable.

Upon making the election, the participant shall be enrolled as a member of the defined contribution retirement plan, the member's participation in the plan shall be governed by this act, and the member's participation in the defined benefit retirement plan shall terminate and no benefits shall accrue to the member under that plan. The participant's enrollment in the defined contribution retirement plan shall be effective the first day of the month after the administrator receives the completed enrollment forms.

An election made by an eligible member who is married is not effective unless the election is signed by the individual's spouse.

Members transferring to the defined contribution plan will have their transfers effective at the end of the first pay period following the month of transfer or at such other time as determined by the administrator for administrative necessity.

*(b) All Other Class I Members and All Class II Members.*

Class I members with 10 or more years of contributing member service and all Class II members of the defined benefit plan of the Retirement Fund are not eligible to transfer under this section to the defined contribution plan.

(c) An eligible Class I or Class II member whose account is subject to a qualified domestic relations order may not elect to become a member of the defined contribution plan under any elective provisions set forth in subsection (a), unless the qualified domestic relations order is amended or vacated and court-certified copies of the order are received by the administrator.

(d) To the extent permitted by federal law, each eligible member who elects to participate in the defined contribution retirement plan shall have transferred to a new account the employee contribution account balance held in trust for the member under the defined benefit retirement plan of the Northern Mariana

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Islands Retirement Fund. A matching employer contribution may be made on behalf of that included employee to the new account if the employer makes the matching contribution from funds appropriated by the legislature for that purpose. The amount of the matching employer contribution shall be subject to, and may not exceed, the limitation of 26 U.S.C. 415(c) during the applicable limitation year in which the contribution is made.

(e) Upon a transfer, all membership service previously earned under the defined benefit retirement plan shall be nullified for purposes of entitlement to a future benefit under the defined benefit retirement plan but shall be credited for purposes of determining vesting in employer contributions under the defined contribution plan. For these purposes, "membership service" earned under the defined benefit retirement plan means service under which employee contributions to the defined benefit plan have been paid and does not include any service for which reinstatement indebtedness to the defined benefit plan has not been fully paid.

(f) If the Administrator receives notice from the United States Department of the Treasury, Internal Revenue Service, that this section or a portion of this section will cause the retirement plan under this chapter, or a portion of the retirement plan under this chapter, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply, and the Administrator shall notify the Governor and presiding officers of the legislature.

**Source:** PL 15-13, § 3 (8458).