

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT  
OF  
LEGISLATIVE ~~RESEARCH~~  
COMMITTEE

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AUTHORIZED BY THE  
NINETY-SECOND LEGISLATURE

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REGARDING UNIFIED LAW OF  
STATE'S PENSION SYSTEM



NOVEMBER TWENTY-SEVEN  
1946



## **To the Members of the Ninety-third Legislature of the State of Maine:**

This committee was created by a legislative resolve in the regular session of 1945, the expressed purpose being to determine the desirability of unifying all of the state's differing pension systems into one system and, if found desirable, to report that fact with a plan and draft of legislation to carry it into effect. The reasons for unification are obvious.

One system for all employees would mean one office and one staff for keeping the records and one board for handling and investing the funds.

With a larger fund for investment there will be larger purchasing power in the investment market with its advantages, and a broader spread of the risk as a safety factor.

The cost of a single system can be more accurately computed for the state. Calculations of cost must be based upon average figures and the larger the number of persons in a system, the more closely they will approximate the average.

If the pension benefits to employees are alike in all cases, internal friction and jealousy are eliminated.

An especially compelling reason is in the tremendous liability which the state now has under its unfunded pension system for teachers who started to teach prior to 1924. About seven hundred of these teachers are now on the pension rolls and are costing the state in annual appropriations about \$377,000.00. There are over twenty-two hundred more who will soon be eligible. It is a simple calculation that those who do retire on pension will nearly treble this appropriation and the state may be faced with a pension payroll of nearly \$1,000,000.00 a year for this group of teachers alone.

The longer this unfunded system is allowed to go on, the more it will cost. The necessity for putting this system on a reserve basis is immediate and urgent and the handling of it in a unified system is desirable.

The ideal of a unified system, in which each employee is on exactly the same basis as every other employee, is at present not possible because of the wide variety of obligations which the state has in the past

entered into with its employees. It is probably true that the state is not legally bound by these obligations but in equity and good conscience, this committee feels that the state should come as nearly as is financially possible to approximating its promises. The recommended measures are therefore compromises. To explain the recommendations it is necessary to know the existing systems which would be supplemented by it.

At present the state has three major pension systems:

A. Employees' Retirement System of the State of Maine.

This system, instituted in 1942, was intended to cover all state employees except teachers. It is a jointly-contributory system and the fund thus built up is invested and held to pay pensions when the employee retires. It is therefore a reserve system. In this system retirement on pension is optional at age sixty-five, compulsory at age seventy.

B. Maine Teachers Retirement Association.

Teachers who have entered the service since July 1, 1924 are also under a jointly-contributory reserve system. Retirement from the service is permissible after thirty years of service but the pension does not begin until age sixty.

C. Teachers who entered the teaching profession prior to July 1, 1924 are under a non reserve system. Contributions have been made since 1945 by teachers still in the profession at a 5% rate not to exceed \$60.00 a year but this money is being currently spent to pay increased pensions, voted by the legislature in 1945, to those who have retired. Pensions are payable at age sixty at the following rates:

Twenty-five years' service	\$400.00
Thirty                    "                    "	500.00
Thirty-five            "                    "	600.00

In both the systems for teachers it is not necessary to be employed as a teacher at age sixty if the minimum years of service have been performed prior to that time. Under the state employees' system as it now exists it is necessary for the employee to be in the state service at age sixty-five in order for him to be entitled to a pension.

This describes the three systems generally but there are other minor differences.

In the case of the state employee the percentage of salary contributed varies with the age of entrance into the system and sex of the employee. That contribution together with the money contributed by the state was calculated at the then interest rate to produce a pension on a 1/70 basis at age sixty-five.

It may be well to explain here what is meant by a  $1/70$ ,  $1/60$ ,  $1/50$  basis for a pension. In almost all sound pension plans retirement is permissible only after attaining a certain age, such as sixty or sixty-five in the service; the number of years of service do not give the right to retire on pension but determine the amount of pension to be paid. The pension is usually a fractional part of the final pay of the pensioner. An employee who has thirty-five years of service and who has reached retirement age; if his pension is on a  $1/70$  basis, would be entitled to a pension of thirty-five (years of service)  $\times 1/70$  (pension basis)  $\times$  average final pay. This, of course, figures out  $35 \times 1/70$  which equals  $35/70$  or  $1/2$ . Any other number of years of service can be calculated by the same simple rules of mathematics.

The teachers who are in the contributory reserve system pay a flat 5% of salary not to exceed \$100.00 a year and the pension to be paid them is whatever amount their contributions together with the state's equivalent contributions will produce. In other words, the amount of pension which a teacher in this group will receive must be calculated by an actuary from proper tables and is not known in advance by the teacher. It is obvious, too, that even if 5% of salary were calculated to produce a pension proportionate to income, that the limitation of \$100.00 per year would not produce a pension proportionate to a salary in excess of \$2,000.00 per year.

In the state employee system again there are five groups who receive special treatment. This pension system was instituted in 1942 to replace a non contributory twenty-five year, half-pay pension system which obviously was too expensive for the state to carry. The change-over from this luxurious system to the contributory system came during the war and a period of definite man-power shortage. Provision was made, therefore, that any state employee who had been in the state's service for twenty-two years prior to July 1, 1942 might stay on until he had twenty-five years of service and at his option, then retire on a half-pay pension without regard to age. Contribution was required from these employees.

Another special group was set up consisting of employees of thirteen or more years' prior service. The employees were required to make contributions and were not to be permitted retirement on pension until age sixty-five but were granted a half-pay pension at that age if they had twenty-five years of service.

There are certain types of employment which require physical fitness as a prime requisite in the employee. Personnel men call these the

“athletic services”. Because of this requisite an early age for retirement is essential in order for the state to have good service. As belonging in the athletic services members of the state police, guards at the state prison and wardens in inland fisheries and game were set up in a different classification from other employees. Under the existing pension law they are entitled to retire after twenty-five years of service and receive a  $\frac{1}{2}$  pay pension without regard to age at the time of retirement. They, of course, also contribute.

The first conflict between the three plans is that of age of retirement. For the state employees it is optional at age sixty-five. For both classes of teachers it is optional at age sixty after a minimum number of years' service. The committee has determined that age sixty should be the uniform optional retirement age. This will cause an increased cost to the state for the first year of \$60,000.00 and the committee has further adopted age seventy as a compulsory retirement age for both teachers and employees.

The teachers were particularly insistent that there should be no requirement that they be in the service at age sixty in order to receive pension, if they had served a minimum term as teachers. This is a privilege they have under their present systems. The actuary for the committee advised us that there should be very little added expense to permit this feature. The committee, therefore, recommends that after thirty years of service the employee may cease working for the state but must leave his contributions in and may retire on pension at age sixty whether employed by the state at that time or not.

In order for the teachers in the prior to 1924 group to receive pensions somewhat proportioned to their present income it is proposed that the state grant to them credit for service prior to July 1, 1947 on the basis of 1/70. This provision will give a proportionate pension to the higher salaried teacher in this particular group. At the same time, in order that no one shall be penalized, the present guaranteed minima of 400-500-\$600.00 a year, as they now exist, may be chosen by the lower salary teachers.

By combining this non reserve group with the other contributory reserve groups and without taking anything away from the funds of those reserve groups it is calculated that this liability may be amortized over a period of years by a contribution from the state of \$157,000.00 for the first year and increasing very slightly over that for the succeeding years.

As explained previously, teachers entering the service since 1924

under their existing system would receive such pension as their contributions and the state's matching funds would produce. The 5% contributions being made by these teachers would not quite produce the equivalent of the 1/70 guaranteed to the teachers prior to 1924 by the proposed plan. Furthermore, those teachers whose salaries are more than \$2,000.00 a year have not been permitted to contribute more than \$100.00 a year and their pensions would be considerably less than 1/70 times the number of years of service. Therefore, in order that the prior to 1924 teachers, who will have contributed only from 1945 on may not receive a larger proportionate pension than teachers who have been contributing in the other group since 1924, the committee proposes that all service for teachers prior to the effective date of this act shall be on a guaranteed 1/70 basis.

The teachers in this system were not compelled to enter the system and make contributions until they had reached age twenty-five. Many of the teachers did not, therefore, make contributions for that period. It is proposed now that any teacher who wishes to receive credit from the state for that period on account of her pension may make up the necessary contributions and the state will pay in the matching funds.

There were requests on the part of the teachers that their pension be calculated on the best five consecutive years instead of the last five consecutive years. If this were granted it would create figures not capable of accurate computation for the purposes of state appropriation. The committee, therefore, does not approve this. If it is felt that the last five years of service might not produce a fair average it would be possible to change average final compensation from the last five years of service to the last ten years of service.

For the teacher the right to receive credit for service as a teacher in another state is preserved for a limited number of years provided that teacher pay into this pension system the contributions she would have made had the service been in this state.

The committee recognizes the fact that the so-called special groups create a problem. Some of the members not included in these groups, looking at the problem from their own point of view, are frankly jealous of the privileges and wish to be accorded those same privileges. The committee, however, feels that certain special groups should be continued although it does not propose to expand their membership.

As stated previously, when the employee contributory pension system was instituted in 1942 it replaced a twenty-five year non contributory



half-pay pension system. The change to a contributory system where retirement is not permitted until age sixty-five where the member contributes toward his own pension and where at least thirty-five years of service are necessary to produce a half-pay pension was a very considerable limitation of the employee's previous rights. For this reason, and because of the manpower shortage which existed at the time, it was definitely fair and to the state's benefit to set up the two groups, that is, those having twenty-two years' prior service and those having thirteen years' prior service in the employee system. We believe that the law relating to these groups should not be changed; time will, of course eliminate them.

In order to give fair treatment to all other employees who were under the old non contributory system it is now proposed that they be given prior service credit on the basis of 1/50 on not more than twenty-five years of prior service. This takes nothing away from any of the teachers but does give some fulfillment to the state's original promise to pay half-pay pension after twenty-five years of service to employees. This will cost about \$17,000.00 a year.

There have been many requests that other groups of employees be included in the Athletic services group. As previously stated this group now includes State Police, Wardens of Inland Fisheries & Game and Guards at the State's Prison. The Committee is convinced that the State Police, for the benefit of the service, should have this classification. We are not convinced that either the Wardens of the Fish & Game Department, nor the Guards at the State's Prison should be included. If they do belong in this classification then, of course, Wardens in Sea & Shore Fisheries and all attendants of State Institutions giving custodial care should also be included. This would mean the two state hospitals, men's reformatory, State School for Boys, possibly Women's Reformatory. A reasonable case can also be made for some employees of the Highway Department where in bridge construction or in snow plowing physical fitness and stamina may be desirable. Even some teachers have asserted that because of the nerve-wracking nature of their work they should be included. Police are universally recognized as belonging in this classification. If any are included beyond then there will be a justifiable series of claims for other similar groups until a very substantial portion of the state's employees would be put in this class. We do not believe that this state can afford a contributory twenty-five year half-pay pension at age fifty-five for such a substantial number of its employees.

We have already proposed two features which greatly benefit the employees:

1. Optional retirement at age sixty.
2. Retirement from the state's service at any time after completion of thirty years of service with pension assured at attained age sixty.

It is the recommendation of this committee, therefore, that for all future employees, except State Police, age sixty be the optional retirement age. And it may not be amiss to warn this and all future Legislatures, that if this special benefit is conferred upon one additional group there will be applications for the same treatment from many more. The state has already had this experience. The committee does, however, recommend that retirement in these groups shall not be permitted until age fifty-five and shall be compulsory at age sixty.

With these changes twenty-five years of service will still permit a half-pay pension but not until age fifty-five. It is to be noted that with a compulsory retirement age sixty, and the necessity of twenty-five years of service for pension, no person would be likely to enter this service after age thirty-five and this is as it should be because if this service requires physical fitness as a prime requisite, then thirty-five years should be the most advanced age at which a person should enter it.

The request which has been made frequently that years of service alone should determine the right to a pension is one which is absolutely unsound. The reasoning of the actuary for the committee and the experience of other governmental units which have attempted this type of pension prove conclusively how costly these systems are. They frequently lead to repudiation of the whole system as they did here in Maine when the employee jointly contributory system was instituted to take the place of the twenty-five year half-pay system.

Such a system is also unsound as a personnel practice. There is no reason why the state should pay a pension to a person in his forties when he is then in full possession of good physical and mental qualifications. The state has in mind that a pension system will aid it to attract a good class of personnel into its service and will further permit the state to dispense with those services when the employee reaches an age where superannuation would make his services less valuable. Superannuation rarely begins in the forties.

Prior to 1945 only teachers in the public schools or those who received three-fifths or more of their support from the state were eligible for the teachers' retirement system. In 1945 this was amended so that the

teacher in any school which receives any support from the state was made eligible. The committee believes this to be unsound. In the first place it is an invitation to private schools to seek money from the state in order that their teachers may become eligible under the state's pension system. Secondly, there is no reason why the state should make contribution for teachers' pensions in private schools.

In the case of one academy alone the trustees were willing to make the back contribution for their teachers so that all their years of service might be credited toward their pension. In order to match these contributions the state would have had to appropriate \$12,000 for the teachers of this academy. Fortunately the Attorney General ruled against such contributions for prior service.

The committee recommends that any school which does not qualify as a public school by receiving three-fifths or more of its support from state funds may be permitted to become a participating local district the same as any town in the state and in that case the school itself will provide the funds to match the teacher's contributions.

There were two major factors which the committee kept in mind as being the basis upon which their conclusions must be made. First: any changes which were to be made were to be made for the benefit of the state as an employer. It is true that the employee's welfare is involved in this factor because in order for the state to obtain high-grade employees their welfare is an essential part of a pension scheme. But the individual desires of employees could not furnish any sound basis for the committee's conclusions.

Secondly: it was absolutely essential for the committee to determine and weigh any increased cost to the state which might accrue through suggested changes. When the pension system, particularly a pension system on a reserve basis, becomes too expensive there is grave danger that the legislature may abandon the whole proposition, or, as was done from 1932 to 1942 with the teachers' system, fail to make the necessary state contributions to the system to keep it a sound and solvent proposition.

In brief the committee's recommendations are:

A. All teachers and employees in one jointly contributory retirement system.

B. Pension, on optional retirement age sixty.

Pension, on compulsory retirement age seventy except:

1. Employees with twenty-two years' service prior to July 1, 1942: Retirement on one-half pay after twenty-five years' service without regard to age.

2. Employees with thirteen years' service prior to July 1, 1942: retirement optional at age sixty-five, twenty-five years' service to give one-half pay pension.
  3. Present members of state prison guards, wardens, inland fisheries and game, state police; retirement optional age fifty-five, compulsory age sixty; twenty-five years' service to give one-half pay pension. For the future, members of State Police only in this category.
- C. Contributions by members 5% of salary or present percentage of contribution.
  - D. Present teachers, provisions of existing law as to out of state service continued.
  - E. Teachers beginning after July 1, 1947 to receive ten years out of state service credit if contributions made and if twenty years' service in this state, last ten years in this state.
  - F. For teachers, service credit prior to July 1, 1947 on 1/70 basis.
  - G. For state employees, service credit prior to July 1, 1942 on 1/50 basis not to exceed twenty-five years.
  - H. Separation from service permitted after thirty years' creditable service, pension at attained age sixty.
  - I. Membership service—retirement benefit.
    1. State guaranteed 1/140 pension.
    2. Amount member's contribution will provide.

Respectfully submitted,

W. MAYO PAYSON,  
Chairman

RALPH LEAVITT,  
Member from the Senate

CHARLES A. PEIRCE,  
Member from the House

EDWARD E. RODERICK,  
Member, Teachers' Retirement  
Board

FRED W. HOLLINGDALE,  
Member from State Employees'  
Retirement Board

CLAIR WOOD,  
Member, Maine Teachers'  
Association

JOHN C. BURNHAM,  
Member, Maine State Em-  
ployees' Association

## STATE EMPLOYEES RETIREMENT SYSTEM

### Sec. 1. Definitions.

- (1) "Retirement system" shall mean the State Employees' Retirement System of the state, as defined in section 2.
- (2) "Board of trustees" shall mean the board provided for in section 12 to administer the retirement system.
- (3) "Department" shall mean any department, commission, institution, or agency of the state government.
- (4) "Employee" shall mean any regular classified or unclassified officer or employee in a department, including teachers in the state, teachers' colleges, normal schools, and Madawaska training school, and for the purposes of this act teachers in the public schools, but shall not include any member of the state legislature or the council or any judge of the superior court or supreme judicial court who is now or may be later entitled to retirement benefits under the provisions of section 5 of chapter 91 and section 3 of chapter 93. In all cases of doubt the board of trustees shall determine whether any person is an employee as defined in this chapter.
- (5) "Teacher" shall mean any teacher, principal, supervisor, school nurse, school secretary, or superintendent employed in any day school within the state, including teachers in an unorganized territory; also a teacher or principal of a normal school, president and instructors in state teachers' colleges, and teachers who teach in any school which is supported at least 3/5 by state or town appropriations.
- (6) "Public school" shall mean any public school conducted within the state under the authority and supervision of a duly elected board of education or superintending school committee.
- (7) "Member" shall mean any employee included in the membership of the retirement system, as provided in Section 3.
- (8) "Beneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance, or other benefit as provided by this Chapter.
- (9) "Service" shall mean service as an employee, as defined in (4) of this section, for which compensation was paid.
- (10) "Membership service" shall mean service rendered while a member of the retirement system for which credit is allowable under the provisions of section 3.

(11) "Prior service" shall mean service rendered prior to the date of establishment of the retirement system for which credit is allowable under the provisions of section 4.

(12) "Creditable service" shall mean membership service plus prior service.

(13) "Earnable compensation" shall mean actual compensation, including maintenance if any. In cases where compensation includes maintenance, the board of trustees shall fix the value of that part of the compensation not paid in money.

(14) "Average final compensation" shall mean the average annual earnable compensation of a member during his last 5 years of creditable service, or if less than 5 years of creditable service, it shall mean his average annual earnable compensation during his total creditable service.

(15) "Accumulated contributions" shall mean the sum of all the amounts credited to a member's individual account in the annuity savings fund, or teachers savings fund, together with regular interest thereon, as provided in section 14.

(16) "Annuity" shall mean annual payments for life derived from the accumulated contributions of a member other than the accumulated contribution of a member to his credit in the teachers savings fund.

(17) "Pension" shall mean annual payments for life derived from contributions by the state together with such accumulated contributions as may be to the credit of a member in the teachers savings fund.

(18) "Retirement allowance" shall mean the sum of the annuity and the pension. All retirement allowances shall be payable in equal monthly instalments which shall cease with the last payments prior to death.

(19) "Retirement" shall mean withdrawal from active service with a retirement allowance granted under the provisions of this chapter.

(20) "Regular interest" shall mean interest at such rate as may be set from time to time by the board of trustees in accordance with the provisions of subsection 2 of section 13.

(21) "Actuarial equivalent" shall mean a benefit of equal value when computed at regular interest upon the basis of such mortality and service tables as the board of trustees shall adopt.

(22) The masculine pronoun, wherever used shall include the feminine pronoun.

## **Sec. 2. Name and Date of establishment.**

A retirement system, as herein established, shall be placed under the board of trustees for the purpose of providing retirement allowances and other benefits under the provisions of this chapter for employees of this state. The retirement system so created shall be considered to have been established as of July 1, 1942 for all employees who were eligible for the provisions of Chapter 60, Revised Statutes 1944 and as of July 1, 1947 for all employees who were eligible for the provisions of Sections 212 to 241, Chapter 37, Revised Statutes 1944; for all other employees the date of establishment shall be considered as the date on which contributions were first made by them to any pension system supported in whole or in part by the state, with the further provision that the date of establishment of this system shall be July 1, 1947 for such employees employed for the first time after this date. It shall have the powers and privileges of a corporation and shall be known as the "State Employees' Retirement System of the State of Maine", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.

## **Sec. 3. Membership.**

The membership of the retirement system shall consist of the following:

(1) Any person who shall become an employee after the effective date of this act shall become a member of the retirement system as a condition of employment and shall not be entitled to receive any pension or retirement allowance, under any other pension or retirement provisions supported wholly or in part by the state, anything to the contrary notwithstanding; provided, however, that membership shall be optional in the case of any class of elected officials or any class of officials appointed for fixed terms.

(2) Any person who is an employee on the effective date of this act shall become a member as of that date unless he has previously filed in accordance with the provisions of section 3, chapter 60, with the board of trustees on a form prescribed by the board a notice of his election not to be included in the membership of the system and a duly executed waiver of all present and prospective

benefits which would otherwise inure to him on account of his participation in the retirement system. Any employee who elects not to become a member by filing such a waiver may thereafter apply for and be admitted to membership, but no such employee shall receive prior service credit unless he becomes a member within the first year after the effective date of this act.

A. Any person who was on the payroll as of December 31, 1941, and who was transferred to the federal employment service and any person employed by the employment service after December 31, 1941 and who subsequently may become a state employee when the so-called employment service shall be returned to the State of Maine as an operating unit, shall be considered a member of the retirement system; provided, however, that the employee designated in this paragraph shall have made payments to the state retirement fund in the same amounts and during the same periods as the other state employees have made to said fund, but the employee in the service of the federal employment service, so-called, may be permitted to make up any amounts due to the retirement fund if this is done within 1 year of the date when the so-called employment service is returned to the State of Maine, but any employee of the federal employment service who has not paid the contributions shall not be entitled to the benefits of this chapter. Any employee to whom the provisions of this chapter are applicable shall be entitled to all the rights and benefits which he could have accrued had he been employed by this state. Any employee of the federal employment service who transfers to a state department prior to the time said service is returned to state control shall be allowed prior service credit and membership credit for such time as he was with the said federal employment service provided he makes up such contributions as may be necessary to cover membership credit.

(3) Any employee for whom this retirement system can be considered to have been established July 1, 1942 may, if he so elects, pay into the retirement system any or all back contributions covering any or all of the period from July 1, 1942 to July 1, 1947 and receive therefor the proper membership credit for the period for which such back contributions are made.

(4) The board of trustees may, in its discretion, deny the right to become member to any class of employees whose compensation is only partly paid by the state, with the exception of teachers, or who



are serving on a temporary or other than per annum basis, and it may also, in its discretion, make optional with members in any such class their individual entrance into membership.

(5) It shall be the duty of the head of each department to submit to the board of trustees a statement showing the name, title, compensation, sex, date of birth, and length of service of each member and such information regarding other employees in his department as the board may require. For the effective handling of this section the commissioner of education shall furnish this information to the board of trustees for all teachers.

(6) Should any member in any period of fifteen consecutive years, after last becoming a member be absent from service more than ten years, or should he withdraw his contributions, or should he become a beneficiary as the result of his own retirement, or die, he shall thereupon cease to be a member; provided, however, that the membership of any employee entering such classes of military or naval service of the United States as may be approved by resolution of the board of trustees, shall be considered to be continued during such military or naval service if he does not withdraw his contributions, and provided further, that any employee who enlists in or is inducted or drafted into the service of the armed forces of the United States, in time of war, shall be considered as an employee under the provisions of this chapter and shall have all the benefits of section 23 of chapter 59, and the state shall contribute to the annuity savings fund or teachers' savings fund, whichever is applicable, such amounts as the employee would have been required to contribute if he had been serving the state during his service in the said armed forces in the same capacity as that in which he was serving at the time he joined the service; regardless of when he entered the United States armed forces or when he was released therefrom, provided such entry and release occurs during a time of war; provided, however, that any employee, whose contributions to the annuity fund are paid by the state under the provisions of this section, who withdraws from or ceases to be a member of the retirement system, may not withdraw any of the contributions made by the state under this subsection.

(7) All employees who formerly were subject to sections 212-220, chapter 37 shall be entitled to out-of-state service provided that upon making application for retirement they will have had service in Maine totalling at least 20 years of which the last 15 years of

service must be in the State of Maine. All employees who formerly were subject to sections 221-241, chapter 37 shall be entitled to out-of-state service provided that upon making application for retirement they will have had service in Maine totalling at least 20 years of which the last seven years of service must be in the State of Maine. Any teacher employed as such for the first time after the effective date of this act may be allowed a total out-of-state credit of ten years, provided that upon application for retirement such teacher shall have served at least 20 years in this state, the last ten of which shall be subsequent to such out-of-state service. Anything to the contrary notwithstanding credit for out-of-state service shall be allowed only if the member makes contributions for the years of such service on the same basis as he would have made contributions had such service been within this state.

(8) Any employee who is a member of this retirement system may leave state service after thirty years of creditable service and be entitled to a retirement allowance at attained age sixty provided the contributions made by such member have not been withdrawn and provided further that his retirement allowance shall be based upon the total number of years of creditable service, in accordance with the provisions of this retirement act.

#### **Sec. 4. Creditable Service.**

(1) All service of a member on account of which contributions are made after the date of establishment shall be credited as membership service and none other.

(2) Under such rules and regulations as the board of trustees shall adopt, each employee in service on the effective date of this act who becomes a member within one year after the effective date shall file a detailed statement, on forms provided by the board of trustees, of all service rendered by him both before and after the applicable date of establishment for which he claims credit. Provided further, that any person formerly employed by the state and who is reemployed by the state at any time prior to July 1, 1950, shall, upon becoming a member, be allowed the appropriate credit.

(3) The board of trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall it allow credit for a period of absence without pay of more than a month's duration if a full-time position, nor shall more than one year of service be

creditable for all service in one calendar year. Service rendered for the full normal working time in any year shall be equivalent to one year's service. For the purpose of determining prior service credits actual time worked in any year shall be deemed to be the normal working time. For teachers a year of service shall be equivalent to a "school year" as defined in the general laws of the state at the time when the school service in question was rendered; provided, however, that the persons who served as stenographers of the supreme judicial or superior courts prior to January 1, 1930 shall be credited with prior service for that period of time for which they served as such stenographers.

(4) Subject to the above restrictions and to such other rules and regulations as the board may adopt, the board shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed. Provided, that those employees who have already filed such statements under the provisions of section 4, chapter 60 need not again file.

(5) Upon verification of the statements of service, the board of trustees shall issue prior service certificates certifying to each member the length of service rendered prior to the applicable date of establishment with which he is credited on the basis of his statement of service. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any member may, within one year from the date of issuance or modification of such certificate, request the board of trustees to modify or correct his prior service certificate.

(6) When membership ceases, a prior service certificate shall become void, and should the employee again become a member, he shall enter the system as a member not entitled to prior service credit.

(7) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of his membership service, and also, if he has a prior service certificate which is in full force and effect, the period of the service certified on his prior service certificate.

(8) Prior service credit will be granted to those employees formerly subject to sections 221-241, chapter 37 for service rendered prior to their attaining age 25, provided that such employees pay into the teachers' savings fund 5% of the salary received during

such service, and further provided that for each year of such service such payments shall not be less than \$20.00 or more than \$100.

#### **Sec. 5. Employees Contributions.**

Any person who was a member of any retirement system supported in whole or in part by the State prior to the effective date of this act on becoming a member of this retirement system shall elect, on forms furnished by the board of trustees, whether to continue the same percentage contributions of earnable compensation as he had been making to the former retirement system of which he was a member or to make a 5% contribution of earnable compensation; provided, that if the retirement system to which the member formerly belonged required no percentage contributions of the member, such member shall make a 5% contribution of earnable compensation to this retirement system.

Any person who shall become an employee after the effective date of this act shall make a 5% contribution of earnable compensation to the retirement system.

Anything to the contrary notwithstanding, any member may elect not to make any further contributions to this retirement system provided he has 35 years of creditable service and has attained the age of 65. Election shall be made on forms prescribed by the board of trustees.

#### **Sec. 6. Service Retirement Benefits.**

(1)

A. Any member in service may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the filing thereof, he desires to be retired, provided that such member at the time so specified for his retirement shall have attained age 60 and notwithstanding that during such period of notification he may have separated from service.

B. Any member in service who attains age 70 shall be retired forthwith on a service retirement allowance or on the 1st day of the next calendar month; except that any member who is an elected official of the state or an official appointed for a term of years may remain in service until the end of the term of his office for which he was elected or appointed. Notwithstanding the foregoing, on the request of the governor with the approval of

the council, the board of trustees may permit the continuation for periods of 1 year, as the result of each such request, of the service of any employee who has attained the age of 70 and who desires to remain in service.

(2) Upon service retirement the member shall receive a service retirement allowance which shall consist of:

A. An annuity which shall be the actuarial equivalent of his accumulated contributions other than the accumulated contributions of a member to his credit in the teachers savings fund at the time of retirement;

B. A pension which shall be equal to  $1/140$  of his average final compensation multiplied by the number of years of his membership service; and

C. If he has a prior service certificate in full force and effect, an additional pension which shall be equal to  $1/50$  of his average final compensation multiplied by the number of years, not to exceed 25 years, of his prior service; provided further that the additional pension for employees formerly subject to sections 212 to 241 of chapter 37 shall be equal to  $1/70$  of his average final compensation multiplied by the number of years of his prior service instead of the foregoing provision, and further provided that all required contributions of any other system for any period covered by the prior service certificate shall become on retirement the property of the State and shall be transferred to the pension accumulation fund.

(3) Any warden of the department of inland fisheries and game who is a member of this system on the effective date of this act and who has creditable service of at least 25 years in this capacity may be retired at  $1/2$  of his average final compensation provided such retirement is requested either by the member or commissioner. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of  $1/2$  of his average final compensation, he shall be entitled to the higher retirement allowance.

(4) The deputy warden, the captain of the guard, and any guard of the state prison who is a member of this system on the effective date of this act, and who has creditable service of at least 25 years in each or all capacities may be retired at  $1/2$  of his average final compensation provided such retirement is requested either by the

member or the commissioner of institutional service. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of  $\frac{1}{2}$  of his average final compensation, he shall be entitled to the higher retirement allowance.

(5) Any member of the state police who becomes a member of this system and who has creditable service of at least 25 years in this capacity may be retired at  $\frac{1}{2}$  of his average final compensation provided such retirement is requested either by the member or the chief of the state police. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of  $\frac{1}{2}$  of his average final compensation, he shall be entitled to the higher retirement allowance, the provisions of this section shall apply to a member who may become chief of the state police.

(6) In order to obtain the benefits of subsections (3), (4) and (5) of this section, the member must have attained the age of 55, must have served 25 years in one of those three services, and anything to the contrary notwithstanding retirement is compulsory at attained age 60. Provided further, on the request of the governor with the approval of the council, the board of trustees may permit the continuation for periods of 1 year, as the result of each such request, of the service of any member, entitled to the benefit of subsections (3), (4) and (5), who has attained the age of 60 and who desires to remain in service.

(7) Any employee who is a member of the system for which the date of establishment is July 1, 1942 and who becomes a member prior to the effective date of this act and who has total prior service credit of at least 13 years, shall be entitled to a total retirement allowance of  $\frac{1}{2}$  average final compensation after attaining at least age 65, provided he is still a member and has creditable service of at least 25 years on date of retirement; provided further, that any such member upon attaining age 70, and having creditable service of at least 20 years, shall be entitled to a total retirement allowance of  $\frac{1}{2}$  average final compensation. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of  $\frac{1}{2}$  of his average final compensation, he shall be entitled to the higher retirement allowance.

Any employee who is a member of the system for which the date of establishment is July 1, 1942 and who becomes a member

prior to the effective date of this act and who has total prior service credit of at least 22 years, shall be entitled to a total retirement allowance of  $\frac{1}{2}$  average final compensation, provided he is still a member and has creditable service of at least 25 years on retirement. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of  $\frac{1}{2}$  of his average final compensation, he shall be entitled to the higher retirement allowance.

Any employee may, if he so elects, pay into the retirement system any or all back contributions covering any or all of the period for which he was in service from July 1, 1942 to July 1, 1947 and receive therefor the proper membership credit for the period for which such back contributions are made.

(8) Anything to the contrary notwithstanding the service retirement allowance for any employee who was subject to sections 212 to 221 of chapter 37 shall at least be equal to the provisions set forth in such sections.

#### **Sec. 7. Disability retirement benefits.**

(1) Upon the application of a member in service or of his department head, any member who has had ten or more years of creditable service may be retired by the board of trustees on a disability retirement allowance, not less than 30 nor more than 90 days subsequent to filing such application; provided that the medical board, after a medical examination of such member, shall certify that the member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that he should be retired.

(2) Upon disability retirement the member shall receive a service retirement allowance if he has attained age 60, otherwise he shall receive a disability retirement allowance which shall consist of:

A. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

B. A pension which, together with his annuity, shall provide a total retirement allowance equal to 90% of  $\frac{1}{70}$  of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds 25% of his average final compensation; otherwise a pension which, together with his annuity, shall provide a total retirement allow-

ance equal to 25% of his average final compensation, provided, however, that such allowance shall not exceed 90% of 1/70 of his average final compensation multiplied by the number of years which would be creditable to him were his creditable service to include the period from the time of retirement to the attainment of age 60.

(3) Once each year during the first 5 years following the retirement of a member on a disability retirement allowance, and once in every 3-year period thereafter, the board of trustees may, and upon his application shall, require any disability beneficiary who has not attained age 60 to undergo a medical examination by the medical board or by a physician or physicians designated by the medical board, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not attained age 60 refuse to submit to such medical examination, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for 1 year, all his rights in and to his pension may be revoked by the board of trustees.

(4) Should the medical board report and certify to the board of trustees that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation at retirement, and should the board of trustees concur in such report, then his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal his average final compensation at retirement. Should his earning capacity be later changed, his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by him together with his annuity, equals his average final compensation at retirement. For the purpose of this section, "retirement allowance" shall mean the allowance payable without optional modification as hereinafter provided in section 10.

#### **Sec. 8. Restoration to service.**

Should a disability beneficiary or any other beneficiary be restored to service and should his annual earnable compensation then or at any time thereafter be equal to or greater than his average final compensation at retirement, his retirement allowance shall cease, the beneficiary shall again become a member of the retirement system, and he



shall contribute thereafter at the same rate he paid prior to his retirement. Anything in this chapter to the contrary notwithstanding, any prior service certificate on the basis of which his service was computed at the time of his former retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all the service as a member creditable to him at the time of his former retirement; but should he be restored to membership after attainment of the age of 55, his pension upon subsequent retirement shall not exceed the sum of the pension which he was receiving immediately prior to his last restoration to membership and the pension that may have accrued to him on account of membership service since his last restoration to membership, provided that the rate per cent of his total pension on his subsequent retirement shall not exceed the rate he would have received had he remained in service during the period of his prior retirement.

#### **Sec. 9. Return of members' contributions.**

Should a member cease to be an employee except by death or by retirement under the provisions of this chapter, he shall be paid the amount of his contribution, together with such interest thereon, not less than  $\frac{3}{4}$  of accumulated regular interest, as the board of trustees shall allow; or should a member die, such amount shall be paid to such person, if any, as he has nominated by written designation duly acknowledged and filed with the board, otherwise to his estate.

#### **Sec. 10. Optional allowances.**

Until the first payment on account of a retirement allowance becomes normally due, any member may elect to convert the retirement allowance otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of one of the optional forms named below; provided, however, that an election of an optional benefit shall be effective on the date of retirement, and should the member die before such election becomes effective, the benefits payable on his account shall be the same as though his election has not been filed and he had not been retired.

Option 1. A reduced retirement allowance payable during his life, with the provision that at his death a lump sum equal in amount to the difference between his accumulated contributions at the time of his retirement and the sum of the annuity payments actually made to him during his lifetime shall be paid to such person, if any, as he has nominated by written designation duly acknowledged and filed with the board of trustees, otherwise to his estate; or

Option 2. A reduced retirement allowance payable during his life, with the provision that it shall continue after his death for the life of the beneficiary nominated by him by written designation duly acknowledged and filed with the board of trustees at the time of retirement should such beneficiary survive him; or

Option 3. A reduced retirement allowance payable during his life, with the provision that it shall continue after his death at  $\frac{1}{2}$  of the rate paid to him and be paid for the life of the beneficiary nominated by him by written designation duly acknowledged and filed with the board of trustees at the time of retirement should such beneficiary survive him; or

Option 4. A reduced retirement allowance payable during his life with some other benefit payable after his death, provided that the total value of the allowance during his life and of the succeeding benefit shall be computed to be of equivalent actuarial value to the allowance which he would receive without optional modifications, and provided the benefit shall be approved by the board of trustees.

#### **Sec. 11. Pensions offset by compensation benefits.**

Any amounts which may be paid or payable by the state under the provisions of any workmen's compensation or similar law to or on account of any member or retired member on account of any disability shall, in such manner as the board of trustees shall determine, be offset against and payable in lieu of any benefits payable out of funds provided by the state under the provisions of this chapter on account of the same disability.

#### **Sec. 12. Administration.**

(1) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in a board of 7 trustees. The board as herein established shall consist of the chairman of the state personnel board, the state controller, the banking commissioner, the deputy treasurer of state, their terms of office as such board members to run concurrently with their terms in said state positions; a member duly elected for a 2-year term by the Maine Teachers' Association, a state employee duly elected for a 2-year term by the Maine State Employees' Association, and a person appointed for a 2-year term by the Governor.

(2) The trustees shall serve without compensation, but they shall be reimbursed from the funds of the retirement system for all

necessary expenses that they may incur through service on the board of trustees.

(3) Each trustee shall, within 10 days after his appointment or election, take an oath of office that so far as it devolves upon him he will diligently and honestly administer the affairs of the retirement system, and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the trustee making it, and certified by the officer before whom it is taken, and immediately filed in the office of the secretary of state.

(4) Each trustee shall be entitled to 1 vote in the board of trustees. Four trustees shall constitute a quorum for the transaction of any business. Four votes shall be necessary for any resolution or action by the board of trustees at any meeting of the board.

(5) Subject to the limitations of this chapter, the board of trustees shall, from time to time, establish rules and regulations for the administration of the funds created by the provisions of this chapter, and for the transaction of its business.

(6) The board of trustees shall elect from its membership a chairman and shall appoint a secretary who shall engage such services as shall be required to transact the business of the retirement system; provided, however, that all such employees shall be considered as employees of the state and subject to all the provisions of state law regarding state employees and shall be employed under the rules and regulations established by the personnel board and shall receive such compensation as is provided by the rules and regulations of the personnel board for state employees in similar capacities. The necessary expenses incurred by the board and secretary in the operation of the retirement system shall be paid from the funds so allocated.

(7) The secretary shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system, and for checking the experience of the system.

(8) The board of trustees established under the provisions of this act shall meet at least once in each month for the transaction of such business as may properly come before it. The head of any department upon request from the board of trustees shall promptly furnish it with such information as shall be required to effectuate

the provisions of this act. Whenever the board of trustees shall find it impossible or impracticable to consult an original record to determine the date of birth, length of service, amount of regular compensation or other pertinent fact with regard to any member, it may, subject to the approval of the actuary, use estimates thereof on any basis which in its judgment is fair and just. The board of trustees, upon discovery of any error in any record of the system, shall, as far as practicable, correct such record. If any such error results in the receipt from such system by any member or beneficiary of more or less than he would have been entitled to receive had the records been correct, payments, shall as far as practicable, be adjusted in such manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

(9) The board of trustees shall keep a record of all its proceedings, which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the retirement system by means of an actuarial valuation of the assets and liabilities of the system.

(10) The attorney-general of the state or an assistant designated by him shall be legal adviser of the board of trustees.

(11) The board of trustees shall designate a medical board to be composed of 3 physicians not eligible to participate in the retirement system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this chapter, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the board of trustees its conclusions and recommendations upon all the matters referred to it.

(12) The board of trustees shall designate an actuary who shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this chapter and shall perform such other duties as are required in connection therewith. He shall calculate the amount of each annuity, pension or retirement allowance granted under the provisions of this act.

(13) When he deems it necessary, the actuary shall make such investigation of the mortality, service, and compensation experience

of the members of the system, for the purpose of determining the proper mortality and service tables to be prepared and submitted to the board for adoption. Having regard to such investigation and recommendation, the board of trustees shall adopt for the retirement system such mortality and service tables as shall be deemed necessary, and shall certify the rates of contribution payable under the provisions of this chapter. In the year 1950 and at least once in each 5-year period thereafter, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.

(14) On the basis of such mortality and service tables as the board of trustees shall adopt, the actuary shall make annual valuations of the assets and liabilities of the fund of the retirement system.

### **Sec. 13. Management of funds.**

(1) The members of the board of trustees shall be the trustees of the several funds created by the provisions of this chapter, and shall have full power to invest and reinvest such funds, subject to all the terms, conditions, limitations, and restrictions imposed by the laws of this state upon savings banks in the making and disposing of their investments; and subject to like terms, conditions, limitations, and restrictions, said trustees shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created by the provisions of this chapter shall have been invested, as well as the proceeds of such investments.

(2) The board of trustees from time to time shall set the rate of regular interest at such per cent rate compounded annually as shall be determined by the board to be equitable in its judgment, both to members and to the taxpayers of the state.

(3) The treasurer of state shall be the custodian of the several funds of the retirement system. Upon receipt of vouchers signed by a person or persons designated by the board of trustees, the state controller shall draw a warrant on the treasurer of state for the amounts so authorized. A duly attested copy of the resolution

of the board of trustees designating such persons and bearing on its face specimen signatures of such persons shall be filed with the state controller as his authority for making payments upon such vouchers.

(4) For the purpose of meeting disbursements for pensions, annuities, and other payments, there may be kept available cash, not exceeding 10% of the total amount in the several funds of the retirement system, on deposit in one or more banks or trust companies in the state organized under the laws of the state or of the United States, provided that the sum of deposit in any 1 bank or trust company shall not exceed 25% of the paid-up capital and surplus of such bank or trust company.

(5) Except as otherwise herein provided, no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investment made by the board; nor shall any trustee or employee of the board, directly or indirectly, for himself or as an agent, in any manner use the same except to make such current and necessary payments as are authorized by the board; nor shall any trustee or employee of the board become an indorser or surety, or in any manner an obligor, for moneys loaned to or borrowed from the board.

#### **Sec. 14. Method of financing.**

All of the assets of the retirement system shall be credited, according to the purpose for which they are held, among 6 funds, namely, the annuity savings fund, teachers' savings fund, the annuity reserve fund, the pension accumulation fund, the pension reserve fund, and the expense fund:

##### **1. Annuity Savings fund.**

A. The annuity savings fund shall be a fund in which shall be accumulated contributions deducted from the compensation of members to provide for their annuities. The board of trustees shall certify to the head of each department, and the head of each department shall cause to be deducted from the compensation of each member on each and every pay roll of such department for each and every pay roll period, the proportion of earnable compensation of each member so computed. The head of any department shall not have any deduction made for annuity purposes from the compensation of a member who elects not to contribute if he has attained age 65, and has com-

pleted 35 years of service. In determining the amount earnable by a member in a pay roll period, the board of trustees may consider the annual rate of earnable compensation payable to such member on the 1st day of the pay roll period as continuing throughout such pay roll period, and it may omit deduction from compensation for any period less than a full pay roll period if an employee was not a member on the 1st day of the pay roll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of 1% of the annual earnable compensation upon the basis of which such deduction is to be made. The head of each department shall certify to the board of trustees on each and every pay roll, or in such other manner as the board may prescribe, the amounts deducted. Each of said amounts shall be deducted, and when deducted shall be paid into the annuity savings fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

B. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided herein and shall receipt for his full compensation, and payment of compensation, less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this chapter.

C. Subject to the approval of the board of trustees, in addition to the contributions deducted from compensation as hereinbefore provided, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom as provided in this chapter, or any part hereof; or any member may deposit therein by a single payment or by an increased rate of contribution an amount computed to be sufficient or purchase an additional annuity which, together with his prospective retirement allowance, will provide for him a total retirement allowance not in excess of  $\frac{1}{2}$  of his average final compensation at age 65. Such additional amounts so deposited shall become a part of his accumulated

contributions except in the case of disability retirement, when they shall be treated as excess contributions returnable to the member as an annuity of equivalent actuarial value.

D. The contributions of a member and such interest as may be allowed thereon, withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death, shall be paid from the annuity savings fund, and any accumulated interest not so paid shall be transferred to the pension accumulation fund. Upon the retirement of a member, his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

E. The secretary of the retirement system, on or after July 1 of each year, will furnish to each member of the system in service on July 1 of such year a statement showing the amount of accumulated contributions to the member's credit in his individual account in the annuity savings fund, together with the total number of creditable years of service.

2. Teachers savings fund.

A. The teachers savings fund shall be a fund in which shall be accumulated all contributions deducted from the compensation of teachers, prior to the effective date of this act.

B. All contributions required of teachers for service credit prior to the effective date of this act shall be deposited and accumulated in this fund.

C. On withdrawal from this system the amount in this fund to the credit of any teacher shall be returned and in the event of death before retirement such amount shall be paid to his estate or to his designated beneficiary.

D. Upon the retirement of any teacher his accumulated contributions in this fund shall be transferred to the pension accumulation fund and become the property of the State.

E. The secretary of the retirement system, on or after July 1 of each year, will furnish to each member of the system in service on July 1 of such year a statement showing the amount of accumulated contributions to the member's credit in his individual account in the teachers' savings fund.

F. On the effective date of this act all funds now credited in accordance with section 277, subsection 1 and section 237 of



chapter 37, Revised Statutes 1944 and section 4, chapter 239, Public Laws of 1945 shall be transferred to the teachers' savings fund.

3. Annuity reserve fund.

The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities. Should a beneficiary be restored to membership, his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and shall be credited to his individual account therein.

4. Pension accumulation fund.

A. The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and other benefits payable from contributions made by the state, and from which shall be paid all pensions and other benefits on account of members with prior service payable from the said contributions.

B. On account of each member there shall be paid annually into the pension accumulation fund by the state for the preceding fiscal year an amount equal to a certain percentage of the annual earnable compensation of such member to be known as the "normal contribution", and an additional amount equal to a percentage of his annual earnable compensation to be known as the "accrued liability contribution". The rates per cent of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuation.

C. On the basis of regular interest and of such mortality and service tables as shall be adopted by the board of trustees, immediately after making each valuation during the period over which the accrued liability contribution is payable, the actuary shall determine the uniform and constant percentage of the earnable compensation of the average new entrant which, if contributed on the basis of his compensation throughout his entire period of active service, would be sufficient to provide for the payment of any pension or other benefit payable on his account from contributions by the state. The rate per cent so determined shall be known as the "normal contribution" rate. After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be determined after each

actuarial valuation as the rate per cent of the earnable compensation of all members obtained by deducting from the total liabilities of the pension accumulation fund the amount of the funds on hand to the credit of that fund and dividing the remainder of 1% of the present value of the prospective future compensation of all members, as computed at regular interest on the basis of such mortality and service tables as the board of trustees shall adopt.

D. Immediately succeeding the first valuation, after the effective date of this act, the actuary shall compute the rate per cent of the total annual earnable compensation of all members which is equivalent to 4% of the amount of the total liabilities of the pension accumulation fund which is not dischargeable by the assets to the credit of the pension accumulation fund and the aforesaid normal contribution made on account of such members during the remainder of their active service. The rate per cent originally so determined shall be known as the "accrued liability contribution" rate.

E. The total amount payable to the pension accumulation fund in each year after the first year following the effective date of this act shall be not less than the sum of the rates per cent known as the normal contribution rate and the accrued liability contribution rate, of the total compensation earnable, by all members during the preceding fiscal year; provided, however, that the amount of each annual accrued liability contribution shall be at least 3% greater than the preceding annual accrued liability payment, and provided that the aggregate payment by the state shall be sufficient, when combined with the amount in the pension accumulation fund, to provide the pensions and other benefits payable out of the fund during the year then current.

F. The accrued liability contribution shall be discontinued as soon as the accumulated reserves in the pension accumulation fund shall equal the present value, as actuarially computed and approved by the board of trustees, of the total liabilities of the fund less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of persons who are at that time members.

G. All pensions and benefits in lieu thereof payable on account of members with prior service credit shall be paid from the

pension accumulation fund, and all pensions payable to employees retired before the establishment of this retirement system shall be paid from the pension accumulation fund.

H. Upon the retirement of a member without prior service credit, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

I. All interest and dividends earned on the funds of the retirement system shall be credited to the pension accumulation fund. The board of trustees annually shall allow regular interest on the individual accounts of members in the annuity savings fund and on the mean amounts for the preceding year in the annuity reserve fund and pension reserve fund, and shall transfer such amounts from the pension accumulation fund.

J. The board of trustees may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserves held in the annuity reserve fund or the pension reserve fund.

K. On the effective date of this act all funds now credited under subsection 3 of section 227 and section 236 of chapter 37, Revised Statutes of 1944 shall be transferred to the pension accumulation fund.

The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members without prior service credit, and from which such pensions and benefits in lieu thereof shall be paid. Should a beneficiary without prior service credit be restored to membership, his pension reserve shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of a disability beneficiary without prior service credit be reduced as a result of an increase in his earning capacity, the amount of the reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

#### 6. Expense fund.

The expense fund shall be the fund to which shall be credited all money provided by the state to pay the administration expenses of the retirement system, and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially the board of trustees shall estimate

the amount of money which shall be deemed necessary to be paid into the expense fund during the ensuing biennium to provide for the expenses of operation of the retirement system, and such amount shall be paid by the state to the expense fund for this purpose. Any unexpended balance at the end of each fiscal year shall lapse to the general fund.

7. State contributions.

The board of trustees shall submit budget estimates to the state budget officer in accordance with the provisions of section 10 of chapter 14. These estimates shall show the total requirements for the pension accumulation fund and for the expense fund for the ensuing biennium. These amounts shall be broken down in such a way as to permit the proper allocation of costs among the general fund of the state, the general highway fund, and such other funds as it may be found practicable by the state budget officer to charge with their proportionate share of the cost. The amount determined as due from the general fund shall be included in the appropriation bill transmitted to the legislature by the governor with the budget document. Payments to the retirement system of the amounts appropriated for the pension accumulation fund and for the expense fund shall be made in quarterly installments on the 1st day of July, October, January and April.

**Sec. 15. Benefits to employees retired prior to date of establishment of this retirement system.**

All pensions payable to former employees retired under the provisions of sections 227 to 233, inclusive, of chapter 1 of the public laws of 1933 as they existed immediately prior to July 1, 1942 shall be continued and paid hereafter from the pension accumulation fund at the full amounts stipulated under said sections prior to such effective date. The residue of any appropriation made for the payment of such pensions shall be transferred and credited to the pension accumulation fund. Any additional amounts required to continue such pensions shall be provided by an increase in the accrued liability contribution otherwise payable to the pension accumulation fund.

**Sec. 16. Employees of counties, cities, and towns entitled to membership.**

(1) The employees of any county, city, town, water district or any other quasi-municipal corporation of the state may participate in the retirement system, to the full extent of any and all benefits

provided for in this chapter provided the county commissioners, or the city council or corresponding body of a city, or the voters of a town at a duly constituted town meeting, or the trustees of water districts or other quasi-municipal corporations, approve such participation and file with the board of trustees a duly certified copy of the resolution of the county commissioners or of the city council or such corresponding body approving such participation and the extent of the benefits which shall apply, or a record of the vote of the town voters certified by the clerk of the town meeting. Such county, city, town, water district or other quasi-municipal corporation approving the participation of its employees in the retirement system shall thereafter be known for the purposes of this chapter as "a participating local district". Such county, city, town, water districts or other quasi-municipal corporations shall designate in their approval any class of employees, otherwise provided for by local pension provisions, who may be exempted from the provisions of this chapter. The date when the participation of the employees of a participating local district may begin shall be set by the board of trustees not more than 6 months following the date the local district approved the participation of its employees. This date shall be considered as the date of establishment for participating local districts as defined in section 2 of this chapter.

(2) Membership in the retirement system shall be optional with employees in the service of a participating local district on the date when participation of the local district begins, and any employee then in service who elects to join the retirement system within 4 years thereafter shall be entitled to a prior service certificate covering such periods of previous service as shall be certified by the participating local district as creditable prior service rendered to such local district, or to the state, for which the participating local district is willing to make accrued liability contributions. Membership shall be compulsory for all employees entering the service of such participating local district thereafter, except those who are exempted under the provisions of subsection 1 hereof.

(3) The chief fiscal officer of a participating local district shall submit to the board of trustees such information, and shall cause to be performed such duties, in respect to the employees of such local district as shall be prescribed by the board of trustees in order to carry out the provisions of the retirement system.

(4) The actuary of the retirement system shall compute the rates of contribution payable by employees, who become members under

the provisions of this section, in the same manner as if they were state employees, and shall compute the contributions which would be payable annually by the participating local district on account of such members as though they were state employees, except that each participating local district employing members participating in the retirement system shall make a special accrued liability contribution on account of the participation of its employees in the retirement system, which shall be determined by an actuarial valuation of the accrued liability on account of such of its employees as elected to become members in the same manner as the accrued liability rate was originally determined for state employees. Such special accrued liability contribution, subject to such adjustment as may be necessary on account of any additional prior service credits awarded to employees of such participating local district, shall be payable in lieu of the accrued liability contribution payable on account of state employees who are members of the retirement system. The expense of making such initial valuation shall be assessed against and paid by the participating local district on whose account it is made. The contributions so computed, together with a pro rata share of the cost of the administration of the retirement system, based upon the payroll of the employees, shall be certified by the board of trustees to the chief fiscal officer of the participating local district, and the amounts so certified shall be a charge against the participating local district. The chief fiscal officer of each such participating local district shall pay to the treasurer of state the amount certified by the board of trustees as payable under the provisions of this section, and the treasurer of state shall credit such amounts to the appropriate funds of the retirement system.

(5) Employees who become members under the provisions of this section and on behalf of whom contributions are paid as provided in this section shall be entitled to benefits under the retirement system for which such contributions are made as though they were state employees.

(6) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions or other benefits on account of the employees or pensioners of any county, city, or town participating under the provisions of this section for which reserves have not been previously created from funds contributed by such county, city, or town, or its employees for such benefits.

(7) Any educational institution in this state teaching courses equivalent or higher to secondary institutions may become a participating local district to the full extent of any and all benefits provided for in this chapter; provided the appropriate governing body of such educational institution approves such participation and files with the board of trustees a duly certified copy of the resolution approving such participation and the extent of the benefits which shall apply.

#### **Sec. 17. Savings Clause.**

(1) Any county, city, town, water district or any other quasi-municipal corporation of the state which, on the effective date of this act, shall be classified as a participating local district under the provisions of section 15, chapter 60 shall be subject to the provisions of this act, unless it files with the board of trustees within one year after the effective date of this act, a duly certified copy of the resolution of the county commissioners or of the city council or such corresponding body or a record of the vote of the town voters certified by the clerk of the town meeting electing to remain under the provisions granted by section 15, chapter 60, revised statutes of 1944.

(2) The board of trustees shall, immediately following the effective date of this act, notify each participating local district of the benefits provided by this act. Such notification shall be in writing and shall be sent postpaid by registered mail. Any participating local district shall be entitled to a revaluation in order to determine the cost of the provisions of this act; the expense of making such revaluation shall be assessed and paid by the participating local district.

#### **Sec. 18. Exemption from taxation and execution.**

The right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, or any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the various funds created thereby, shall be exempted from any state, county, or municipal tax in the state, and shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as this chapter specifically provides.

**Sec. 19. Protection against fraud.**

Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable therefor under the laws of the state. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the board of trustees shall have the power to correct such error, and to adjust as far as practicable the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

**Sec. 20. Limitation on membership.**

No other provision of law in any other statute, which provides wholly or partly at the expense of the state or of any subdivision thereof for pensions or retirement benefits for employees of the state, their widows, or other dependents, shall apply to members or beneficiaries of the retirement system established by the provisions of this chapter, or the widows or other dependents of such members or beneficiaries.

**Sec. 21. Appeal.**

Any person aggrieved by any decision or ruling of the board of trustees shall have the right of appeal from such decisions or ruling to the next term of the superior court to be held in the county of Kennebec, held not less than 30 days after the rendition of said decision or ruling. The appellant shall also file a written notice of his appeal from said decision or ruling with the board of trustees and with the clerk of the said superior court. Certified copies of the ruling or decision, together with a copy of the appeal, shall be forwarded to the clerk of the said superior court. The attorney general or the assistant designated by him shall appear for and in behalf of the board of trustees. The procedure in the said court shall be the same as that in appeal from decisions of the municipal courts.

**Sec. 22. Special intent.**

It is the intent and meaning of this law that all rights, credits, and privileges enumerated herein shall be available to and shared in by all members of the system whether employees of the state or local participating districts and it is expressly provided that the board of



trustees shall in all cases make the final and determining decision in all matters affecting the rights, credits and privileges of all members of the system, whether in participating local districts or in the state service.

Effective date of this act shall be July 1, 1947.