

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWELFTH LEGISLATURE**

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

**AND AT THE**  
**THIRD SPECIAL SESSION**  
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

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submit to the First Regular Session of the 113th Legislature legislation detailing the implementation of the transfer of authority as provided in section 2201.

Sec. 2. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1986-87

SECRETARY OF STATE,  
DEPARTMENT OF

Administration - Motor Vehicles

Positions	(1)
Personal Services	\$13,500
All Other	3,500
Capital Expenditures	400
Provides funds for one position to administer the transfer of authority to the Secretary of State.	
This position will be effective on January 1, 1987.	
Funds not used for these purposes shall lapse to the Highway Fund.	

DEPARTMENT OF SECRETARY  
OF STATE  
TOTAL

\_\_\_\_\_  
\$17,400

Effective July 16, 1986.

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## CHAPTER 801

S.P. 886 - L.D. 2231

AN ACT to Recodify the Laws of the Maine  
State Retirement System.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 2 MRSA §1-A is enacted to read:

§1-A. Retirement allowance

1. Terms and conditions. Any former Governor and any surviving spouse of a deceased Governor or former Governor is entitled, upon application and upon reaching age 65, to a retirement allowance under the following terms and conditions.

A. The amount of the retirement allowance is  $\frac{3}{8}$  of the annual salary being paid the current Governor on the date the retirement allowance becomes effective.

B. A surviving spouse of a deceased Governor or former Governor is entitled to receive the allowance beginning the day after the death of the Governor or former Governor.

C. Any person who succeeds to the office of Governor by means other than by election must serve as Governor a minimum of 6 months to qualify himself or a surviving spouse for the retirement allowance.

D. Whatever adjustments are made under Title 5, sections 17806 and 18407 shall be applied to payments made under this section.

2. Maine State Retirement System. The trustees of the Maine State Retirement System shall be responsible for the payment of the retirement allowance under this section from the Governor's Retirement Fund.

A. The board of trustees of the Maine State Retirement System shall forward to the Executive Department for inclusion in its budget request an estimate of the amount needed to be appropriated to the Governor's Retirement Fund which will be sufficient, when combined with the amount in the fund, to provide the benefits payable out of the fund during the ensuing biennium.

B. A Governor may become or continue to be a member of the Maine State Retirement System and is entitled to all benefits, except that the benefit provided under this section shall be in lieu of, and not in addition to, all benefits provided under Title 5, Part 20.

C. When a retirement allowance under this section becomes effective:

(1) Any accumulated contributions of a Governor who is or was a member of the Maine State Retirement System shall be transferred from the Members' Contribution Fund to the Governor's Retirement Fund; and

(2) An amount shall be transferred from the Retirement Allowance Fund to the Governor's Retirement Fund equal to the accrued benefit reserve minus the accumulated contributions under subparagraph (1), which would have been required to pay the benefits to which the Governor or surviving spouse would have been entitled under Title 5, chapter 423, subchapter V.

Sec. 2. 5 MRSA Pt. 3, as amended, is repealed.

Sec. 3. 5 MRSA §4575 is enacted to read:

§4575. Mandatory retirement age prohibited

1. Legislative findings and intent. The Legislature finds that many older Maine citizens are pushed out of the work force solely because of their age. The Legislature further finds that many older Maine residents who have been pushed out of the work force are fully capable of carrying out the duties and responsibilities required by employment. Finally, the Legislature finds that many older Maine citizens, because of their years of experience, can make valuable contributions to the work force.

It is the intent of the Legislature that discrimination based on age against any person who seeks employment in the public sector or who is already employed by a public employer shall not be tolerated. It is further the intent of the Legislature to ensure that any older person who seeks or wishes to continue employment in the public sector and who is capable of fulfilling the duties and responsibilities of such employment, shall be treated like any other person who seeks or wishes to continue such employment. Finally, it is the clear and unequivocal intent of the Legislature to prohibit employers in the public sector from requiring employees to retire at a specified age or after completion of a specified number of years of service.

2. Criteria and standards. A state department or public school may establish reasonable criteria and

standards of job performance to be used for the purpose of determining when employment of its employees should be terminated. Where there is a certified bargaining agent, the establishment of these criteria and standards may be a subject of collective bargaining. These criteria and standards shall be consistent for all employees in the same or similar job classifications, shall be applied fairly to all employees regardless of age and shall be consistent with the provisions of this Act relating to the employment of physically and mentally handicapped persons.

3. Federal requirements. This section shall not be construed to effect or limit any power or duty relating to pension or retirement plans which the United States Government reserves to itself.

Sec. 4. 5 MRSA §12004, sub-§7, ¶A, sub-¶(7) is repealed and the following enacted in its place:

(7) Board of Trustees,           \$50/day           5 MRSA 17102  
Maine State  
Retirement System

Sec. 5. 5 MRSA Pt. 20 and 21 are enacted to read:

PART 20

STATE RETIREMENT SYSTEM

CHAPTER 421

GENERAL PROVISIONS

SUBCHAPTER I

DEFINITIONS

§17001. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

1. Accumulated contributions. "Accumulated contributions" means the sum of all the amounts credited to a member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2.

2. Actuarial equivalent. "Actuarial equivalent" means an amount of equal value when computed at an

interest rate contained in actuarial assumptions adopted by the board and upon the basis of mortality and service tables adopted by the board.

3. Actuary. "Actuary" means the individual or the organization designated by the board to be the technical advisor to the board under section 17107.

4. Average final compensation. "Average final compensation" means:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which his annual rate of earnable compensation is highest; or

B. The average annualized rate of earnable compensation of a member during his entire period of creditable service if that period is less than 3 years.

5. Beneficiary. "Beneficiary" means a person or persons designated by a member to receive a benefit under this Part or a person otherwise entitled to receive a benefit under this Part.

6. Benefit. "Benefit" means any payment made, or required to be made, to a beneficiary under chapter 423, subchapter V or chapter 425, subchapter V.

7. Board. "Board" means the board of trustees, established under section 12004, subsection 7, to administer the Maine State Retirement System.

8. Child. "Child" means any natural or legally adopted, born or unborn, progeny of a member.

9. Consumer Price Index. "Consumer Price Index" means:

A. The Consumer Price Index for Urban Wage Earners and Clerical Workers: United States City Average, All items, 1967 = 100, as compiled by the Bureau of Labor Statistics, United States Department of Labor; or

B. If the index described in paragraph A is revised or superseded, the Consumer Price Index shall be the index represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.



10. Creditable service. "Creditable service" means a person's membership service, the person's prior service and service for which credit is allowable under sections 17755 and 17756; section 17760, subsection 2; section 18258; sections 18355 and 18356; and section 18360, subsection 2.

11. Department. "Department" means any department, commission, institution or agency of State Government.

12. Dependent child. "Dependent child" means:

A. Any unmarried, natural or legally adopted, born or unborn, member's progeny, who is:

(1) Under 18 years of age; or

(2) Under 22 years of age and a full-time student; or

B. Regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment.

13. Earnable compensation. "Earnable compensation" means salaries and wages, subject to the following inclusions and exclusions.

A. "Earnable compensation" includes:

(1) Workers' compensation benefits;

(2) Maintenance, if any; and

(3) Any money paid by an employer under an annuity contract for the future benefit of an employee.

B. "Earnable compensation" does not include:

(1) Payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both;

(2) Any other payment which is not compensation for actual services rendered or which is not paid at the time the actual services are rendered; or

(3) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

14. Employee. "Employee" means:

A. For purposes of this chapter, a state employee, including any person serving during any probationary period required under the Personnel Law and rules of the Personnel Board, a teacher or a participating local district employee;

B. For purposes of chapter 423, a state employee, including any person serving during any probationary period required under the Personnel Law and rules of the Personnel Board, or a teacher;  
or

C. For purposes of chapter 425, a participating local district employee.

15. Executive body. "Executive body" means the official or body of officials who, in their official capacity, have the general powers and duties of administering, supervising and managing the affairs of an organization or governmental unit.

16. Executive director. "Executive director" means the executive director of the Maine State Retirement System.

17. Father. "Father" means a natural or adoptive father or stepfather.

18. Full-time student. "Full-time student" means a person who meets the requirements for a full-time student set out in rules adopted by the board.

19. Local district. "Local district" means:

A. Any county, municipality, quasi-municipal corporation or incorporated instrumentality of the State or of one or more of its political subdivisions;

B. Any incorporated association of employees of the State or employees of any of the entities set out in paragraph A;

C. Any incorporated association of any of the entities set out in paragraph A;

D. Any entity eligible to become a participating local district before January 1, 1976;

E. Any entity participating in the retirement system before January 1, 1976; or

F. Any educational institution in the State teaching courses equivalent to or higher than secondary institutions.

20. Member. "Member" means any employee included in the membership of the retirement system, as provided in chapter 423, subchapter II or chapter 425, subchapter II.

21. Membership service. "Membership service" means service rendered while a member of the retirement system on account of which contributions are made and for which credit is allowable under chapter 423, subchapter IV or chapter 425, subchapter IV.

22. Mother. "Mother" means a natural or adoptive mother or a stepmother.

23. Normal retirement age. "Normal retirement age" means the specified age, the years of service requirement or any combination of age and years of service requirements at which a member becomes eligible for retirement benefits and at which those benefits may not be reduced under section 17852, subsection 3; section 17852, subsection 4, paragraph C; section 17852, subsection 10, paragraph C; and section 18452, subsection 3.

24. Organization. "Organization" means a corporation, partnership or unincorporated association.

25. Out-of-state service. "Out-of-state service" means service rendered as an employee of:

A. Any state, territory or possession of the United States, except Maine; or

B. Any political subdivision of any state, territory or possession of the United States, except Maine.

26. Parent. "Parent" means mother or father.

27. Participating local district. "Participating local district" means a local district which has approved the participation of its employees in the retirement system under section 18201.

28. Participating local district employee. "Participating local district employee" means an employee of a participating local district.

29. Prior service. "Prior service" means service rendered before the date of establishment of the retirement system as set forth in section 17101.

30. Public school. "Public school" is defined as follows.

A. "Public school" includes:

(1) Any public school conducted within the State under the authority and supervision of a duly elected board of education, superintending school committee or school directors; and

(2) Any school which received any direct state aid in 1950 and municipal tuition funds amounting to at least the amount of that state aid during 1950.

B. "Public school" does not include:

(1) Maine Wesleyan Seminary and College, commonly known as Kents Hill School, as of September 23, 1971;

(2) Bridgton Academy, as of September 1, 1979;

(3) Gould Academy, as of September 1, 1979; and

(4) North Yarmouth Academy, as of September 1, 1979.

31. Regular interest. "Regular interest" means interest at the rate set from time to time by the board in accordance with section 17156.

32. Restoration to service. "Restoration to service" is defined as follows.

A. For a retired state employee or teacher, "restoration to service" means acceptance of employment as either a state employee or a teacher.

B. For a retired participating local district employee, "restoration to service" means acceptance of employment with the participating local district from which the employee had retired.

C. "Restoration to service" does not include election to the Legislature.

33. Retirement. "Retirement" means termination of membership with a retirement allowance granted under this chapter.

34. Retirement allowance. "Retirement allowance" means the retirement payments to which a member is or may be entitled as provided in this Part.

35. Retirement benefit. "Retirement benefit" means the same as retirement allowance.

36. Retirement system. "Retirement system" means the Maine State Retirement System.

37. Service. "Service" means service as an employee for which compensation was paid.

38. Service credit. "Service credit" means credit received for creditable service as defined under subsection 10.

39. Spouse. "Spouse" means the person currently legally married to a member.

40. State employee. "State employee" means any regular classified or unclassified officer or employee in a department, except:

A. A judge, as defined in Title 4, section 1201 or 1301, who is now or may be later entitled to retirement benefits under Title 4, chapter 27 or 29;

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or

C. A Legislator who is now or may be later entitled to retirement benefits under Title 3, chapter 29.

41. Surviving spouse. "Surviving spouse" means the spouse alive at the time of the death of the member or former member.

42. Teacher. "Teacher" means a preschool teacher, superintendent, principal, supervisor, school nurse, school dietician or school secretary employed in any public school, including teachers in unorganized territory.

## SUBCHAPTER II

### GENERAL POLICIES AND INTENT

§17050. Legislative intent

It is the intent of the Legislature to encourage qualified persons to seek public employment and to continue in public employment during their productive years. It is further the intent of the Legislature to assist these persons in making provision for their retirement years by establishing benefits reasonably related to their highest earnings and years of service and by providing suitable disability and death benefits.

§17051. Nonapplicability of other retirement benefit laws

No law outside of this Part which provides wholly or in part at the expense of the State or of any subdivision of the State for retirement benefits for employees, or for the surviving spouses or other beneficiaries of those employees, may apply to members or beneficiaries of the retirement system or to the surviving spouses or other beneficiaries of those members or beneficiaries. A member may not receive service credit toward a benefit under this Part and under another system supported wholly or in part by the State for the same service.

§17052. Mandatory retirement

1. Prohibition. No employee may be required, as a condition of employment, to retire at or before a specified age or after completion of a specified number of years of service.

2. Normal retirement age. This section may not be construed to prohibit the use of a normal retirement age, except that normal retirement age and the accrual or awarding of pension or retirement benefits may not be used in any way to require the retirement of an employee or to deny employment to a person.

§17053. Exemption from taxation

The money in the various funds created by this Part are exempt from any state, county or municipal tax in the State.

§17054. Legal process and assignment

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's contributions, any death benefit, any other right accrued or accruing to any person under this Part and the money in the various funds created by

this Part may not be subject to execution, garnishment, attachment or any other process and shall be unassignable except that:

1. Retirement allowance available for child support. A member's retirement allowance shall be available to satisfy any child support obligation which is otherwise enforceable by execution, garnishment, attachment, assignment or other process; and

2. Accumulated contributions available for child support. A member's accumulated contributions, being refundable under sections 17705, 17706, 18306 and 18307 shall be available to satisfy any child support obligation which is otherwise enforceable by execution, garnishment, attachment, assignment or other process.

§17055. Beneficiary who is an incapacitated person or a minor

For the purposes of this Part:

1. Election of benefit. If a beneficiary is not lawfully qualified to make an election, the election shall be made for him by the person authorized to do so by Title 18-A, article V; and

2. Payment of benefit. Payment of any benefit to an incapacitated person, as defined in Title 18-A, section 5-101, or a minor shall be made in accordance with Title 18-A, article V.

§17056. Superior Court employees

1. Transfer to state employee account. Notwithstanding section 18408, if, before September 19, 1987, the county commissioners of a county elect to adopt this section, funds held by the retirement system to the credit of employees of any Superior Court within that county who became employees of the State pursuant to Public Law 1975, chapters 383 and 408, shall be transferred on the records of the retirement system to the state employee account.

2. Vote. For purposes of this section, a vote of the county commissioners to adopt this section must be by majority vote of the commissioners:

A. With the advice and consent of the county budget committee, if one exists; or

B. With the advice and consent of the legislative delegation for that county, if a county budget committee does not exist.

3. Creditable service. Creditable service shall be determined as follows.

A. Creditable service for employees described in subsection 1 shall be determined as if their service had been rendered as state employees.

B. Creditable service for former employees of any Superior Court within a county which elects to adopt this section who retired after July 1, 1976, shall be determined as if all their service had been rendered as state employees.

4. Additional funds. If, after review by the actuary of the retirement system, it is determined that additional funds are required to finance in full the accrued retirement benefits for employees described in this section:

A. The actuary shall estimate the amount of additional funds necessary to provide full retirement benefits for the period before July 1, 1976; and

B. The counties which have elected to adopt this section shall provide funds necessary to fulfill this obligation from the retirement allowance funds of those counties.

### SUBCHAPTER III

#### ESTABLISHMENT AND ADMINISTRATION

##### §17101. Establishment

1. Purpose. There is established a retirement system, under the supervision of the board, for the purpose of providing retirement allowances and other benefits under this Part for employees.

2. Name. The retirement system shall be known as the "Maine State Retirement System" and by that 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.

3. Date of establishment. The date of establishment of the retirement system is:



A. July 1, 1942, for all employees who were employed by the State before July 1, 1947;

B. July 1, 1947, for employees employed for the first time after July 1, 1947;

C. July 1, 1947, for all teachers employed as teachers before July 1, 1947;

D. The date of participation set by the participating local district under section 18201; or

E. The date on which contributions were first made to any retirement system supported in whole or in part by the State, for all other employees.

4. Corporation. The retirement system shall have the powers and privileges of a corporation.

§17102. Board of trustees

1. Composition. The Board of Trustees of the Maine State Retirement System, established by section 12004, subsection 7, shall be composed of 8 trustees, as follows:

A. The Treasurer of State or, as his designee, the Deputy Treasurer of State, ex officio, as a nonvoting trustee;

B. A person duly elected by the Maine Teachers' Association;

C. A member duly elected by the Maine State Employees' Association;

D. Three persons appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over aging, veterans and retirement and to confirmation by the Legislature:

(1) At least 2 of whom shall be qualified through training or experience in the field of investments, accounting, banking, insurance or law; and

(2) One of whom shall be selected from a list of 3 nominees submitted by the Maine Retired Teachers' Association;

E. A person who is a member of the retirement system through a participating local district and

who shall be appointed by the governing body of the Maine Municipal Association; and

F. A person who is the recipient of a retirement allowance through the retirement system and who shall be selected by the members of the board selected under paragraphs A to E from a list or lists of nominees submitted by retired state employees, retired participating local district employees or by a committee comprised of representatives of those groups.

2. Chairman. The board shall elect from its membership a chairman.

3. Term. The terms of the trustees shall be determined as follows.

A. Each trustee, except the Treasurer of State, shall serve a term of 3 years.

B. A trustee shall continue to serve after the expiration of his term until a successor is appointed and qualified, but the trustee's continuation as a trustee does not change the expiration date of the trustee's term.

C. The term of a trustee appointed to succeed a trustee whose term has expired shall begin on the day after the expiration date of the 3-year term of the previous trustee, regardless of the effective date of the new appointment.

D. Appointments to any vacancy caused by death, resignation or ineligibility shall be for the unexpired portion of the term.

4. Oath. Each trustee shall, within 10 days after his appointment or election, take an oath of office to faithfully discharge the duties of a trustee, in the form prescribed by the Constitution of Maine.

A. The oath shall be subscribed to by the trustee making it.

B. The oath shall be certified by the officer before whom it was taken and immediately filed in the office of the Secretary of State.

5. Transaction of business. The transaction of business by the board shall be governed as follows.

A. Four trustees shall constitute a quorum for the transaction of any business.

B. Each voting trustee is entitled to one vote.

C. Four votes are necessary for any resolution or action by the board at any meeting of the board.

6. Compensation. The trustees shall be compensated, as provided in chapter 379, from the funds of the retirement system.

7. Expenses. The necessary expenses incurred by the board in the operation of the retirement system shall be paid from the funds so allocated.

8. Legal advisor. The Attorney General or an assistant designated by the Attorney General shall be legal advisor to the board.

9. Record. The board shall keep a record of all its proceedings, which:

A. Shall comply with the requirements of section 8056, subsection 5 and sections 9059 and 9061, to the extent those laws are applicable; and

B. Shall be open to public inspection.

10. Reports. The board shall publish annually for each fiscal year:

A. A report showing the fiscal transactions of the retirement system for the fiscal year and the assets and liabilities of the retirement system at the end of the fiscal year; and

B. The actuary's report on the actuarial valuation of the financial condition of the retirement system for the fiscal year.

#### §17103. Duties of the board of trustees

In addition to other duties set out in this Part, the board shall have the following duties.

1. Operation of retirement system. The board shall have responsibility for the proper operation of the retirement system and for making this Part effective.

2. Policy-making and supervision. The board shall formulate policies and exercise general supervision under this Part.

3. Meeting. The board shall meet at least once in each month for the transaction of such business as may properly come before it.

4. Rules. Subject to the limitations of this Part, and subject to the requirements of chapter 375, subchapter II, to the extent those requirements are applicable, the board shall, from time to time, establish rules for the administration of the funds created by this Part and for the transaction of business, including rules establishing the requirements for a beneficiary to qualify as a full-time student.

5. Determination of employee. In all cases of doubt, the board shall determine whether any person is an employee.

6. Rights, credits and privileges; decisions. The board shall in all cases make the final and determining administrative decision in all matters affecting the rights, credits and privileges of all members of the retirement system whether in participating local districts or in the state service.

7. Administrative and financial decisions. The board shall make the final decision on all matters pertaining to administration, actuarial assumptions, actuarial recommendations and the reserves and the investments of the retirement system.

A. Where the decision is related to or results in rules, rules shall be adopted as provided in subsection 4.

B. Where the decision determines the rights, credits or privileges of an individual member or group of members, the determination shall be considered an adjudicatory proceeding under chapter 375, subchapter IV and shall be made only after the giving of notice as required in that subchapter and after hearing if a hearing is requested by a person whose rights, credits or privileges are to be determined. Any hearing shall be conducted in accordance with the provisions of chapter 375.

8. Executive director. The board shall appoint an executive director.

9. Review of statutory amendments. The board shall review all amendments to this Part that are proposed to be enacted by the Legislature and shall report to the proper legislative committee or author-

ity on the impact of each of those amendments on the retirement system.

A. The report shall state the impact of each amendment on all aspects of the retirement system, including the amendment's purposes, the resulting equitable or inequitable treatment of members, the funding of the costs of benefits, the amendment's consistency with other provisions of this Part and the value of the amendment to the retirement system.

B. The report shall also include a separate evaluation of each amendment by the actuary.

10. Review of special resolves. The board shall review, in the manner described in subsection 9, all special resolves or other legislation which propose to grant benefits to be paid to any person by the retirement system and to which the person would not be entitled under the provisions of this Part but for the enactment of the special resolve or other legislation.

11. Report to Legislature. The board shall make a written report to the appropriate legislative committee on or before the 15th of January each year which shall contain:

A. A discussion of any areas of policy or administration which, in the opinion of the board, should be brought to the attention of the committee; and

B. Any proposed legislation amending the retirement system law which the board recommends to improve the retirement system.

#### §17104. Powers of the board of trustees

In addition to other powers set forth in this Part, the board may employ or contract with persons for investment counsel or advice and for other expert, professional or other assistance as may be appropriate to aid in carrying out the board's functions.

#### §17105. Executive director

1. Duties. In addition to other duties set out in this Part, the executive director, as appointed under section 17103, subsection 8, shall have the following duties.

A. The executive director shall have administrative responsibility for the retirement system, including responsibility for the approval of the payment of all benefits under this Part.

B. The executive director shall obtain whatever services are required to transact the business of the retirement system.

C. The executive director shall keep in convenient form whatever data are necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system.

D. Whenever the executive director determines that a fraud, attempted fraud or a violation of law in connection with funds administered by the retirement system may have occurred, the executive director shall:

(1) Report in writing all information concerning the fraud or violation to the Attorney General or the Attorney General's designee for such action as he may deem appropriate, including civil action for recovery of funds and criminal prosecution by the Attorney General; and

(2) Upon request of the Attorney General and in such a manner as the Attorney General deems appropriate, assist in the recovery of funds.

E. The executive director shall cause to be delivered to each participating local district a written notice setting forth the amendments or additions to this Part and shall require from each participating local district an acknowledgment of receipt of that notice.

F. Upon discovery of any error in any record of the retirement system, the executive director shall, to the extent practicable, correct the record.

2. Powers. In addition to other powers granted to the executive director by this Part, the executive director shall have the following powers.

A. The executive director may request from the head of any department information required to administer this Part and, upon such a request,

the head of the department shall promptly furnish the information requested.

B. Whenever the executive director finds 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, the executive director may, subject to the approval of the actuary, use estimates on any basis which, in the executive director's judgment, is fair and just.

3. Staff. The personnel staff of the executive director:

A. Shall be considered state employees and shall be subject to all the provisions of state law regarding state employees;

B. Shall be employed under the rules established by the Personnel Board; and

C. Shall receive such compensation as is provided by the rules of the Personnel Board for state employees in similar capacities.

4. Expenses. The necessary expenses incurred by the executive director in the operation of the retirement system shall be paid from the funds so allocated.

#### §17106. Medical board

1. Establishment. The board shall designate a medical board to be composed of 3 physicians not eligible to participate in the retirement system.

2. Other physicians. If required, other physicians may be employed to report on special cases.

3. Powers and duties. The medical board shall review the file of each applicant for disability retirement and shall:

A. Recommend an additional medical review in those instances where there are conflicting medical opinions;

B. Recommend additional medical tests to be performed on an applicant to obtain objective evidence of a permanent disability;

C. Assist the executive director in determining if a disability review of a recipient of a disability allowance is warranted; and

D. Inform the executive director and board in writing of its view as to the existence of a disability entitling an applicant to benefits under chapter 423, subchapter V, article 3 or chapter 425, subchapter V, article 3.

#### §17107. Actuary

1. Designation. The board shall designate an actuary who shall be the technical advisor to the board on matters regarding the operation of the funds created by this Part.

A. If the designated actuary is an individual, he must be a Fellow of the Society of Actuaries.

B. If the designated actuary is an organization of actuaries, the organization shall designate one of its members, who must be a Fellow of the Society of Actuaries, to perform the functions required of the actuary under this Part.

2. Duties. In addition to other duties set out in this Part, the actuary shall have the following duties.

A. The actuary shall perform whatever duties are required in connection with being the technical advisor to the board on matters regarding the operation of the funds created by this Part.

B. The actuary shall certify the amounts of the benefits payable under this Part, except for benefits payable under chapter 423, subchapter VI and chapter 425, subchapter VI.

C. The actuary shall make annual valuations of the assets and liabilities of the retirement system on the basis of actuarial assumptions adopted by the board.

D. The actuary shall furnish a written report to the board.

(1) The report shall include information on each annual valuation, as required under paragraph C.

(2) The report shall include an analysis of the year's operations and all results shall



be separated between those applicable to benefits payable by employer contributions and those applicable to benefits payable by employee contributions, where properly determinable.

E. The actuary shall make whatever investigations he deems necessary of the experience of the retirement system with respect to the factors which affect the cost of the benefits provided by the retirement system.

(1) The purpose of the investigations is to determine the actuarial assumptions to be recommended to the board for adoption in connection with actuarial determinations required under this Part.

(2) These investigations shall be made as frequently as the actuary deems expedient, but shall be made at least once in each 3-year period following January 1, 1976.

F. The actuary shall determine the equivalent cash compensation value to the members of the retirement system of the benefits provided for them by the retirement system and shall furnish that information to the Commissioner of Personnel.

§17108. Investment counsel

1. Contract. The board may contract with one or more fiduciaries or registered investment advisors. All contracts with fiduciaries or registered investment advisors must have the approval of the Governor.

2. Duties. The fiduciary or registered investment advisor has the following duties.

A. The fiduciary or registered investment advisor shall invest and reinvest the funds of the retirement system in accordance with the standards defined in Title 18-A, section 7-302. The investment and reinvestment shall be subject to periodic review by the board.

B. The fiduciary or registered investment advisor shall inform the board immediately of any changes in its investment philosophy.

C. The fiduciary or registered investment advisor shall submit reports of the investments and any changes upon request from the board.

3. Expenses. The expenses incurred in employing one or more fiduciaries or investment advisors shall be charged to earnings received from investments of the retirement system.

§17109. Other counsel and assistance

1. Contract. The board may employ or contract for the services of persons or associations, other than those contracted with under section 17108, for investment counsel or advice and for other professional or other assistance, as may be necessary or appropriate to aid in carrying out the board's functions.

2. Expenses. The expenses incurred in employing or contracting with persons or associations under subsection 1 shall be charged to earnings received from investments of the retirement system.

§17110. Custodial care of securities

1. Contract or agreement. The board may enter into a contract or agreement with any national bank, trust company or safe deposit company for custodial services for the securities belonging to any fund of the retirement system and other related services.

A. A contracting bank performing services under a contract or agreement pursuant to this section shall comply with Title 9-B, section 623.

B. The contracting bank shall give assurance of proper safeguards, which are usual to contracts such as these.

C. The contracting bank shall furnish insurance protection satisfactory to both parties.

D. All contracts or agreements entered into between the board and the custodian bank, trust company or safe deposit company selected by the board must have the approval of the Governor.

2. Payment for services. The board may arrange for the payment of services rendered under this section:

A. By cash payments to be charged pro rata to the income of the several funds of the retirement system;

B. By an agreement for a compensating deposit balance with the bank in question in lieu of the cash payment under paragraph A; or

C. By some combination of the methods of payment in paragraphs A and B.

3. Withdrawal or deposit. The executive director, or another person or persons designated to the custodian by the board, may withdraw securities from or deposit securities with the custodian as circumstances may require, except that all withdrawals or delivery instructions must bear the written approval of 2 other persons duly authorized by a resolution of the board.

#### SUBCHAPTER IV

#### FINANCING

#### ARTICLE 1. GENERAL PROVISIONS

#### §17151. Legislative findings and intent

1. Findings. The Legislature finds that the State owes a great debt to its retired employees for their years of faithful and productive service.

A. Part of that debt is repaid by the benefits provided to retirees through the Maine State Retirement System.

B. Retirees, who depend heavily on these benefits, and current employees, who will one day retire and receive benefits, are concerned about the financial viability of the retirement system.

2. Intent. It is the intent of the Legislature that there shall be appropriated and transferred annually to the retirement system the funds necessary to meet the system's long-term and short-term financial obligations based on the actuarial assumptions established by the board upon the advice of the actuary.

A. The goal of the actuarial assumptions shall be to achieve a fully funded retirement system.

B. The retirement system's unfunded liability for persons formerly subject to the Maine Revised Statutes of 1944, chapter 37, sections 212 to 220 shall be repaid to the system from annual appropriations over the funding period of the retirement system.

C. This section may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system.

§17152. Funds

All of the assets of the retirement system shall be credited according to the purpose for which they are held among 5 funds, namely:

1. Members' Contribution Fund. The Members' Contribution Fund;

2. Retirement Allowance Fund. The Retirement Allowance Fund;

3. Expense Fund. The Expense Fund;

4. Survivors' Benefit Fund. The Survivors' Benefit Fund; and

5. State Retiree Health Insurance Fund. The State Retiree Health Insurance Fund.

§17153. Board of trustees

1. Actuarially sound basis. The board shall calculate the funds necessary to maintain the retirement system on an actuarially sound basis, including the unfunded liability arising from payment of benefits for which contributions were not received and shall transmit those calculations to the State Budget Officer as required by chapter 149.

A. The Legislature shall appropriate and transfer those funds annually.

B. This subsection may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system.

2. Trustee of funds. The members of the board shall be the trustees of the several funds created by this Part.

3. Investment of funds. The board may cause the funds created by this Part to be invested and reinvested in accordance with the standards defined in Title 18-A, section 7-302, subject to periodic approval of the investment program by the board.

4. Prohibitions. In addition to the limitations of section 18 and except as otherwise provided, no trustee and no employee of the board of trustees may:

A. Have any direct interest in the gains or profits of any investment made by the board;

B. Directly or indirectly, for himself or as an agent, in any manner, use the gains or profits of any investment made by the board except to make whatever current and necessary payments are authorized by the board; or

C. Become an endorser, surety or obligor for money loaned to or borrowed from the board.

§17154. Administration of funds

1. Custodian. Except as otherwise provided, the Treasurer of State shall be the custodian of the funds of the retirement system.

2. Budget estimates. The board shall submit budget estimates to the State Budget Officer in accordance with section 1665.

3. Combination or elimination of funds. On the advice of the actuary of the retirement system, the board may combine or eliminate all or any parts of the funds set forth in this subchapter, except that any combination or elimination may not impair the actuarial valuations.

4. Payment upon vouchers. Upon receipt of vouchers signed by a person or persons designated by the board, the State Controller shall draw a warrant on the Treasurer of State for the amount authorized. A duly attested copy of the resolution of the board designating those persons, and bearing on its face specimen signatures of those persons, shall be filed with the State Controller. The duly attested copy of the resolution shall be the State Controller's authority for making payments upon the vouchers.

5. Payment of employer charges for state employees. For state employees, on every payroll from which retirement contributions are deducted, the State Controller shall cause a charge to be made to each department of the State in order to pay employer costs.

A. The charge shall be a percentage, to be predetermined by the actuary and approved by the board, of the total gross salaries of members appearing on the payroll of each department.

B. The amount or amounts shall be credited to the appropriate funds as listed in this subchapter.

6. Payment of employer charges for teachers. For teachers, percentage rates to be predetermined by the actuary and approved by the board shall be applied to the total gross salaries of members covering the most recent school year preceding the preparation of the biennial budget.

A. The resulting amount shall be appropriated and credited to the appropriate funds.

B. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided from federal grants or through federal reimbursement shall be paid by local school systems from those federal funds.

7. Payment of employer charges for participating local district employees. Employer charges for participating local district employees are governed by sections 18301 to 18303.

#### §17155. Special resolves

If and when any special resolve or other legislation described in section 17103, subsection 10, is enacted by the Legislature, the entire actuarial costs of benefits granted shall be fully funded by act of the same Legislature which enacts the special resolve or other legislation.

#### §17156. Rate of interest

The board shall, from time to time, by order, set the rate of regular interest at a percent rate compounded annually determined by the board to be equitable, both to members and to the taxpayers of the State.

#### §17157. Interest and dividend credits

All interest and dividends earned on the funds of the retirement system shall be credited to the Retirement Allowance Fund.

1. Transfer to Members' Contribution Fund. The board shall allow annually regular interest on the individual accounts of members in the Members' Contribution Fund and shall transfer those amounts from the Retirement Allowance Fund to the Members' Contribution Fund.

2. Transfer to Survivors' Benefit Fund. The board shall allow annually regular interest on the mean amount accumulated in the Survivors' Benefit Fund and shall transfer that amount of interest from the Retirement Allowance Fund to the Survivors' Benefit Fund.

§17158. Full funding

Upon full funding of the accrued unfunded reserves of the Maine State Retirement System, the board of trustees may reduce employer contributions to the level required to maintain proper funding of earned benefits. The board of trustees may also seek legislative action to reduce employee contributions established by this Part.

ARTICLE 2. MEMBERS' CONTRIBUTION FUND

§17201. Establishment

The Members' Contribution Fund is established and it shall contain accumulated contributions deducted from the compensation of members.

§17202. Deduction adjustments

In order to facilitate the making of deductions, the board may modify the deduction required of any member by an amount that does not exceed 1/10 of 1% of the member's annual rate of earnable compensation.

§17203. Payroll deduction

1. Certification and deduction. The board shall certify to the chief administrative officer of each department, school and participating local district and the chief administrative officer shall cause to be deducted from the compensation of each member on each payroll of the department, school or participating local district for each payroll period, the appropriate percentage of earnable compensation to be contributed.

2. Manner of deduction. The amounts deducted under subsection 1, when deducted, shall be:

A. Paid into the Members' Contribution Fund; and

B. Credited to the individual account of the member from whose compensation the deduction was made.

3. Member's consent. Every member shall be deemed to consent to allow the chief administrative officer of his department, school or participating local district to make deductions from the member's compensation to satisfy the member's required contribution to the retirement system.

4. Discharge of claims. Payment of compensation to a member, minus the deduction under this section, shall be a complete discharge of all claims and demands based on the services rendered by the member during the period covered by the payment, except for any claims or demands for the benefits provided under this Part.

5. Reduction of minimum compensation. The deductions under this section shall be made notwithstanding that the minimum compensation provided for by law for any member is reduced by the deduction.

§17204. Contributions on member's own account

Any member in service may make contributions on his own account, in addition to the employee contributions required under this Part, to the Members' Contribution Fund, at a rate not in excess of 10% of earnable compensation for the purpose of increasing the amount of payment of the member's retirement allowance under any service retirement provision of this Part.

1. Rules. The board shall adopt rules governing this right of members to make additional contributions.

2. Exception to 10% rule. Any member in service on January 1, 1976, and ineligible to make contributions under sections 17754, 17763 and 18354 because of the amendments of the predecessors of those sections by Public Law 1975, chapter 622, may make whatever additional contributions, at a rate in excess of 10% of earnable compensation, as are necessary to provide an increased retirement allowance equal to any benefits to which the member would have been entitled under the predecessors of sections 17754, 17763 and 18354, as in effect immediately before January 1, 1976.

§17205. Transfers of funds

1. Withdrawal or death. The contributions of a member plus whatever interest is allowed on the amount of the contributions, which is withdrawn by



the member or is paid to his estate or to his designated beneficiary upon the member's death, shall be paid from the Members' Contribution Fund.

2. Retirement. Upon the retirement of a member, his accumulated contributions shall be transferred from the Members' Contribution Fund to the Retirement Allowance Fund.

3. Death before eligibility for retirement. If a member dies before becoming eligible for retirement and benefits become payable under section 17953, subsection 3, 4 or 5, his accumulated contributions shall be transferred from the Members' Contribution Fund to the Survivors' Benefit Fund.

4. Restoration to membership. If a beneficiary is restored to membership, the difference between the amount of accumulated contributions originally credited to the Retirement Allowance Fund and the portion of the total retirement allowance payments made to him, which is the actuarial equivalent of the accumulated contributions originally credited, shall be transferred to the Members' Contribution Fund and credited to the member's individual account in that fund.

§17206. Statement of account

The executive director shall furnish to each member of the retirement system, upon request, a statement showing the amount of accumulated contributions to the member's credit in his individual account in the Members' Contribution Fund.

ARTICLE 3. RETIREMENT ALLOWANCE FUND

§17251. Establishment

The Retirement Allowance Fund is established in which shall be accumulated all reserves required for the payment of benefits under this Part, other than reserves in the Members' Contribution Fund and the Survivors' Benefit Fund.

§17252. Employer contribution

On account of each member, the State and each participating local district shall pay annually into the Retirement Allowance Fund an amount equal to a certain percentage of the annual' earnable compensation of employees.

§17253. Employer contribution rate

The percentage rate of the employer contribution, described in section 17252, to be known as the "employer contribution rate," shall be fixed on the basis of the assets and liabilities of the retirement system as shown by actuarial valuation.

1. Computation. The employer contribution rate shall be determined as the percentage of the members' compensation payable during the members' periods of membership required to provide the difference between the total liabilities for retirement allowances not provided by the members' contributions and the amount of the assets in the Retirement Allowance Fund.

2. Manner of determination. The employer contribution rate shall be determined after each valuation based on actuarial assumptions adopted by the board and shall continue in force until a new valuation is made.

§17254. Minimum state contribution

The aggregate payment by the State into the Retirement Allowance Fund for state employees and teachers shall be at least sufficient, when combined with the amount in the Retirement Allowance Fund, to provide the benefits payable out of the fund during the current year.

ARTICLE 4. EXPENSE FUND§17301. Establishment

The Expense Fund is established to which shall be credited all money provided by the State and the participating local districts to pay the administrative expenses of the retirement system and from which shall be paid all the expenses necessary to the administration and operation of the retirement system.

§17302. Administration of fund

1. Payment. Biennially the board shall estimate the amount of money which is deemed necessary to be paid into the Expense Fund during the upcoming biennium to provide for the expenses of operation of the retirement system and the State shall pay that amount to the Expense Fund for that purpose.

2. Unexpended balance. Any unexpended balance may not lapse but shall constitute a continuous carrying account.

ARTICLE 5. SURVIVORS' BENEFIT FUND

§17351. Establishment

The Survivors' Benefit Fund is established in which shall be accumulated all reserves required for the payment of survivors' benefits as set forth in sections 17953, 18553 and 18556.

§17352. Survivors' contribution

On account of each member, the State and those participating local districts which have elected survivor benefits shall pay annually into the Survivors' Benefit Fund an amount equal to a certain percentage of the annual earnable compensation of the member, to be known as the "survivors' contribution."

§17353. Survivors' contribution rate

The percentage rate of the survivors' contribution, described in section 17352, shall be fixed on the basis of the liabilities established by sections 17953, 18553 and 18556, as shown by actuarial valuation.

ARTICLE 6. STATE RETIREE HEALTH INSURANCE FUND

§17401. Establishment

The State Retiree Health Insurance Fund is established to which shall be credited all money provided by the State to pay premiums for group accident insurance and group sickness or health insurance for persons eligible for these payments under section 285, subsection 8.

§17402. Payment of premium

All premiums for group accident insurance or group sickness or health insurance paid by the retirement system shall be paid from the State Retiree Health Insurance Fund.

§17403. Administration of fund

1. Estimate. Biennially the board shall estimate the amount of money which is deemed necessary to be paid into the State Retiree Health Insurance Fund during the upcoming biennium to provide for the payment of state retirees' health insurance premiums and the State shall pay that amount to the State Retiree Health Insurance Fund for that purpose.

2. Unexpended balance. Any unexpended balance may not lapse but shall constitute a continuous carrying account.

## SUBCHAPTER V

### APPEALS

#### §17451. Appeals

1. Decision of executive director. Any person aggrieved by a decision or ruling of the executive director may appeal the decision or ruling to the board.

A. To appeal a person must apply in writing to the board within 30 days after receiving written notice of the executive director's decision or ruling.

B. In any appeal proceeding, the board may investigate and consider all issues of fact or law, including the reasons for the decision or ruling of the executive director.

C. The appeal proceeding is an adjudicatory proceeding within the meaning of chapter 375, subchapter IV.

D. The board shall complete the appeal proceeding within 90 days of receiving the written application for appeal.

2. Decision of board. Any person aggrieved by a decision or ruling of the board in an adjudicatory proceeding is entitled to judicial review of the decision or ruling in accordance with chapter 375, subchapter VII.

## CHAPTER 423

### STATE EMPLOYEES AND TEACHERS

#### SUBCHAPTER I

##### GENERAL PROVISIONS

#### §17601. Information from departments

1. State employees. The head of each department shall submit to the board, on behalf of the employee:

A. A statement showing the name, title, compensation, sex, date of birth and length of service

of each member of the retirement system in that department and any other information required to administer this Part in the format specified by the executive director; and

B. A statement giving whatever information regarding other employees in that department the board may require.

2. Teachers. Each superintendent or chief administrator of a public school shall submit the information set out in subsection 1 to the board for all teachers.

## SUBCHAPTER II

### MEMBERSHIP

#### §17651. Mandatory membership

All employees shall become members of the retirement system as a condition of their employment.

#### §17652. Optional membership

1. Elected and appointed officials. Membership in the retirement system is optional for elected officials or officials appointed for a fixed term.

2. Delayed election of membership. A person who elects not to join the retirement system at the beginning of his employment may at any time apply for and be admitted to membership.

A. A person who joins the retirement system under this subsection may not pay contributions on or receive any service credit for the period during which he elected not to be a member of the system.

B. Membership service credit for persons joining the retirement system under this subsection shall begin as of the effective date of first contributions to the system.

C. This subsection applies to any member who begins membership after December 31, 1985.

#### §17653. Denial of membership rights

The board may, in its discretion, deny the right to become a member to:

1. Compensation partly paid by State. Any class of employees, except teachers, whose compensation is only partly paid by the State; or

2. Other than per annum payment. Any class of employees who are serving on a temporary basis or whose compensation is set on any basis other than a per annum basis.

§17654. Cessation of membership

A member ceases to be a member of the retirement system if the member:

1. Withdrawal. Withdraws his contributions;

2. Beneficiary. Becomes a beneficiary as a result of the member's own retirement; or

3. Death. Dies.

§17655. Service in the Armed Forces

1. Membership continued. The membership of the following employees is considered to have continued during the period of the employee's service in the Armed Forces of the United States:

A. Any employee entering a class of service in the Armed Forces of the United States approved by resolution of the board, if the employee does not withdraw his contributions; and

B. 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, including:

(1) During World War I between April 6, 1917, and March 3, 1921; or

(2) While the United States Selective Service Act of 1948, Public Law 759, 80th Congress, or any of its amendments or extensions is in effect.

2. Other military benefits. Any employee who satisfies the criteria of subsection 1, paragraph B, is entitled to all the benefits of section 555.

§17656. Employment changes affecting membership

1. Reemployment with new employer. Membership of a member who is reemployed with a new employer is governed as follows:

A. Any member of the retirement system whose service is terminated as a state employee, teacher or participating local district employee and who becomes employed as a state employee, teacher or participating local district employee with a new employer shall, if he has not previously withdrawn his accumulated contributions:

(1) Have his membership transferred to his account with the new employer; and

(2) Be entitled to all benefits which:

(a) Are based on creditable service and earnable compensation with the previous employer and the provisions of this Part in effect with respect to the previous employer at the date of termination of service by the member; and

(b) Do not require additional contributions by the new employer.

B. The new employer may elect to include the creditable service and earnable compensation of the member with the previous employer with the creditable service and earnable compensation with the new employer. If that election is made, the new employer shall make, from time to time, whatever contributions are necessary to provide the benefits under the retirement system for the member as have accrued to the member by reason of his previous employment and as may accrue to the member by reason of his new employment.

C. All funds in the retirement system contributed by his former employer on account of his previous employment shall be transferred to the account of the new employer and shall be used to liquidate the liability incurred by reason of the previous employment.

§17657. Federal employment

1. Membership in the retirement system. The following persons are considered members of the retirement system if they make payments to the Members' Contribution Fund in the same amounts and during the same periods as other state employees have made to that fund:

A. Any person who was an employee on December 31, 1941, and who was transferred to the federal employment service; and

B. Any person employed by the federal employment service after December 31, 1941, who subsequently became a state employee at or after the date on which the federal employment service was returned to the State as an operating unit.

2. Amounts due. Any person described in subsection 1 may make up any amounts due to the Members' Contribution Fund.

3. Rights and benefits. Any person described in subsection 1 is entitled to all the rights and benefits which he could have accrued if he had been employed by the State.

#### §17658. Maine National Guard

1. Membership in the retirement system. Any person who was an employee on December 31, 1941, and who later transferred to the Maine National Guard and was employed under the National Defense Act of June 3, 1916, section 90, is considered a member of the retirement system if he makes payments to the Members' Contribution Fund in the same amounts and during the same periods as other state employees have made to that fund.

2. Amounts due. Any person described in subsection 1 may make up any amounts due to the Members' Contribution Fund.

3. Rights and benefits. Any person described in subsection 1 is entitled to all the rights and benefits which he could have accrued if he had been employed by the State.

### SUBCHAPTER III

#### CONTRIBUTIONS

##### §17701. Member contributions

Each member shall contribute to the retirement system at a rate of 6.5% of earnable compensation, except as otherwise provided in this Part.

##### §17702. State payment of member share in lieu of member contribution

Notwithstanding any other provision in this Part, the State may agree to provide for members, through a collective bargaining contract, and the Legislative Council may agree to provide, for approved legislative employees, payment for a member's mandatory con-



tribution to the Maine State Retirement System, as established by section 17701, instead of deducting the contribution from the member's compensation.

1. Retirement Allowance Fund. Payments made, whether through a collective bargaining contract or through Legislative Council action, shall be accumulated in the Retirement Allowance Fund.

2. Manner of payment. Payments shall be made in the same manner and on the basis as contributions deducted from the member's compensation under sections 17201, 17202 and 17203.

3. Refundability. Contributions made by the State on behalf of a member under this section may not be refunded if the member withdraws from membership, terminates service or dies.

4. Percentage rate. When the State pays for a member's mandatory contribution, as authorized by this section, the percentage rate paid by the State shall be that rate, determined by the actuary and approved by the board, which provides the same net revenues to the retirement system as the applicable mandatory rate paid by the member.

§17703. Former members

Any former member who withdrew his contributions after termination of service and who again becomes a member may repay his earlier contributions to the Members' Contribution Fund under the following conditions.

1. Time. The repayment may not be made until at least 2 years after the date of restoration to membership and must be made before the date any retirement benefit becomes effective for the member.

2. Manner of repayment. The repayment may be made to the retirement system by direct payment or by an increased rate of contribution through payroll deduction.

3. Amount of repayment. The amount of repayment must be equal to the accumulated contributions withdrawn by the person plus interest on the amount of those accumulated contributions, beginning on the date of withdrawal to the date the repayment or repayments are made, at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points.

§17704. Back contributions

Any member who did not become a member on the date of his first employment may elect to pay into the Members' Contribution Fund under the following conditions.

1. Time. The payment must be made before the date any retirement benefit becomes effective for the member.

2. Manner of payment. The payment may be made to the retirement system by direct payment or by an increased rate of contribution through payroll deduction.

3. Amount of payment. The amount of payment must be equal to the contributions that the member would have paid had he been a member during the entire period from the date of first employment to the date of becoming a member plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest shall be computed beginning the end of the year when those contributions would have been made or beginning July 1, 1957, whichever is later, to the date of payment.

4. Applicability. This section does not apply to any member who begins membership after December 31, 1985, and who had, in accordance with section 17652, elected not to become a member when first employed.

§17705. Refund of contributions

If the service of any member has terminated, except by death or by retirement under this Part, the member shall be paid the amount of his accumulated contributions, under the following conditions.

1. Application. The member must properly apply for a refund of contributions.

2. Manner of payment. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

3. Interest. No interest may be added to the member's account for any period beyond the 5th anniversary of the date of the member's termination of service if the member has less than 10 years of creditable service.

4. Return to service. An application for refund is void if the member filing the application returns to service as a state employee or teacher before issuance of the payment.

5. Applicability. Only contributions made by a particular member may be refunded to that member under this section.

§17706. Inactive accounts

Any member account in the retirement system which has been inactive for 10 or more years, and which has a balance of contributions under \$100, may be transferred by the executive director to the Retirement Allowance Fund.

1. Restoration to service. Any former member who is restored to service may have any contributions and interest transferred under this section restored to that member's credit.

2. Refunds. Any former member who applies for a refund of contributions and interest transferred under this section shall be paid that refund in accordance with section 17705.

§17707. CETA service

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "CETA employee" means an employee enrolled in a program under the United States Comprehensive Employment and Training Act of 1973, as amended.

B. "Employer" means the State or the participating local district with which the CETA employee is placed for training and employment.

C. "Prime sponsor" means the CETA prime sponsor, a unit of government responsible for planning and operating all CETA programs within the geographic jurisdiction encompassed by that unit of government.

2. Eligibility for membership. CETA employees are considered eligible for membership in the retirement system from the date of their enrollment in a CETA program, whether or not they become members.

3. Employer's contributions. Employer's contributions are governed as follows.

A. Notwithstanding this subchapter, subchapter II and chapter 421, subchapter IV, neither the State nor a participating local district is required to contribute to the retirement system for CETA employees.

B. If an employee elects, under section 17761, to purchase his CETA time for past creditable service, the employee's CETA prime sponsor shall then pay to the retirement system an amount equal to the employer's contribution, plus regular interest, for the employee's CETA time, using only CETA funds.

4. Employee's contributions. Employee's contributions are governed as follows.

A. Notwithstanding section 17701, a CETA employee is not required to contribute to the retirement system.

B. A CETA employee may contribute during his period of CETA employment or may defer contributions until his post-CETA employment status is known.

C. If an employee who has not contributed during his CETA employment or who has withdrawn his contributions later elects, under section 17761, to purchase his CETA time for past creditable service, the employee shall pay to the retirement system an amount equal to the employee's contributions, plus interest, as provided under section 17704.

5. Return of contributions. Any CETA employee who contributed to the retirement system during his CETA employment and who does not meet the requirements of section 17761, shall be refunded his employee contributions, plus regular interest, upon request to the retirement system.

§17708. State police

1. Definition. As used in this section, unless the context otherwise indicates, the term "state police officer" means:

A. A member of the State Police;

B. The Chief of the State Police; or

C. A member of the State Police or Chief of the State Police who is appointed Commissioner of Public Safety.

2. Before September 1, 1984. A state police officer who was first employed by that department after July 9, 1943, but before September 1, 1984, shall contribute to the retirement system as follows:

A. At a rate of 7.5% of earnable compensation until he has completed 20 years of creditable service, as required under section 17851, subsection 4, paragraph A; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of his employment as a state police officer.

3. After August 31, 1984. A state police officer who was first employed by that department after August 31, 1984, shall contribute to the retirement system as follows:

A. At a rate of 7.5% of earnable compensation until he has completed 25 years of creditable service, as required under section 17851, subsection 4, paragraph B; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of his employment as a state police officer.

§17709. Inland Fisheries and Wildlife officers

A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity before September 1, 1984, shall contribute to the retirement system as follows:

1. 7.5% rate. At a rate of 7.5% of earnable compensation until he has completed 20 years of creditable service, as required under section 17851, subsection 5; and

2. 6.5% rate. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of his employment in that capacity.

§17710. Marine Resources officers

1. Before September 1, 1984. A law enforcement officer in the Department of Marine Resources who was first employed in that capacity before September 1, 1984, shall contribute to the retirement system as follows:

A. At a rate of 7.5% of earnable compensation until he has completed 20 years of creditable service, as required under section 17851, subsection 6; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of his employment in that capacity.

2. Commissioner or deputy commissioner. A commissioner or deputy commissioner of the Department of Marine Resources may elect to contribute as a member under section 17701, rather than under this section, if he files a written copy of the election of his choice with the board.

§17711. Forest rangers

A forest ranger in the Bureau of Forestry, Department of Conservation, who was first employed in that capacity before September 1, 1984, shall contribute to the retirement system as follows:

1. 7.5% rate. At a rate of 7.5% of earnable compensation until he has met the requirements for eligibility for retirement under section 17851, subsection 8; and

2. 6.5% rate. After meeting the eligibility requirements for retirement, at a rate of 6.5% of earnable compensation for the remainder of his employment as a forest ranger.

§17712. Maine State Prison employees

1. Before September 1, 1984. An employee of the Maine State Prison who holds a position described in section 17851, subsection 11, and who was first employed in one of those capacities before September 1, 1984, shall contribute to the retirement system as follows:

A. At a rate of 7.5% of earnable compensation until he has met the eligibility requirements for

retirement under section 17851, subsection 11, paragraph A; and

B. After meeting the eligibility requirements for retirement, at a rate of 6.5% of earnable compensation for the remainder of his employment in one or more of those capacities.

2. After August 31, 1984. An employee of the Maine State Prison who was first employed after August 31, 1984, in a position described in section 17851, subsection 11, shall contribute to the retirement system as follows:

A. At a rate of 7.5% of earnable compensation until he has completed 25 years of creditable service in one or more of those capacities; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of his employment in one or more of those capacities.

§17713. Armed forces

1. Service after becoming a member. For employees who qualify to have their membership in the retirement system continued under section 17655, subsection 1, because of service in the Armed Forces of the United States, the State shall contribute to the Members' Contribution Fund the same amount that the member would have been required to contribute, if the member had been serving the State during the period of service in the armed forces in the same capacity in which the employee was serving at the time he joined the armed forces. Any member whose contributions to the Members' Contribution Fund are paid by the State under this subsection, who withdraws or ceases to be a member of the retirement system, may not withdraw any of the contributions made by the State under this subsection.

2. Service before becoming a member. A member who qualifies under section 17760, subsection 2, shall contribute to the retirement system for the period of service in the armed forces as follows:

A. If the member qualifies under section 17760, subsection 2, paragraph D, contributions shall be calculated at the percentage rate required of active members during the period of time covered by the service in the armed forces applied to the member's earnable compensation during the first

year as an employee after service in the armed forces, under the following terms and conditions:

(1) If 2 or more percentage rates were in effect during the period of service in the armed forces, the highest percentage rate shall be used;

(2) The minimum rate shall be 5%; and

(3) Interest at a rate set by the board not to exceed regular interest by 2 or more percentage points shall be paid on the unpaid balance beginning January 1, 1976, or the date of attaining 15 years of creditable service, if later, to the date payment is completed.

B. If the member qualifies under section 17760, subsection 2, paragraph E, contributions shall be calculated at the rate prescribed by section 17701, applied to the member's earnings during the 12 months preceding the month in which he pays or begins payment of the required contributions. Interest at a rate set by the board not to exceed regular interest by 5 or more percentage points shall be paid on the unpaid balance beginning the first day of the month in which the member begins payment to the date payment is completed.

#### SUBCHAPTER IV

#### CREDITABLE SERVICE

#### §17751. Determination of one-year's service credit

The determination of one-year's service credit shall be governed as follows.

1. All service in one calendar year. The board may not allow more than one year's service credit for all the service:

A. In one calendar year for state employees; or

B. In one school contract year for teachers or state employees employed as teachers.

2. Absence without pay. The board may not allow service credit for a period of absence without pay of more than a month's duration for a full-time position.



3. Board determination. The board shall determine by appropriate rules how much service in any year qualifies for one year's service credit. Service rendered for the full normal working time in any year qualifies for one year's service credit.

4. Special provision for certain legislative employees. A legislative employee shall receive a full year of service credit for the period of January 1, 1978, to January 1, 1984, for each year of the legislative biennium in a position that may be full-time under Title 3, sections 22 and 42.

§17752. Service credit for prior service

1. Determination. Service credit for prior service is determined as follows.

A. If a member can provide the board with satisfactory evidence that he performed any work as a state employee before July 1, 1942, or as a teacher before July 1, 1947, the member shall be granted one year of service credit for each year in which any work was performed, except that:

(1) For the first year of service under this paragraph, service credit may be earned only from the date of beginning work to the end of the year; and

(2) During the calendar year 1942, the maximum amount of prior service credit that may be earned for work as a state employee is 1/2 year; and

(3) Prior service credit for work as a state employee shall be calculated on the basis of calendar years and for work as a teacher on the basis of school years.

B. Service credit for prior service shall be granted for work as a teacher to a member, if the member pays into the Members' Contribution Fund 5% of the salary received during that service. For each year of that service, the payments shall be not less than \$20 nor more than \$100.

2. Verification of prior service. Upon verification of the length of prior service rendered, the board shall grant service credit for that service.

§17753. Service credit for back contributions

1. Entitlement to service credit. Upon completion of payment of back contributions under section 17704, the member is entitled to service credit for the period of time for which the contributions have been made.

2. Retirement benefit effective before completion of payment. If a retirement benefit becomes effective before completion of payment of back contributions under section 17704, the member is entitled to service credit for that portion of the total of that service which the total amount of payment actually made bears to the total contributions owed, including, in each instance, interest determined in accordance with section 17704.

§17754. Out-of-state service

1. Generally. For members who began membership before January 1, 1976, additional service credit shall be allowed for out-of-state service, subject to the following conditions.

A. The member must have creditable service in Maine of at least 20 years in the aggregate.

B. The member, before any retirement benefit becomes effective for him, must make contributions into the Members' Contribution Fund for the years of out-of-state service on the same basis as he would have made contributions had the service been in Maine, including interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points. Interest shall be computed beginning the end of the year when those contributions would have been made, if the service had been in the State, to the date of payment.

C. If the member was formerly subject to the Revised Statutes of 1944, chapter 37, sections 221 to 241, his last 7 years of creditable service before the date of retirement must be in Maine.

D. If the member is a teacher employed for the first time after July 1, 1947, his last 10 years of creditable service before the date of retirement must be in Maine and no more than 10 years of service credit for out-of-state service may be allowed.

E. If a member is not a teacher, his last 10 years of creditable service before the date of retirement must be in Maine and no more than 10 years of service credit may be allowed for out-of-state service.

F. A public school teacher who leaves service in Maine to teach children of United States Armed Forces personnel, located in any foreign country on a regularly established United States military base, shall be allowed service credit for that service, not to exceed 2 years, if:

(1) The teacher returned to active teaching service in the State within one year of the completion of the foreign service; and

(2) The teacher pays into the retirement system the same amount of contributions which would have been made if the service had been rendered in the State, including interest computed in accordance with paragraph B.

2. Alternative. If service credit for out-of-state service is not allowed under subsection 1, additional service credit for out-of-state service shall be allowed for any member in the determination of his retirement benefit under this Part, if the member, before any retirement benefit becomes effective for himself, pays into the Members' Contribution Fund, by a direct payment or by an increased rate of contribution through payroll deduction, an amount plus regular interest on that amount, which will be the actuarial equivalent, at the effective date of his retirement benefit, of the portion of his retirement benefit based on the additional creditable service.

A. Additional amounts paid under this subsection shall become a part of the members' accumulated contributions.

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service which the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

3. Service credit not to be used in another state. Notwithstanding anything to the contrary, any application for a retirement benefit that becomes effective after May 11, 1966, and for which out-of-state service credit is to be granted must be accompanied by a certified statement from the appropriate retirement system that the out-of-state service credit granted has not been or will not be used to obtain benefits in another state.

§17755. Disability retirement service credit

A beneficiary shall receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which he receives disability retirement benefits under subchapter V, article 3.

§17756. Unused accrued or accumulated sick leave or unused vacation leave

1. Service credit. Unused accumulated or accrued sick leave, unused vacation leave, or a combination of both, for which a member is credited on termination of service, but for which the member does not receive payment, qualifies for service credit.

2. Limitation. Leave qualifying for service credit under subsection 1 may not exceed a total of 90 days, except as provided in subsection 3.

3. Exceptions. Leave beyond 90 days may qualify for service credit, up to the maximum number of days of leave, set by personnel rules or by contract, that a person is allowed to accumulate, if:

A. For state employees, the member, before any retirement benefit becomes effective for him, pays into the Members' Contribution Fund, a single payment which is the actuarial equivalent, at the effective date of the member's retirement benefit, of the portion of his retirement benefit based on the additional creditable service beyond 90 days; and

B. For teachers, the member or the school administrative unit employing the member pays into the Members' Contribution Fund by a single payment the actuarial equivalent, at the effective date of the member's retirement benefit, of the portion of his retirement benefit based on the additional creditable service beyond 90 days. The member and the school administrative unit may de-

termine by contract the portion to be deposited by each to obtain this additional creditable service.

§17757. Former members

1. Service credit reinstated. Upon repayment of earlier contributions in accordance with section 17703, a former member who again becomes a member is entitled to all service credit that he acquired during previous membership.

2. Retirement benefit effective before completion of repayment. If any retirement benefit becomes effective before completion of the repayment under section 17703, the member is entitled to service credit for that portion of the total of the previous creditable service which the total amount of repayments actually made bears to the total amount payable if it had been paid on the date of restoration to membership, in each instance including interest determined in accordance with section 17703, beginning with the date of payment to the date the retirement benefit becomes effective.

§17758. Legislature and Executive Council

Except as provided in section 17652, any member who has served as a member of the House of Representatives, the Senate or the Executive Council of the State, upon payment of contributions in accordance with section 17704, is entitled to service credit for the legislative or Executive Council service and is subject to this Title.

1. Amount of service credit. The member is entitled to receive service credit for the duration of his election or until he officially resigns from membership in the House of Representatives, the Senate or the Executive Council.

2. Limitation. The member may not receive more than one year of service credit in any one-year period.

§17759. Federal employment service

1. Creditable service. An employee of the federal employment service who became an employee of a state department before the federal employment service was returned to state control is entitled to service credit for prior service and membership service for the time the person was with the federal em-

ployment service, if the person makes up whatever contributions would have been made if the federal service had been state membership service, including interest at a rate, to be set by the board, not to exceed the regular interest by 5 or more percentage points beginning January 1, 1976, to the date of payment.

2. Applicability. This section does not apply to any member who began membership on or after January 1, 1976.

§17760. Service in the armed forces

Service credit for service in the United States Armed Forces is governed as follows.

1. Service after becoming a member. A member is entitled to service credit for the period of time during which his membership is continued under section 17655, subsection 1, under the following terms and conditions.

A. No member who is otherwise entitled to service credit for military leave may be deprived of these credits if the member's return to membership service is delayed beyond 90 days after his separation from the service in the Armed Forces of the United States, under conditions other than dishonorable, if the delay is caused by an illness or disability incurred in the service in the armed forces.

B. A member may not receive service credit for military leave beyond the end of the period of first enlistment or induction or beyond 4 years from the date of original call to active duty in the armed forces, whichever is less, unless:

(1) The member's return to active duty in the armed forces or the extension of the period of service beyond 4 years is required by some mandatory provision; and

(2) The person presents proof of the return to or extension of service satisfactory to the board.

2. Service before becoming a member. A member who served as a full-time active duty member of the armed forces before becoming a member of the retirement system is entitled to service credit for the period of time he served in the armed forces, under the following terms and conditions.

A. On the date of retirement, the member must have at least 15 years of creditable service.

B. Service credit under this subsection is limited to 4 years.

C. The member must have separated from the armed forces under conditions other than dishonorable.

D. Except as provided in paragraph E, the member must have begun membership before January 1, 1976.

E. A member who served in the armed forces at any time from August 5, 1964, to May 7, 1975, is entitled to service credit under this subsection if he begins membership before January 1, 1988.

F. Contributions required by section 17713 must have been paid.

§17761. CETA service

1. Service credit allowed. Service credit for the period of CETA employment occurring after June 30, 1979, shall be granted to any person who, after June 30, 1979, satisfies the following conditions:

A. The person was a CETA employee;

B. The person, within 90 days of termination of CETA employment, became a non-CETA employee of the employer;

C. The person, within 90 days of becoming a non-CETA employee, signified in writing to the retirement system his intention to purchase time credit under section 17707, subsection 4;

D. The person has not received a return of any contributions made under section 17707, subsection 4 or has deposited his contributions within 18 months of obtaining non-CETA employment with the employer under section 17707, subsection 4; and

E. The employer contribution required by section 17707, subsection 3 has been paid.

2. Retirement benefit effective before completion of payment. If any retirement benefit becomes effective before the completion of the deposit under section 17707, subsection 4, the person is entitled to credit for that portion of his CETA time which the

amount of the deposit actually made bears to the total amount which would have been required to purchase the person's entire CETA time.

§17762. Adult education teachers

1. Service credit allowed. A teacher who teaches a full accredited year in an adult education program accepted and approved by the Commissioner of Educational and Cultural Services is entitled to not more than 1/2 year's service credit for each full accredited year taught.

2. Less than full accredited year. Service credit shall be allowed on a pro rata basis for any period of time during which an adult education teacher teaches less than a full accredited year.

§17763. Teachers in private, parochial and other schools

1. Parochial school or public or private academy. A public school teacher who taught in a parochial school or in a public or private academy may purchase up to 10 years of service credit for that service under the following conditions.

A. The teacher must have taught in a school approved by the Department of Educational and Cultural Services or the education department of another state while holding an appropriate teaching certificate.

B. The teacher must have 10 years of service in the public schools.

C. The teacher must, before any retirement benefit becomes effective for him, pay into the Members' Contribution Fund, by a direct payment or by an increased rate of contribution through payroll deduction, an amount which, together with regular interest on that amount, is the actuarial equivalent, at the effective date of his retirement benefit, of the portion of his retirement benefit based on the additional creditable service.

2. Other schools and programs. A public school teacher who terminates service in the State and who teaches under the Volunteers in Service to America Program, the Fulbright Exchange Program or the Peace Corps, foreign or domestic, or who teaches children of United States Foreign Service Corps personnel out-



side the continental limits of the United States is entitled to service credit for that service under the following conditions:

A. The service credit may not exceed 2 years;

B. The teacher must return to active teaching in the State within one year of the completion of the teaching outside of the State described in this section; and

C. The teacher must, before any retirement benefit becomes effective for him, pay into the Members' Contribution Fund, by a direct payment or by an increased rate of contribution through payroll deduction, an amount which, together with regular interest on that amount, is the actuarial equivalent, at the effective date of his retirement benefit, of the portion of his retirement benefit based on the additional creditable service.

3. Applicability. This section applies only to a member who:

A. Began service before January 1, 1976; and

B. Made the direct payment or began an increased rate of contributions through payroll deduction, as required in this section, before January 1, 1976, or within 30 days after first becoming eligible to purchase the service credit, if he became eligible later than January 1, 1976.

## SUBCHAPTER V

### BENEFITS

#### ARTICLE 1. GENERAL PROVISIONS

§17801. Amendment not to cause reduction in benefit

No amendment to this Part may cause any reduction in the amount of benefits which would be due to a member based on creditable service, compensation, employee contributions and the provisions of this Part on the date immediately preceding the effective date of the amendment.

§17802. Eligibility for benefits

Only members of the retirement system, their spouses, surviving spouses, children, dependent chil-

dren, parents or beneficiaries are eligible to receive benefits from the retirement system.

§17803. Election of methods of payment

1. Definition. As used in this article, unless the context otherwise indicates, "qualifying member" means:

A. A member; or

B. A former member who is receiving a disability retirement benefit.

2. Election. In order to receive a benefit, a qualifying member must elect to have his service retirement benefit payable under any of the methods in section 17804.

3. Time and manner of election. A qualifying member must elect a method of payment before the beginning of payment of a service retirement benefit. This election must be by written notice to the executive director.

4. Change of election. A qualifying member may revoke his election of benefits and may elect another method of payment by giving written notice to the executive director at any time before the first payment of the service retirement benefit.

§17804. Methods of payment

A qualifying member may select payment in one of the following methods.

1. Full benefits. All retirement benefits shall be payable for life in equal monthly installments, including any fraction of a month up to the date of death, with no further payment made.

2. Option 1. The qualifying member may elect to have a reduced retirement benefit paid to himself while alive and at the qualifying member's death to have the excess, if any, of his accumulated contributions at the time of retirement over the portion of the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent of the accumulated contributions, paid in a lump sum to the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director or, if no one has been nominated as beneficiary, to his estate.

3. Option 2. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

4. Option 3. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

5. Option 4. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have some other benefit payable, if:

A. The total value of the benefit during the qualifying member's life plus the benefit after his death is an actuarial equivalent of the benefit which the qualifying member would receive without optional modification; and

B. The method used to determine the benefit is approved by the board.

#### §17805. Remarriage after retirement

If the recipient of a reduced service retirement benefit under section 17804, subsection 3, 4 or 5 remarries after the recipient's spouse dies the following provisions apply.

1. Election of benefit for new spouse. The recipient may elect to have the reduced retirement benefit paid under the same option to the new spouse after the recipient's death instead of continuing the original reduced retirement benefit to the recipient during his lifetime, under the following conditions:

A. The original spouse must have been the sole beneficiary of the reduced retirement benefit under section 17804, subsection 3, 4 or 5;

B. The recipient must not have reached his 70th birthday; and

C. The recipient must be in good health at the date of election.

2. Time and manner of election. The recipient may make the election at any time after the death of his original spouse by:

A. Sending a written request to the executive director; and

B. Submitting evidence satisfactory to the executive director of the recipient's good health.

3. Amount of benefit. The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefit the recipient has been receiving.

§17806. Cost-of-living adjustment to retirement benefits

Cost-of-living adjustments to the retirement benefits being paid to retired state employees, teachers or beneficiaries of either shall be governed as follows.

1. Determination of adjustment. The cost-of-living adjustment shall be determined as follows.

A. Whenever there is a percentage change in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase or decrease in retirement benefits, beginning in September, up to a maximum annual increase or decrease of 4%.

B. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 4%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase or decrease of 4% and shall report that adjustment and the actual increase or decrease in the Consumer Price Index to the Legislature during the month of February of the following year.

C. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective date of his retirement or on July 1, 1977, whichever amount is greater.

2. Cost. The board shall determine the costs of the adjustments under this section and shall include those costs in its budget requests.

3. Eligibility. Cost-of-living adjustments under this section shall be applied to the retirement benefits of all retirees who have been retired for at least 6 months before the date that the adjustment becomes payable. Beneficiaries of deceased retirees shall be eligible for the cost-of-living adjustment at the same time the deceased retiree would have become eligible.

§17807. Persons retired under earlier law

1. Benefits continued. All benefits payable to former employees retired under the Public Laws of 1933, chapter 1, sections 227 to 233, as they existed immediately before July 1, 1942, shall be continued and paid in the future from the Retirement Allowance Fund at the full amounts stipulated under those sections before July 1, 1942.

2. Additional amounts. Any additional funds required to continue the benefits under subsection 1 shall be provided by an increase in the accrued liability contribution payable to the Retirement Allowance Fund.

§17808. Payment from certain funds

All benefits payable under this chapter shall be paid from the Retirement Allowance Fund, except those payable from the Members' Contribution Fund and the Survivors' Benefit Fund or as specifically provided in this chapter.

§17809. Incorrect records

If any error in any record of the retirement system results in a member or beneficiary receiving more or less from the system than he would have been entitled to receive had the record been correct, payments shall, as far as practicable, be adjusted so that the actuarial equivalent of the benefit to which he was correctly entitled is paid.

§17810. Earnable compensation continued

For purposes of determining benefits under this chapter, the earnable compensation of a member retired with a disability retirement allowance under article 3 is assumed to be continued after his date of termination of service:

1. Rate. At the same rate as received immediately before the date of termination of service; and

2. Percentage adjustments. Subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 17806.

§17811. Election to reduce or discontinue benefits

Any retiree or member who is retired or will retire may elect to reduce or discontinue receiving any benefit upon written request, duly certified and acknowledged, to the executive director.

## ARTICLE 2. SERVICE RETIREMENT BENEFITS

§17851. Qualification for benefits

1. Member in service. A member who is in service when he reaches 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age;

B. Has been in service for a minimum of one year immediately before retirement or has at least 10 years of creditable service, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the Maine State Retirement System; and

C. Applies to the board in writing, stating the time he desires to retire.

2. Member not in service. A member who is not in service when he reaches 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age;

B. Has at least 10 years of creditable service or 5 full terms as a Legislator, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the Maine State Retirement System; and

C. Applies to the board in writing, stating the time he desires to retire.

3. Member with creditable service of 25 years or more. A member who has completed 25 or more years of creditable service qualifies for a service retirement benefit if he:

A. Retires at any time after completing the 25 years of service, which may include creditable service as a member of the Maine Legislative Retirement System under Title 3, section 701, subsection 8, before becoming a member of the Maine State Retirement System; and

B. Applies to the board in writing, stating the time he desires to retire.

4. State police. A state police officer qualifies for a service retirement benefit if he:

A. Became a state police officer after July 9, 1943, but before September 1, 1984, and retires after completing 20 years of creditable service as a state police officer, which may include creditable service under section 17760, subsection 1, but may not include creditable service under section 17760, subsection 2; or

B. Became a state police officer after August 31, 1984, and completed 25 years of creditable service as a state police officer.

5. Inland Fisheries and Wildlife officers. A law enforcement officer in the Department of Inland Fisheries and Wildlife qualifies for a service retirement benefit if he:

A. Was employed in that capacity before September 1, 1984; and

B. Retires after completing 20 years of creditable service in that capacity, which may include creditable service under section 17760, subsection 1, but may not include creditable service under section 17760, subsection 2.

6. Marine Resources officers. A law enforcement officer in the Department of Marine Resources qualifies for a service retirement benefit if he:

A. Was employed in that capacity before September 1, 1984; and

B. Retires after completing 20 years of creditable service in that capacity, which may include creditable service under section 17760, subsec-

tion 1, but may not include creditable service under section 17760, subsection 2.

7. Marine Resources commissioner or deputy. A commissioner or deputy commissioner of the Department of Marine Resources qualifies for a service retirement benefit if he:

A. Qualifies under subsection 6; and

B. Contributed as a law enforcement officer under section 17710, subsection 1.

8. Forest rangers. A forest ranger in the Department of Conservation qualifies for a service retirement benefit if he:

A. Was employed in that capacity before September 1, 1984; and

B. Retires upon reaching 50 years of age or upon completion of 25 years of creditable service in that capacity, whichever is later.

9. Airplane pilots. An airplane pilot employed by the State qualifies for a service retirement benefit if he:

A. Was employed in that capacity before September 1, 1984;

B. Completes at least 25 years of creditable service in that capacity; and

C. Retires upon or after reaching age 55.

10. Liquor inspectors. A liquor inspector, including the chief inspector, qualifies for a service retirement benefit if he:

A. Was employed in that capacity before September 1, 1984;

B. Completes at least 25 years of creditable service in that capacity; and

C. Retires upon or after reaching age 55.

11. Maine State Prison employees. The warden or deputy warden of the Maine State Prison, any officer or employee of the Maine State Prison employed as a guard or in the management of prisoners or any person employed as the supervising officer of those officers



or employees qualifies for a service retirement benefit if he:

A. Was employed in one of those capacities before September 1, 1984, and:

(1) Completes 20 years of creditable service in one or more of those capacities; and

(2) Retires upon or after reaching the age of 50 years; or

B. Was employed in one of those capacities after August 31, 1984, and completed 25 years of creditable service in one or more of those capacities.

§17852. Computation of benefit

1. Member in service. The amount of the service retirement benefit for members qualified under section 17851, subsection 1, shall be computed as follows:

A.  $1/50$  of the member's average final compensation multiplied by the number of years of his membership service and up to 25 years of his prior service. Membership service under this paragraph does not include creditable service under the Legislative Retirement System; or

B. The total amount of the service retirement benefit of any member qualifying under section 17851, subsection 1, who became a member before July 1, 1947, and for whom the date of establishment of the retirement system is July 1, 1942, must be at least equal to  $1/2$  of his average final compensation, if the member has at least 20 years of total creditable service, including at least 13 years of prior service if he retires upon or after reaching age 70.

2. Member not in service. The amount of the service retirement benefit for members qualified under section 17851, subsection 2, shall be computed in accordance with subsection 1.

3. Member with creditable service of 25 years or more. The amount of the service retirement benefit for members qualified under section 17851, subsection 3, shall be computed in accordance with subsection 1, except that:

A. The amount arrived at under subsection 1 shall be reduced by applying to that amount the percentage that a life annuity due at age 60 bears to the life annuity due at the age of retirement; and

B. For the purpose of making the computation under paragraph A, the board-approved tables of annuities in effect at the date of the member's retirement shall be used.

4. State police. The amount of the service retirement benefit for members qualified under section 17851, subsection 4, shall be computed as follows.

A. For persons qualifying under section 17851, subsection 4, paragraph A:

(1) The total amount of the service retirement benefit is:

(a) Except as provided in division (b), 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 4, paragraph A; or

(b) If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1976, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1976, shall be determined in accordance with division (a); and

(2) Upon the death of a State Police Officer who is receiving a retirement benefit after qualifying under section 17851, subsection 4, paragraph A, without optional modification, or is retired under article 3, the surviving spouse is entitled to a retirement benefit which is 1/2 of the amount being paid at the time of the officer's death. The payment shall continue for the remainder of the surviving spouse's lifetime or until he becomes the dependent of another person.

B. For persons qualifying under section 17851, subsection 4, paragraph B, and who retire upon or after reaching the age of 55, the retirement benefit shall be computed in accordance with subsection 1.

C. For persons qualifying under section 17851, subsection 4, paragraph B, and who retire before reaching the age of 55, the retirement benefit shall be determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 shall be reduced by applying to that amount the percentage that a life annuity due at age 55 bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement shall be used.

5. Inland Fisheries and Wildlife officers. The amount of service retirement benefit for persons qualified under section 17851, subsection 5, shall be computed as follows.

A. The total amount of the service retirement benefit is:

(1) Except as provided in subparagraph (2),  $1/2$  of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualifications under section 17851, subsection 5; or

(2) If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1976, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1976, shall be determined in accordance with subparagraph (1).

B. Upon the death of a law enforcement officer of the Department of Inland Fisheries and Wildlife who is receiving a retirement benefit after qualifying under section 17851, subsection 5,

without optional modification, or is retired under article 3, the surviving spouse is entitled to a retirement benefit which is 1/2 of the amount being paid at the time of the officer's death. The payment shall continue for the remainder of the surviving spouse's lifetime or until he becomes the dependent of another person.

6. Marine Resources officers. The amount of service retirement benefit for persons qualified under section 17851, subsection 6, shall be computed as follows.

A. The total amount of the service retirement benefit is:

(1) Except as provided in subparagraph (2), 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 6 or 7; or

(2) If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1976, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1976, shall be determined in accordance with subparagraph (1).

B. Upon the death of a law enforcement officer of the Department of Marine Resources who is receiving a retirement benefit after qualifying under section 17851, subsection 6, without optional modification, or is retired under article 3, the surviving spouse is entitled to a retirement benefit which is 1/2 of the amount being paid at the time of the officer's death. The payment shall continue for the remainder of the surviving spouse's lifetime or until he becomes the dependent of another person.

7. Forest rangers. The total amount of the service retirement benefit for persons qualified under section 17851, subsection 8, shall be computed as follows:

A. Except as provided in paragraph B, 1/2 of his average final compensation and an additional 2% of his average final compensation for each year

of membership service not included in determining qualifications under section 17851, subsection 8; or

B. If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1976, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1976, shall be determined in accordance with paragraph A.

8. Airplane pilots. The total amount of the service retirement benefit for members qualified under section 17851, subsection 9, is:

A. 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 9; or

B. If the member retires upon or after reaching the age of 60, an amount equal to the total service retirement benefit as determined under subsection 1, if that amount is greater than the amount computed under paragraph A.

9. Liquor inspectors. The total amount of the service retirement benefit for members qualified under section 17851, subsection 10, is 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 10.

10. Maine State Prison employees. The amount of the service retirement benefit for members qualified under section 17851, subsection 11, shall be computed as follows.

A. For members qualifying under section 17851, subsection 11, paragraph A, 1/2 of his average final compensation and an additional 2% of his average final compensation for each year of membership service not included in determining qualification under section 17851, subsection 11, paragraph A.

B. For members who qualify under section 17851, subsection 1, paragraph B, and who retire upon or after reaching the age of 55, the retirement ben-

efit shall be computed in accordance with subsection 1.

C. For members who qualify under section 17851, subsection 11, paragraph B, and who retire before reaching the age of 55, the retirement benefit shall be determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1, shall be reduced by applying to that amount the percentage that a life annuity due at age 55 bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement shall be used.

§17853. Law governing benefit determination

1. Termination on or after January 1, 1976. If a member's final termination of service occurred on or after January 1, 1976, the retirement system law in effect on the date of termination shall govern the member's service retirement benefit.

2. Termination before January 1, 1976. If a member's final termination of service occurred before January 1, 1976, the retirement system law in effect on January 1, 1976 shall govern the member's service retirement benefit.

§17854. Minimum benefit

Any member who has 10 or more years of creditable service at retirement is entitled to a minimum service retirement benefit of \$100 per month.

§17855. Restoration to service

If any recipient of a service retirement benefit is restored to service and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceed his average final compensation at retirement, increased or decreased by the same percentage adjustments as have been received under section 17806, the excess shall be deducted from the service retirement benefit payments during the next calendar year.

1. Prorated deductions. The deductions shall be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board.

2. Payments not deducted. The recipient of the service retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section.

3. Retirement benefits eliminated. If the retirement benefit payments are eliminated by operation of this section:

A. The person shall again become a member of the retirement system and shall begin contributing at the current rate; and

B. When the person again retires, he shall receive benefits computed on his entire creditable service and in accordance with the law in effect at that time.

§17856. Interchangeable benefits for law enforcement officers

Any service retirement benefits earned by a law enforcement officer under this article which are substantially similar or equal are interchangeable.

§17857. Transfer from special plan

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

2. Additional creditable service. A member who has completed the service requirements for retirement under a special plan and a person who retires under a special plan and is later restored to service under section 17855, may transfer to a position not under the special plan and earn service credit for additional creditable service.

3. Reduction of benefits. Upon retirement, the retirement benefit of a person transferring under subsection 2 shall be reduced as follows:

A. The portion of the retirement benefit based upon creditable service earned after being transferred shall be reduced in accordance with section 17852, subsection 3; and

B. If applicable, the portion of the retirement benefit based upon creditable service earned before being transferred shall be reduced in accordance with section 17852, subsection 4, paragraph C or section 17852, subsection 10, paragraph C.

4. Computation of benefit. The computation of the retirement benefit shall be based upon the person's average final compensation, as defined in section 17001, subsection 4.

### ARTICLE 3. DISABILITY RETIREMENT BENEFITS

#### §17901. Definition

As used in this article, unless the context otherwise indicates, "disabled" means mentally or physically incapacitated:

1. Permanent. To the extent that it is impossible to perform the duties of his employment position and the incapacity can be expected to be permanent; and

2. Revealed by examination. So that the incapacity will be revealed by medical examination or tests conducted in accordance with section 17903.

#### §17902. Application

In order to receive a benefit under this article:

1. Written application. The person must apply in writing to the executive director in the format specified by the executive director; and

2. Approval. The written application must be approved by the executive director.

#### §17903. Examination or tests

The examination or tests to determine whether a member is disabled under section 17901 are governed as follows.

1. Agreed upon physician. The examination or tests shall be conducted by a qualified physician mutually agreed upon by the executive director and member claiming to be disabled.

2. Agreed upon place. The examination or tests shall be conducted at a place mutually agreed upon by the executive director and member claiming to be disabled.



3. Costs. The costs incurred under subsections 1 and 2 shall be paid by the retirement system.

§17904. Qualification for benefit

1. Qualification. Except as provided in subsection 2, a member qualifies for a disability retirement benefit if he becomes disabled:

A. While in service; and

B. Before reaching the normal retirement age.

2. Exception. A member with fewer than 5 years of continuous creditable service immediately preceding his application for a disability retirement benefit is not eligible for that benefit if the disability is the result of a physical or mental condition which existed before the member's latest membership in the retirement system, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty.

§17905. Computation of benefit

When a member qualified under section 17904 retires, the member shall receive a disability retirement benefit equal to 66 2/3% of his average final compensation.

§17906. Reduction in amount of benefit

1. Compensation in excess of \$10,000. If, in any year, the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds \$10,000:

A. The excess shall be deducted from the disability or service retirement benefits during the next calendar year, the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; and

B. The beneficiary shall reimburse the retirement system for any excess payments not deducted under paragraph A.

2. Disability payments under other laws. The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article shall be reduced by any amount received by the beneficiary for the same disability under either or both of the following:

(1) The worker's compensation or similar law, except amounts which may be paid or payable under Title 39, sections 56 or 56-A; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that act at the date of disability retirement.

B. The reduction in the disability retirement benefit shall be the amount necessary to make the total of the disability retirement benefit, not including adjustments under section 17806, plus the offset amounts of worker's compensation and social security benefits, as limited under paragraph A, equal to 80% of average final compensation.

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit which is the actuarial equivalent of the member's accumulated contributions at the time of his retirement.

D. Lump-sum settlements of benefits that would reduce the disability retirement benefit under this subsection shall be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to vocational rehabilitation, attorneys' fees, physicians, nurses, hospital, medical, surgical or related fees or charges or any amount paid or payable under Title 39, section 56 or 56-A.

(2) These prorated lump-sum settlements shall reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection.

E. Any dispute about amounts paid or payable under worker's compensation, or about the amount of

the lump-sum settlement and its proration shall be determined on petition, by a single member of the Workers' Compensation Commission, in accordance with Title 39. These determinations may be appealed under Title 39, section 103-B.

3. Restoration to service. If any recipient of a disability retirement benefit is restored to service and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceeds his average final compensation at retirement, increased or decreased by the same percentage adjustments as have been received under section 17806, the excess shall be deducted from the disability retirement benefit payments during the next calendar year.

A. The deductions shall be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board.

B. The recipient of the disability retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section.

C. If the retirement benefit payments are eliminated by operation of this subsection:

(1) The person shall again become a member of the retirement system and shall begin contributing at the current rate; and

(2) When the person again retires, he shall receive benefits computed on his entire creditable service and in accordance with the law in effect at that time.

§17907. Payment of benefit

1. Beginning. Payment of disability retirement benefits shall begin on the date of termination of active service of the member, but not more than 6 months before the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, unless it is shown that:

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and

B. The application was made as soon as was reasonably possible.

2. Cessation. Payment of disability retirement benefits shall continue so long as a person is disabled, except that:

A. The disability retirement benefit ceases and a service retirement benefit begins:

(1) On the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23; or

(2) When the service retirement benefit of a beneficiary would equal or exceed the amount of his disability retirement benefit, if that occurs before the date in subparagraph (1);

B. After the disability has continued for 5 years, the disability of the beneficiary must render him unable to engage in any substantially gainful activity for which the beneficiary is qualified by training, education or experience.

(1) The executive director may require, once each year, a recipient of a disability retirement benefit to undergo medical examinations or tests, conducted in accordance with section 17903, to determine the disability of the beneficiary.

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), his disability retirement benefit shall be discontinued until he withdraws the refusal.

(3) If the beneficiary's refusal under subparagraph (2) continues for one year, all his rights to any further benefits under this article shall cease.

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of his disability retirement benefit shall cease; and

C. The person's average final compensation at retirement shall include the same percentage adjustments, if any, that would apply to the amount

of retirement benefit of the beneficiary under section 17806.

§17908. Statement of health

1. Statement required. Any person who becomes a member of the retirement system on or after July 1, 1977, shall submit a statement of his health to the executive director on forms prescribed by the executive director.

2. Additional information. If the executive director determines that additional information is necessary to determine the extent of any preexisting disability of the member, the executive director may require that a medical examination or tests be submitted as evidence of the member's health.

A. The examination or tests shall be conducted at a place mutually agreed upon by the member and the executive director.

B. The costs incurred shall be paid by the retirement system.

3. Limitation on use. The statement of health or the examination or test results may be used only to determine eligibility for a disability retirement benefit under section 17904, subsection 2.

4. Sanction. Any member who is required to submit a statement of health under this section and who does not submit the statement before applying for disability retirement benefits is not eligible to receive those benefits unless he establishes to the satisfaction of the executive director that he meets the qualifications of section 17904, subsection 2.

§17909. Statement of compensation

1. Requirement. The executive director shall require each beneficiary of a disability retirement benefit to submit, each calendar year, a statement of his compensation received from engaging in any gainful occupation during that year.

2. Failure to submit statement. Failure to submit the statement under subsection 1, shall result in the following:

A. If the beneficiary fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request

for the statement, the beneficiary's disability retirement benefit shall be discontinued until the statement is submitted; or

B. If the beneficiary fails to submit the statement required under subsection 1, within one year of receipt of the executive director's request for the statement, all the beneficiary's rights to further benefits shall cease.

#### §17910. Voluntary return to service

1. Right to reinstatement. If the beneficiary of a disability retirement benefit decides that he is no longer incapacitated and is able to perform the duties of his employment position, the employer for whom he last worked prior to becoming disabled shall reinstate the person to the first available position for which the beneficiary is qualified and is consistent with the beneficiary's prior work experience. If a collective bargaining agreement applies to such a position, the employer may offer only a position which the beneficiary could claim by virtue of the seniority accumulated at the time of the disability.

2. Dispute over mental or physical capacity. In the event there is a dispute between the beneficiary and the former employer over the beneficiary's mental or physical capacity to perform a specific job, at the option of the beneficiary that dispute shall be resolved by the majority decision of 3 physicians, one appointed and reimbursed by the beneficiary, one appointed and reimbursed by the employer and one appointed by the executive director and reimbursed by the Maine State Retirement System.

3. Termination or reduction in benefits. At the option of the former beneficiary who has returned to an employment position, the disability retirement benefit may be terminated as of the end of the first month he is reinstated to a position or may be subject to section 17906, subsection 3.

4. Reinstatement of benefits. If, during the first 5 years of reinstatement, the former beneficiary again becomes disabled as a result of the medical condition for which the initial disability retirement allowance was granted and terminates employment, the Maine State Retirement System shall resume paying the disability retirement benefit payable prior to the reinstatement with all applicable cost-of-living adjustments. The Maine State Retirement System may require examinations or tests to determine whether a

member's medical condition is the same as that for which disability retirement was initially granted.

This provision shall apply only to state employees and teachers.

#### ARTICLE 4. ORDINARY DEATH BENEFITS

##### §17951. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Designated beneficiary. "Designated beneficiary" means the beneficiary designated under section 17952.

2. Qualifying member. "Qualifying member" means a member in service or a former member who is receiving a disability retirement benefit.

##### §17952. Designated beneficiary

A qualifying member may designate a beneficiary to receive benefits upon the qualifying member's death by filing a written designation of beneficiary with the executive director. The last designation of any beneficiary revokes all previous designations.

##### §17953. Death before eligibility for service retirement

If a qualifying member dies at any time before completing the age and service requirements for service retirement, the payment of ordinary death benefits is governed as follows.

1. Refund of contributions. The amount of the qualifying member's accumulated contributions shall be paid:

A. To his designated beneficiary, if any;

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives alive at the qualifying member's death:

(1) Surviving spouse;

(2) Child or children, regardless of age, sharing equally among themselves; or

(3) The older parent; or

C. To his estate.

2. Survivor benefits. Survivor benefits are governed as follows.

A. Instead of accepting the payment provided in subsection 1, the first listed of the following relatives of the qualifying member living at the death of the qualifying member may elect the benefits described in subsections 3 to 5:

(1) The surviving spouse, the dependent child or dependent children, the parent or parents, if any of these are designated beneficiaries; or

(2) If no beneficiary is designated, the surviving spouse, the dependent child or dependent children, or the parent or parents.

B. If the surviving spouse elects a benefit under this paragraph, the dependent child or dependent children are entitled to receive the benefit under subsection 4; or

C. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under section 17852, subsection 4, paragraph A; under section 17852, subsection 5, paragraph A; under section 17852, subsection 6, paragraph A; or under article 5 instead of benefits under this section.

(1) In order to elect these survivor benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions.

(2) If no election is made under this paragraph, benefits payable under this section shall be in lieu of any benefits payable under section 17852, subsection 4, paragraph A; under section 17852, subsection 5; under section 17852, subsection 6; or under article 5.

3. Amount of survivor benefit payment to surviving spouse. If the surviving spouse of the qualifying member elects a benefit under subsection 2, paragraph A, only one of the following options may be paid at one time.



A. A surviving spouse of the qualifying member shall be paid \$150 per month beginning the first month after the death occurs and continuing until the date of the surviving spouse's death, if:

(1) The deceased qualifying member had 10 years of creditable service at the time of his death; or

(2) The surviving spouse is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment.

B. A surviving spouse of the qualifying member who has the care of the dependent child or dependent children of the deceased qualifying member and who is not eligible to receive a benefit under paragraph A shall be paid \$150 per month, beginning the first month after the death of the qualifying member and continuing during the surviving spouse's lifetime for as long as the dependent child or the dependent children are in the surviving spouse's care.

C. A surviving spouse of the qualifying member who is not eligible to receive a benefit under paragraph A or B shall be paid \$150 per month, beginning the first month after the spouse reaches 60 years of age and continuing until the date of his death.

4. Amount of survivor benefit to dependent children. If the dependent child or dependent children of the deceased qualifying member elect a benefit under subsection 2, paragraph A, the payment of benefits shall be governed as follows.

A. The amount of the benefit shall be determined as follows.

(1) One dependent child shall be paid \$150 per month.

(2) Two dependent children shall be paid \$225 per month which shall be divided equally between them.

(3) Three or more dependent children shall be paid \$300 per month which shall be divided equally among them.

B. The benefits shall begin the first month after the death of the qualifying member and shall be payable to each dependent child, in accordance with Title 18-A, article V, so long as he meets the definition of "dependent child" in section 17001, subsection 12.

C. When any dependent child becomes ineligible to receive benefits under this subsection, the other dependent children, if any, shall continue to receive benefits in accordance with this subsection.

5. Amount of survivor benefit to parents. If the parent of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits shall be governed as follows.

A. The amount of the benefit shall be determined as follows.

(1) A parent who is alive at the time of the death of the qualifying member shall be paid \$150 per month if he is at least 60 years of age or, if not, when he reaches that age.

(2) If both parents are eligible for benefits under this article, and the older parent elects benefits under this subsection, the older parent shall be paid \$150 per month and the younger parent shall be paid \$105 per month if he is at least 60 years of age or, if not, when he reaches that age.

(3) Upon the death of either parent, the surviving parent shall receive \$150 per month.

B. The payment of benefits to any parent shall begin the first month after the death of the qualifying member and shall continue until the death of the parent.

C. Benefits are payable under this subsection only if no other benefits have been paid under subsection 3 or 4.

6. Transfer of funds. If benefits are paid under subsections 3 to 5, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund shall be transferred to

the Survivors' Benefit Fund and the amount of the qualifying member's accumulated contributions in the Retirement Allowance Fund shall be transferred to the Survivors' Benefit Fund.

7. Death of beneficiary before payment. If any person becomes entitled to the payment of benefits under this article and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, the person is considered to have predeceased the qualifying member.

8. Change of choice of payment option. Any beneficiary under this article may change his choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

9. Defeat of survivor's option. A qualifying member may specify that the refund of his accumulated contributions be paid to a designated beneficiary or to the qualifying member's estate in lieu of any payment to survivors under subsections 3 to 5 by filing an affidavit expressing that intent with the executive director.

10. Cost-of-living adjustment. If a retirement benefit adjustment is made for retired state employees and teachers, the same percentage increase shall be applied to the payments made under subsections 3 to 5. The adjustment to payments made under subsections 3 to 5 shall become effective on the same day as the adjustment for state employees and teachers.

§17954. Death after eligibility for retirement

If a qualifying member dies at any time after completing the conditions for service retirement, but before any service retirement becomes effective, the payment of ordinary death benefits is governed as follows.

1. Payment of benefit. Unless an optional payment method under subsection 2 is selected, the ordinary death benefit shall be paid as follows.

A. A benefit equal to the reduced retirement benefit determined in accordance with section 17804, subsection 3, on the assumption that service retirement of the qualifying member had taken place on the date of his death, shall be paid for the lifetime of the first listed of the

following persons alive at the death of the qualifying member:

- (1) The designated beneficiary;
- (2) Surviving spouse;
- (3) Mother; or
- (4) Father.

B. If no one qualifies under paragraph A, the accumulated contributions of the qualifying member shall be paid to his estate.

2. Optional payments. Optional payments are governed as follows.

A. If the designated beneficiary is a surviving spouse, dependent child or parent of the qualifying member, the designated beneficiary may elect to receive the survivor benefits provided under section 17953 in lieu of the benefits in subsection 1, paragraph A.

B. If the monthly ordinary death benefit under subsection 1, paragraph A, is less than \$10, a first listed person under subsection 1, paragraph A may, before the beginning of the retirement benefit payments, elect to receive, in lieu of those payments, a lump sum which is the actuarial equivalent, at the date of death of the qualifying member, of the benefit payable under subsection 1, paragraph A.

C. A first listed person under subsection 1, paragraph A, other than a designated beneficiary, may, before the beginning of the benefit payment under subsection 1, paragraph A, elect to receive, in lieu of those payments, a lump sum equal to the accumulated contributions of the qualifying member.

D. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under section 17852, subsection 4, paragraph A; under section 17852, subsection 5; under section 17852, subsection 6; or under article 5 instead of benefits under this section.

- (1) In order to elect these benefits, both the qualifying member and the beneficiary

must comply with each requirement of those provisions.

(2) If no election is made under this paragraph, benefits payable under this section shall be in lieu of any benefits payable under section 17852, subsection 4, paragraph A; under section 17852, subsection 5; under section 17852, subsection 6 or under article 5.

§17955. Transfer of funds

If the designated beneficiary, in accordance with section 17953, subsection 2, paragraph C, or section 17954, subsection 2, paragraph A, receives the benefits under section 17953, subsections 3 to 5, the amount of reserve actuarially determined for the retirement benefit under section 17953, subsection 2, paragraph C, or section 17954, subsection 2, paragraph A, minus the amount provided by the member's contributions, shall be transferred from the Retirement Allowance Fund to the Survivors' Benefit Fund.

ARTICLE 5. ACCIDENTAL DEATH BENEFITS

§18001. Definitions

As used in this article, unless the context otherwise indicates, "qualifying member" means a member who dies as a result of an injury arising out of and in the course of employment as an employee, or a former member receiving a disability retirement benefit who dies as a result of an injury arising out of and in the course of employment as an employee.

§18002. Qualification for benefit

The beneficiary of a qualifying member shall receive a benefit in accordance with section 18003.

§18003. Computation of benefit

1. Surviving spouse; no dependent children. If the qualifying member is survived by a spouse and no dependent child, the surviving spouse shall be paid 2/3 of the average final compensation of the qualifying member.

2. Surviving spouse having care of dependent children. If the qualifying member is survived by a spouse who has the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall be paid an annual sum equal to

the average final compensation of the qualifying member.

3. Surviving spouse not having care of dependent children. If the qualifying member is survived by a spouse who does not have the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall share with the dependent child or dependent children an annual sum equal to the average final compensation of the qualifying member, the benefit to be divided equally among the surviving spouse and the dependent child or dependent children.

4. No surviving spouse. If no spouse survives the qualifying member, the dependent child or dependent children shall be paid an annual sum equal to the average final compensation of the qualifying member.

§18004. Method of payment

All benefits paid under this article shall be paid in equal monthly installments beginning the first month after the death of the qualifying member.

§18005. Adjustment of benefits

1. Beneficiaries becoming ineligible. When a person sharing benefits under section 18003 ceases to be eligible to receive benefits, the subsequent benefits of the remaining beneficiaries shall be recalculated as if the remaining beneficiaries had been the only beneficiaries to survive the qualifying member.

2. Workers' compensation or similar law. The amount payable under this article shall be reduced by any amount received by the surviving spouse and dependent child or dependent children under Title 39, the Workers' Compensation Act, or a similar law.

A. Lump-sum settlements of benefits that would reduce the accidental death benefits under this subsection shall be prorated on a monthly basis in an equitable manner prescribed by the board.

B. The prorated lump-sum settlement amounts shall reduce the accidental death benefits payable monthly under this article.

§18006. Termination of benefits

The benefits under this article shall be paid to:

1. Surviving spouse. The surviving spouse until he dies; and

2. Dependent children. The dependent child or dependent children until they die or until they no longer meet the definition of "dependent child" under section 17001, subsection 12.

§18007. Benefits in lieu of article 4

The benefits provided under this article shall be in lieu of any benefits otherwise payable under section 17852, subsections 4 to 6 or article IV.

SUBCHAPTER VI

GROUP LIFE INSURANCE

§18051. Authorization

The board, and only the board, may purchase for the retirement system, from one or more life insurance companies, a policy or policies of life insurance, as defined by Title 24-A, section 702.

1. Procedure. Proposals for the purchase of insurance may be solicited from one or more insurance companies on a competitive basis or an existing policy or policies may be renegotiated.

2. Licensed company. Any policy or policies purchased shall be purchased from a company or companies licensed under the laws of this State.

§18052. Nature of policy

1. Limitation. All provisions of a policy or policies purchased under section 18051 shall be subject to the limitations of Title 24-A, sections 2601 to 2628.

2. No reduction of benefits. No provisions of a policy or policies purchased under section 18051 may reduce the benefits granted under this subchapter.

§18053. Rules

The board may promulgate and publish, in accordance with chapter 375, subchapter II, whatever rules are necessary and proper to give effect to the intent, purposes and provisions of this subchapter.

§18054. Administration

1. Expenses. All expenses of a group life insurance program shall be reimbursed from premium rate adjustments, dividends or interest earnings on reserves.

2. Report. A report of the activities of the group life insurance program shall be published annually.

§18055. Participation

1. Availability. Except as provided in subsection 2, insurance purchased under section 18051 shall be made available to the following persons:

A. Elective and appointive officers and employees of the State eligible for membership in the retirement system;

B. Teachers eligible for membership in the retirement system;

C. Justices of the Supreme Judicial Court and the Superior Court and Judges of the District Court and the Administrative Court; and

D. Workers' compensation commissioners.

2. Exception. The board may, by rule, provide standards for inclusion or exclusion of employees on the basis of nature and type of employment or conditions. No employee or group of employees may be excluded solely on the basis of the hazardous nature of employment.

§18056. Coverage

1. Basic insurance. Life insurance and accidental death and dismemberment insurance, to be known as "basic insurance," shall be available to all eligible participants.

A. The amount of life insurance to be paid upon death shall be equal to the participant's annual earnable compensation rounded up to the next \$1000.

(1) A participant insured under a basic insurance policy shall be automatically covered for any change in the maximum due to a change in annual earnable compensation.



(2) The date of change in coverage under subparagraph (1) shall coincide with the effective date of the change in annual earnable compensation.

B. The accidental death and dismemberment insurance shall provide payments as follows.

(1) Losses and amounts payable shall be determined according to the following table.

<u>LOSS</u>	<u>AMOUNT PAYABLE</u>
<u>Loss of life by accident</u>	<u>An additional amount equal to that provided under subsection 1, paragraph A</u>
<u>Loss of one hand or foot or sight of one eye</u>	<u>One-half the amount provided under subsection 1, paragraph A</u>
<u>Loss of 2 or more limbs or loss of both eyes or loss of one limb and loss of sight of one eye</u>	<u>The amount provided under subsection 1, paragraph A</u>

(2) For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid may not exceed the amount provided under subsection 1, paragraph A.

2. Supplemental insurance. Additional insurance coverage of equal amounts to those described in subsection 1, to be known as "supplemental insurance," shall be available to each participant purchasing insurance under subsection 1.

3. Dependent insurance. Each participant may elect to insure the life of a dependent not insured in the group covered under subsections 1 and 2.

A. A participant may elect either Plan A or Plan B, but not both.

	<u>Plan A</u>	<u>Plan B</u>
<u>Spouse</u>	<u>\$5,000</u>	<u>\$10,000</u>
<u>Full-time unmarried students to age 22</u>	<u>\$5,000</u>	<u>\$5,000</u>

<u>Children, 6 months to age 19</u>	<u>\$5,000</u>	<u>\$5,000</u>
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<u>Children, 0 to 6 months</u>	<u>\$1,000</u>	<u>\$2,500</u>
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B. Insurance purchased under this subsection is subject to the limitations of Title 24-A, section 2611-A.

C. The number of dependents may not effect the premium rate for insurance purchased under this subsection.

#### §18057. Payments on death

Any amount of group life insurance and group accidental death insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim, in the following order of precedence.

1. Designated beneficiary. First, to the beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the employing office before the employee's death.

2. Widow or widower. Second, if no beneficiary qualifies under subsection 1, to the widow or widower of the employee.

3. Children. Third, if no one qualifies under subsection 1 or 2, to the child or children of the employee and descendants of deceased children by representation.

4. Parents. Fourth, if no one qualifies under subsection 1, 2 or 3, to the surviving parent or parents of the employee.

5. Executor or conservator. Fifth, if no one qualifies under subsection 1, 2, 3 or 4, to the duly appointed executor or conservator or the estate of the employee.

6. Next of kin. Sixth, if no one qualifies under subsection 1, 2, 3, 4 or 5, to other next of kin of the employee entitled under the laws of domicile of that employee at the time of his death.

#### §18058. Insurance automatic

1. Employees automatically insured. All employees eligible for basic insurance under this subchapter shall be automatically insured for the amounts

applicable under this subchapter, beginning on the date they first become eligible.

2. Employees not wanting to be insured. Any employee not wanting to be insured under this subchapter shall, on the appropriate form, give written notice to his employing officer and to the retirement system that he does not want to be insured.

A. If the notice is received before the employee has become automatically insured, he shall not be insured.

B. If the notice is received after the employee has become automatically insured, his insurance shall cease effective at the end of the pay period during which the notice is received by the employing office.

C. Any person who does not want to be insured may subsequently apply for insurance, but must produce evidence of insurability at his own expense and in accordance with the requirements of the insurance underwriter.

#### §18059. Payment of premiums

Payment of premiums for group life insurance shall be on the basis determined by the board to be actuarially sufficient to pay anticipated claims.

#### §18060. Review of insurance program

Each year, upon receipt of the annual report submitted by the underwriter, the board shall review all phases of the group life insurance program and shall, within 90 days of receipt of the annual report, determine the reserves necessary to pay anticipated claims and the method of distribution of any accumulations above those reserves.

#### §18061. Termination of coverage

1. Separation from service. The insurance on any employee shall terminate upon his separation from service, except as extended by:

A. Provisions contained in the policy for waiver of premiums upon total and permanent disability; and

B. Provisions for temporary extension of coverage and conversion to an individual policy of life insurance.

2. Retirement. If, on the date the insurance would otherwise terminate, the employee retires, in accordance with this Part, the employee's basic life insurance only shall be continued without cost to him and in the amounts provided in this subsection.

A. On retirement for reasons other than disability, the average amount of basic insurance in force for the last 3 years prior to retirement shall be continued in force at no cost to the participant, if he has participated in the group life insurance program for a minimum of 10 years continuously and immediately before retirement.

(1) Except as provided in paragraph B, the average amount shall be reduced at the rate of 15% per year to a minimum of 40% of the average amount or \$2,500, whichever is greater.

(2) In determining benefits under this subchapter, the reductions shall become effective at 12:01 a.m. of the day following the first year anniversary of the date of retirement and each succeeding retirement anniversary thereafter until the minimum has been reached.

B. The reduction set out in paragraph A, subparagraph (1) does not apply to any Justice of the Supreme Judicial Court or Superior Court, to any Judge of the District Court or Administrative Court, to any workers' compensation commissioner nor to any retired justice or judge who was insured and who was living on September 14, 1979.

(1) The average amount of insurance referred to in this subsection for any justice or judge shall be continued in force at no cost to the justice or judge until he reaches 70 years of age.

(2) When a justice or judge reaches 70 years of age, the amount of insurance in force shall become 25% of the average amount of insurance.

C. On retirement for disability, the amount of basic insurance in force at the time of retirement shall be continued in force until normal retirement age, after which the amount shall be reduced, as provided in paragraphs A and B, at no cost to the recipient.

CHAPTER 425

PARTICIPATING LOCAL DISTRICTS

SUBCHAPTER I

GENERAL PROVISIONS

§18201. Local district participation

A local district may contract for the participation of its employees in the retirement system.

1. Local districts that are not municipalities. For a local district that is not a municipality, as that term is defined in Title 1, section 72, subsection 13, the executive body of the district must approve participation and must file with the board a duly certified copy of the resolution approving the participation and the extent of the benefits which are to apply and setting the date of establishment as provided under subsection 4.

2. Local districts that are municipalities. For a local district that is a municipality, as that term is defined in Title 1, section 72, subsection 13, the legislative body of the municipality must approve participation and must file with the board a record of the vote of the legislative body, certified by the clerk of the municipality, approving the participation and the extent of the benefits which are to apply and setting the date of establishment as provided under subsection 4.

3. Exempt employees. The local district shall designate in its approval any class of employees, otherwise provided for by local pension provisions, who are exempt from this Part.

4. Date of establishment. The date when the participation of the employees of a participating local district begins shall be set by the district. This date, which shall be no later than 6 months after the date of approval, shall be considered as the date of establishment for a participating local district under section 17101, subsection 3.

§18202. Adoption of amendments to laws

1. Adoption optional. A participating local district may adopt any or all of the amendments to this Part by filing with the board a duly certified copy of the vote of the body which would be entitled to approve participation under section 18201, setting

forth the amendments to this Part which are to be adopted by that district.

A. A participating local district may elect to retain any or all of the provisions of the retirement law that the district adopted at the time of the original contract and including any changes adopted or selected by the district after that time.

B. The participating local district may request a valuation to determine the cost of any amendments. The cost of the valuation shall be assessed to and paid by the participating local district.

2. Effectiveness of amendments. Any amendments to this Part enacted by the Legislature, which could grant benefits to employees of participating local districts, shall be effective only if the district elects to adopt the benefits and agrees to pay into the retirement system required costs as developed by the actuary.

#### §18203. Withdrawal of district from participation

1. Procedure. Withdrawal from participation is accomplished by filing with the board a duly certified copy of the vote of the body which would be entitled to approve participation under section 18201.

2. Effective date. The withdrawal shall become effective on the last day of the month following the month in which the certified notice is received by the board.

3. Amendments. Any amendments to this Part which take effect after the effective date of withdrawal of a participating local district may be adopted by that district for the employees who have remained in the retirement system. A participating local district withdrawing under this section may not amend its retirement plan except in accordance with this subsection.

#### §18204. Chief fiscal officer

The chief fiscal officer of a participating local district shall, in order to assist in the administration of the retirement system:

1. Information. Submit to the board whatever information about the employees of the participating local district the board prescribes; and

2. Duties. Cause to be performed whatever duties, with respect to the employees of the participating local district, that the board prescribes.

## SUBCHAPTER II

### MEMBERSHIP

#### §18251. Compulsory and optional membership

1. Compulsory membership. Membership is compulsory for all employees entering the service of a participating local district after the date of establishment for the participating local district, but not for employees exempted under subsection 2; under section 18201, subsection 3; or under section 18252.

2. Optional membership. Optional membership of employees of a participating local district in the retirement system is governed as follows.

A. Membership in the retirement system is optional for employees in the service of a participating local district on the date of establishment for that participating local district.

B. Membership in the retirement system is optional for elected officials or officials appointed for a fixed term.

C. Membership is optional for a chief administrative officer of a participating local district, whether appointed for a fixed term or whether appointed with tenure.

D. A person who elects not to join the retirement system under paragraph B or C at the beginning of his employment may at any time apply for and be admitted to membership.

(1) A person who joins the retirement system under this subsection may not pay contributions on or receive any service credit for the period during which he elected not to be a member of the retirement system.

(2) Membership service credit for persons joining the retirement system under this subsection shall begin as of the effective date of first contributions to the retirement system.

(3) This paragraph applies to any member who begins membership after December 31, 1985.

§18252. Membership in districts with Social Security coverage

An employee who is or would be covered by the United States Social Security Act as a result of his employment by a participating local district may elect to join, not to join or to withdraw from the retirement system under the following conditions.

1. New employees. A new employee may join the retirement system at the beginning of his employment or on the next 2 anniversaries of the beginning of his employment, so long as he is still an employee of the participating local district and the district continues to be a participating local district.

2. Employee who is a participating member. An employee who is a participating member of the retirement system and who wishes to withdraw from the system may, at his discretion, withdraw his contributions in accordance with the procedures in section 18306.

3. Employee who has previously withdrawn. An employee who has previously withdrawn from the retirement system may choose to rejoin the system within 3 years of his withdrawal under the following conditions.

A. He must repay to the retirement system an amount equivalent to the withdrawn contributions plus the amount of interest which would be required of any terminated employee who had become reemployed and had elected to rejoin the retirement system and to repay his contributions.

B. The employer must still be a participating local district allowing new membership in the retirement system.

C. The right to rejoin is limited to one occurrence.

§18253. Employment changes affecting membership

1. Reemployment with new employer. Membership of a member who is reemployed with a new employer is governed as follows.



A. Any member of the retirement system whose service is terminated as a state employee, teacher or participating local district employee and who becomes employed as a state employee, teacher or participating local district employee with a new employer shall, if he has not previously withdrawn his accumulated contributions:

(1) Have his membership transferred to his account with the new employer; and

(2) Be entitled to all benefits which:

(a) Are based on creditable service and earnable compensation with the previous employer and the provisions of this Part in effect with respect to the previous employer at the date of termination of service by the member; and

(b) Do not require additional contributions by the new employer.

B. The new employer may elect to include the creditable service and earnable compensation of the member with the previous employer with the creditable service and earnable compensation with the new employer. If that election is made, the new employer shall make, from time to time, whatever contributions are necessary to provide the benefits under the retirement system for the member as have accrued to the member by reason of his previous employment and as may accrue to the member by reason of his new employment.

C. All funds in the retirement system contributed by the member's former employer on account of his previous employment shall be transferred to the account of the new employer and shall be used to liquidate the liability incurred by reason of the previous employment.

2. Purchase of previously rendered creditable service. A member of a participating local district who has served in any participating local district or in any local district may purchase, by mutual agreement between the participating local district and the person concerned, service credit for the service previously rendered, upon proper certification that:

A. The service had been rendered; and

B. The current employer will assume the liability incurred by the granting of the service credit for the previous time served.

3. Former employee. Notwithstanding anything to the contrary, a participating local district may grant service credit for creditable service to any former employee who is currently a member of the retirement system. The entire actuarial cost of granting the service credit shall be fully funded by the district granting the service credit.

§18254. Effect of district's withdrawal

The withdrawal of a participating local district from the retirement system has the following effects on an employee of the district.

1. Employee who withdraws contributions. An employee of the district who withdraws his contributions may not be a member of the retirement system as an employee of that district.

2. Person employed after district withdrawal. A person who begins employment with the district after the effective date of withdrawal of the district from the retirement system may not be a member of the retirement system as an employee of that district.

3. Former employee receiving or eligible for retirement benefits. For a former employee who is receiving retirement benefits or is eligible for retirement benefits, the district shall continue to be a participating local district and that person shall be subject to this Part.

4. Former employee who has not withdrawn contributions. For a former employee who has not withdrawn his contributions from the retirement system, the district shall continue to be a participating local district and that person shall be subject to this Part.

§18255. Disbanded or dissolved local district

If, for any reason, any participating local district ceases to be an employing unit eligible for inclusion in the retirement system, the membership of its employees shall cease except to the extent of any benefits that may be provided by the funds that have been established under the retirement system for that district.

§18256. Denial of membership rights

The board may, in its discretion, deny the right to become a member to any class of employees who are serving on a temporary basis or whose compensation is set on any basis other than a per annum basis.

§18257. Cessation of membership

A member ceases to be a member of the retirement system if the member:

1. Withdrawal. Withdraws his contributions;
2. Beneficiary. Becomes a beneficiary as a result of the member's own retirement; or
3. Death. Dies.

§18258. Service in the armed forces

1. Membership continued. The membership of the following employees is considered to have continued during the period of the employee's service in the Armed Forces of the United States:

A. Any employee entering a class of service in the Armed Forces of the United States approved by resolution of the board, if the employee does not withdraw his contributions; and

B. 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, including:

(1) During World War I between April 6, 1917, and March 3, 1921; or

(2) While the United States Selective Service Act of 1948, Public Law 759, 80th Congress, or any of its amendments or extensions is in effect.

2. Other military benefits. Any employee who satisfies the criteria of subsection 1, paragraph B, is entitled to all the benefits of section 555.

SUBCHAPTER III

CONTRIBUTIONS

§18301. Member contribution

Each member shall contribute to the retirement system at a rate of 6.5% of earnable compensation, except as otherwise provided in this Part.

§18302. Employer contribution

1. Computation by actuary. The actuary shall compute employer contributions payable annually by the participating local district on account of employees who become members under subchapter II in the same manner as if they were state employees in accordance with chapter 421, subchapter IV.

2. Expense. The expense of making the initial determination of the contributions under this section shall be assessed against and paid by the participating local district on whose account it is made.

§18303. Certification and payment of contributions

1. Certification. The board shall certify to the chief fiscal officer of the participating local district:

A. The contributions computed under sections 18301 and 18302;

B. A pro rata share of the cost of the administration of the retirement system, based upon the payroll of the employees; and

C. The cost of each annual valuation.

2. Payment and credit. The chief fiscal officer of the participating local district shall make monthly payments to the retirement system in accordance with the board certification under subsection 1. The amounts paid shall be credited to the appropriate funds and accounts of the retirement system.

3. Delinquent payments. Delinquent payments due under this section:

A. May be recovered by action in a court of competent jurisdiction against the participating local district liable for the payments; or

B. May, at the request of the retirement system, be deducted from any other money payable to that participating local district by any department of the State.

§18304. Former members

Any former member who withdrew his contributions after termination of service and who again becomes a member may repay his earlier contributions to the Members' Contribution Fund under the following conditions.

1. Time. The repayment may not be made until at least 2 years after the date of restoration to membership and must be made before the date any retirement benefit becomes effective for the member.

2. Manner of repayment. The repayment may be made to the retirement system by a direct payment or by an increased rate of contribution through payroll deduction.

3. Amount of repayment. The amount of repayment must be equal to the accumulated contributions withdrawn by the person plus interest on the amount of those accumulated contributions, beginning on the date of withdrawal to the date the repayment or repayments are made, at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points.

§18305. Back contributions

Any member who did not become a member on the date of first employment may elect to pay into the Members' Contribution Fund under the following conditions.

1. Time. The payment must be made before the date any retirement benefit becomes effective for the member.

2. Manner of payment. The payment may be made to the retirement system by direct payment or by an increased rate of contribution through payroll deduction.

3. Amount of payment. The amount of payment must be equal to the contributions that the member would have paid had he been a member during the entire period from the date of first employment to the date of becoming a member plus interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest shall be computed beginning the end of the year when those contributions would have been made or beginning July 1, 1957, whichever is later, to the date of payment.

4. Exception. This section does not apply to any member who begins membership after December 31, 1985, and who had, in accordance with section 18251, elected not to become a member when first employed.

§18306. Refund of contributions

If the service of any member has terminated, except by death or by retirement under this Part, or if an employee of a district which withdraws from participation under section 18203 wishes to have his contributions refunded, the member or employee shall be paid the amount of his accumulated contributions, under the following conditions.

1. Application. The member must properly apply for a refund of contributions.

2. Manner of payment. Payment shall be made after termination of service and not less than 22 days nor more than 37 days after receipt of the application and receipt of the last payroll upon which the name of the member appears, whichever occurs later.

3. Interest. No interest may be added to the member's account for any period beyond the 5th anniversary of the date of the member's termination of service if the member has less than 10 years of creditable service.

4. Return to service. An application for refund is void if the member filing the application returns to service before issuance of the payment.

5. Applicability. Only contributions made by a particular member may be refunded to that member under this section.

§18307. Inactive accounts

Any member account in the retirement system which has been inactive for 10 or more years and which has a balance of contributions under \$100 may be transferred by the executive director to the Retirement Allowance Fund.

1. Restoration to service. Any former member who is restored to service may have any contributions and interest transferred under this section restored to that member's credit.

2. Refunds. Any former member who applies for a refund of contributions and interest transferred un-

der this section shall be paid that refund in accordance with section 18306.

§18308. CETA service

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "CETA employee" means an employee enrolled in a program under the United States Comprehensive Employment and Training Act of 1973, as amended.

B. "Employer" means the State or the participating local district with which the CETA employee is placed for training and employment.

C. "Prime sponsor" means the CETA prime sponsor, a unit of government responsible for planning and operating all CETA programs within the geographic jurisdiction encompassed by that unit of government.

2. Eligibility for membership. CETA employees are considered eligible for membership in the retirement system from the date of their enrollment in a CETA program, whether or not they become members.

3. Employer's contributions. Employer's contributions are governed as follows.

A. Notwithstanding this chapter and chapter 421, subchapter IV, neither the State nor a participating local district is required to contribute to the retirement system for CETA employees.

B. If an employee elects, under section 18361, to purchase his CETA time for past creditable service, the employee's CETA prime sponsor shall then pay to the retirement system an amount equal to the employer's contribution, plus regular interest, for the employee's CETA time, using only CETA funds.

4. Employee's contributions. Employee's contributions are governed as follows.

A. Notwithstanding section 18301, a CETA employee is not required to contribute to the retirement system.

B. A CETA employee may contribute during his period of CETA employment or may defer contribu-

tions until his post-CETA employment status is known.

C. If an employee who has not contributed during his CETA employment or who has withdrawn his contributions later elects, under section 18361, to purchase his CETA time for past creditable service, the employee shall pay to the retirement system an amount equal to the employee's contributions, plus interest, as provided under section 18305.

5. Return of contributions. Any CETA employee who contributed to the retirement system during his CETA employment and who does not meet the requirements of section 18361, shall be refunded his employee contributions, plus regular interest, upon request to the retirement system.

#### §18309. Fire fighters

1. Contribution rate. Except as provided in subsection 2, each fire fighter, including the chief of a fire department, shall contribute to the retirement system at a rate of 8% of earnable compensation so long as he is employed as a fire fighter.

2. Exception. A participating local district may elect to reduce the rate of contribution set out in subsection 1 to 6.5% of earnable compensation for all fire fighters who continue employment after attaining eligibility for retirement during the remainder of their employment as fire fighters.

#### §18310. Police officers

1. Contribution rate. Except as provided in subsection 2, each police officer, including the chief of a police department, shall contribute to the retirement system at a rate of 8% of earnable compensation so long as he is employed as a police officer.

2. Exception. A participating local district may elect to reduce the rate of contribution set out in subsection 1 to 6.5% of earnable compensation for all police officers who continue employment after attaining eligibility for retirement during the remainder of their employment as police officers.

#### §18311. Armed forces

1. Service after becoming a member. For employees who qualify to have their membership in the retirement system continued under section 18258, sub-



section 1, because of service in the Armed Forces of the United States, the participating local district shall contribute to the Members' Contribution Fund the same amount that the member would have been required to contribute if the member had been serving the participating local district during the period of service in the armed forces in the same capacity in which the employee was serving at the time he joined the armed forces. Any member whose contributions to the Members' Contribution Fund are paid by the participating local district under this subsection, who withdraws or ceases to be a member of the retirement system, may not withdraw any of the contributions made by the participating local district under this subsection.

2. Service before becoming a member. A member who qualifies under section 18360, subsection 2, shall contribute to the retirement system for the period after service in the armed forces under the following terms and conditions.

A. If the member qualifies under section 18360, subsection 2, paragraph D, contributions shall be calculated at the percentage rate required of active members during the period of time covered by the service in the armed forces applied to the member's earnable compensation during the first year as an employee subsequent to service in the armed forces under the following terms and conditions:

(1) If 2 or more percentage rates were in effect during the period of service in the armed forces, the highest percentage rate shall be used;

(2) The minimum rate shall be 5%; and

(3) Interest at a rate set by the board not to exceed regular interest by 2 or more percentage points shall be paid on the unpaid balance beginning January 1, 1976, or the date of attaining 15 years of creditable service, if later, to the date payment is completed.

B. If the member qualifies under section 18360, subsection 2, paragraph E, contributions shall be calculated at the rate prescribed by section 18301, applied to the member's earnings during the 12 months preceding the month in which he pays or begins payment of the required contributions. Interest at a rate set by the board not to

exceed regular interest by 5 or more percentage points shall be paid on the unpaid balance beginning the first day of the month in which the member begins payment to the date payment is completed.

#### SUBCHAPTER IV

#### CREDITABLE SERVICE

#### §18351. Determination of one year's service credit

The determination of one year's service credit shall be governed as follows.

1. All service in one calendar year. The board may not allow more than one year's service credit for all the service occurring in one calendar year.

2. Absence without pay. The board may not allow service credit for a period of absence without pay of more than a month's duration for a full-time position.

3. Board determination. The board shall determine by appropriate rules how much service in any year qualifies for one year's service credit. Service for the full normal working time in any year shall be equivalent to one year's service credit.

#### §18352. Service credit for prior service

1. Determination. Service credit for prior service may be allowed in accordance with section 18358.

2. Election by district. A participating local district may elect to include for all employees of the district service credit for prior service in excess of 25 years.

3. Verification of prior service. Upon verification of the length of service rendered before the applicable date of establishment of the retirement system for a particular member, the board shall grant service credit for that service.

#### §18353. Service credit for back contributions

1. Entitlement to service credit. Upon completion of payment of back contributions under section 18305, the member is entitled to service credit for the period of time for which the contributions have been made.

2. Retirement benefit effective before completion of payment. If a retirement benefit becomes effective before completion of payment of back contributions under section 18305, the member is entitled to service credit for that portion of the total of that service which the total amount of payment actually made bears to the total contributions owed, including, in each instance, interest determined in accordance with section 18305.

§18354. Out-of-state service

1. Generally. For members who began membership before January 1, 1976, additional service credit shall be allowed for out-of-state service, subject to the following conditions.

A. The member must have creditable service in the State of at least 20 years in the aggregate;

B. The member, before any retirement benefit becomes effective for him, must make contributions into the Members' Contribution Fund for the years of out-of-state service on the same basis as he would have made contributions had the service been in the State, including interest at a rate, to be set by the board, not to exceed regular interest by 5 or more percentage points. Interest shall be computed from the end of the year when those contributions would have been made, if the service had been in the State, to the date of payment; and

C. The member's last 10 years of creditable service before the date of retirement must be in the State and no more than 10 years of service credit may be allowed for out-of-state service.

2. Alternative. If service credit for out-of-state service is not allowed under subsection 1, additional service credit for out-of-state service shall be allowed for any member in the determination of his retirement benefit under this Part if the member, before any retirement benefit becomes effective for himself, pays into the Members' Contribution Fund, by a direct payment or by an increased rate of contribution through payroll deduction, an amount plus regular interest on that amount, which will be the actuarial equivalent, at the effective date of his retirement benefit, of the portion of his retirement benefit based on the additional creditable service.

A. Additional amounts paid under this subsection shall become a part of the member's accumulated contributions.

B. If any retirement benefit becomes effective before the completion of the payment under this subsection, the member is entitled to service credit for that portion of the additional creditable service which the total amount of payments actually made, plus regular interest on those payments to the date the retirement benefit becomes effective, bears to the actuarial equivalent of the total portion of the retirement benefit based on the additional creditable service.

3. Service credit not to be used in another state. Notwithstanding anything to the contrary, any application for a retirement benefit that becomes effective after May 11, 1966, and for which out-of-state service credit is to be granted must be accompanied by a certified statement from the appropriate retirement system that the out-of-state service credit granted has not been or will not be used to obtain benefits in another state.

#### §18355. Disability retirement service credit

A beneficiary shall receive service credit for the purpose of determining benefits under this Part for the period following termination of service for which he receives disability retirement benefits under subchapter V, article 3.

#### §18356. Unused accrued or accumulated sick leave or unused vacation leave

1. Election. A participating local district may elect to provide service credit for unused accrued or accumulated sick leave or unused vacation leave or a combination of both, for which a member is credited on termination of service, but for which the member does not receive payment.

2. Limitation. Leave qualifying for service credit under subsection 1 may not exceed a total of 90 days, except as provided in subsection 3.

3. Exceptions. Leave beyond 90 days may qualify as service credit, up to the maximum number of days of leave, set by personnel rules or by contract, that a person is allowed to accumulate, if the participating local district pays into the retirement system the actuarial equivalent of the benefit.

§18357. Former members

1. Service credit reinstated. Upon repayment of earlier contributions in accordance with section 18304, a former member who again becomes a member is entitled to all service credit that he acquired during previous membership.

2. Retirement benefit effective before completion of repayment. If any retirement benefit becomes effective before completion of the repayment under section 18304, a member is entitled to service credit for that portion of the total of the previous creditable service which the total amount of repayments actually made bears to the total amount payable, if it had been paid on the date of restoration to membership, including interest determined in accordance with section 18304, beginning with the date of payment to the date the retirement benefit becomes effective.

§18358. Prior service; service previous to membership

1. Employee in service when district participation begins. Any employee who is in service on the date when participation of the local district begins and who elects to join the retirement system after that date is entitled to:

A. Service credit for prior service for the periods of previous service certified by the participating local district as creditable prior service rendered to that district or to the State, for which the participating local district makes contributions; and

B. Service credit for all membership service for which contributions are paid into the retirement system by the member.

2. Persons not joining retirement system at beginning of employment. A person who joins the retirement system under section 18251, subsection 2, paragraph D, after December 31, 1985:

A. May not pay contributions on or receive any service credit for the period during which he elected not to be a member of the retirement system; and

B. Begins to accrue membership service credit on the effective date of first contributions to the retirement system.

§18359. Employees covered by the Social Security Act

1. New employee electing not to join. A new employee who elects, under section 18252, subsection 1, not to join the retirement system at the beginning of his employment, may not receive service credit for the period during which he elected not to be a member of the retirement system.

2. Employee who withdraws and rejoins. An employee who withdraws from the retirement system and rejoins within the 3-year period under section 18252, subsection 3, may not receive any service credit for any year or part of a year during which he was withdrawn from the retirement system.

§18360. Service in the armed forces

Service credit for service in the Armed Forces of the United States is governed as follows.

1. Service after becoming a member. A member is entitled to service credit for the period of time during which his membership is continued under section 18258, subsection 1, under the following terms and conditions.

A. No member who is otherwise entitled to service credit for military leave may be deprived of these credits if the member's return to membership service is delayed beyond 90 days after his separation from the service in the Armed Forces of the United States, under conditions other than dishonorable, if the delay is caused by an illness or disability incurred in the service in the armed forces.

B. A member may not receive service credit for military leave beyond the end of the period of first enlistment or induction or beyond 4 years from the date of original call to active duty in the armed forces, whichever is less, unless:

(1) The member's return to active duty in the armed forces or the extension of the period of service beyond 4 years is required by some mandatory provision; and

(2) The member presents proof of the return to or extension of service satisfactory to the board.

2. Service before becoming a member. If a participating local district elects to provide service

credit for service in the Armed Forces of the United States under this subsection, a member who served as a full-time active duty member of the Armed Forces of the United States before becoming a member of the retirement system is entitled to service credit for the period of time he served in the armed forces, under the following terms and conditions.

A. On the date of retirement, the member must have at least 15 years of creditable service.

B. Service credit under this subsection is limited to 4 years.

C. The member must have separated from the armed forces under conditions other than dishonorable.

D. Except as provided in paragraph E, the member must have begun membership before January 1, 1976.

E. A member who served in the armed forces at any time from August 5, 1964 to May 7, 1975, is entitled to service credit under this subsection if he begins membership before January 1, 1988.

F. Except for members qualifying under paragraph E, this subsection:

(1) Applies to all persons, active or retired, but, for those already retired, the effective date of any adjustment shall be not earlier than the date on which the time or credit is certified to the retirement system; and

(2) Does not apply to any member who begins membership on or after January 1, 1976.

G. Contributions required by section 18311 must have been paid.

H. A participating local district may elect, with regard to special plans under section 18453, subsections 2 to 9, that service credits under this subsection apply only to additional retirement benefits under section 18453, subsections 10 and 11, and that the service credits not apply to age or service requirements of retirement. Nothing in this paragraph may be construed to affect in any way the rights of public employees to collectively bargain for terms and conditions of employment.

§18361. CETA service

1. Service credit allowed. Service credit for the period of CETA employment occurring after June 30, 1979, shall be granted to any person who, after June 30, 1979, satisfies the following conditions.

A. The person was a CETA employee;

B. The person, within 90 days of termination of CETA employment, became a non-CETA employee of the employer;

C. The person, within 90 days of becoming a non-CETA employee, signified in writing to the retirement system his intention to purchase time credit under section 18308, subsection 4;

D. The person has not received a return of any contributions made under section 18308, subsection 4 or has deposited his contributions within 18 months of obtaining non-CETA employment with the employer under section 18308, subsection 4; and

E. The employer contribution required by section 18308, subsection 3, has been paid.

2. Retirement benefit effective before completion of payment. If any retirement benefit becomes effective before the completion of the deposit under section 18308, subsection 4, the person is entitled to credit for that portion of his CETA time which the amount of the deposit actually made bears to the total amount which would have been required to purchase the person's entire CETA time.

SUBCHAPTER VBENEFITSARTICLE 1. GENERAL PROVISIONS§18401. Amendment not to cause reduction in benefit

No amendment to this Part may cause any reduction in the amount of benefits which would be due to a member based on creditable service, compensation, employee contributions and the provisions of this Part on the date immediately preceding the effective date of the amendment.



§18402. Eligibility for benefits

Only members of the retirement system or their spouses, surviving spouses, children, dependent children, parents or beneficiaries are eligible to receive benefits from the retirement system.

§18403. Election of methods of payment

1. Definition. As used in this article, unless the context otherwise indicates, the term "qualifying member" means: .

A. A member; or

B. A former member who is receiving a disability retirement benefit.

2. Election. In order to receive a benefit, a qualifying member must elect to have his service retirement benefit payable under any of the methods in section 18404.

3. Time and manner of election. A qualifying member must elect a method of payment before the beginning of payment of a service retirement benefit. This election must be by written notice to the executive director.

4. Change of election. A qualifying member may revoke his election of benefits and may elect another method of payment by giving written notice to the executive director at any time before the first payment of the service retirement benefit.

§18404. Methods of payment

A qualifying member may select payments in one of the following methods.

1. Full benefits. All retirement benefits shall be payable for life in equal monthly installments, including any fraction of a month, up to the date of death with no further payment made. If a participating local district adopts section 18454, the benefits set forth in section 18454 will be considered full benefits for purposes of this section.

2. Option 1. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the excess, if any, of his accumulated contributions at the time of retirement over the portion of

the total retirement benefit payments actually made to the qualifying member while alive, which is the actuarial equivalent amount to the accumulated contributions, paid in a lump sum to the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director or, if no one has been nominated as beneficiary, to his estate. No contributions deducted from the compensation of a teacher before July 1, 1947, or required of a teacher for service credit before July 1, 1947, may be included in the accumulated contributions.

3. Option 2. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued in the same amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

4. Option 3. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have the benefit continued at 1/2 the amount for the life of the beneficiary he has nominated by written designation duly acknowledged and filed with the executive director at the time of retirement, if the beneficiary survives the qualifying member.

5. Option 4. The qualifying member may elect to have a reduced retirement benefit payable to himself while alive and at the qualifying member's death to have some other benefit payable, if:

A. The total value of the benefit during the qualifying member's life plus the benefit after his death is an actuarial equivalent of the benefit which the qualifying member would receive without optional modifications; and

B. The method used to determine the benefit is approved by the board.

#### §18405. Remarriage after retirement

If the recipient of a reduced service retirement benefit under section 18404, subsection 3, 4 or 5 remarries after the recipient's spouse dies, the following provisions apply.

1. Election of benefit for new spouse. The recipient may elect to have the reduced retirement benefit paid under the same option to the new spouse af-

ter the recipient's death instead of continuing the original reduced retirement benefit to the recipient during his lifetime, under the following conditions.

A. The original spouse must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4 or 5.

B. The recipient must not have reached his 70th birthday.

C. The recipient must be in good health at the date of election.

2. Time and manner of election. The recipient may make the election under subsection 1 at any time after the death of his original spouse by:

A. Sending a written request to the executive director; and

B. Submitting evidence satisfactory to the executive director of the recipient's good health.

3. Amount of benefit. The amount of the benefit payable under the option elected shall be the actuarial equivalent, at the date of the beginning of payment of benefits under this section, of the amount of reduced retirement benefits the qualifying member has been receiving.

#### §18406. Liability for payment of benefits

1. Retirement system. The retirement system's liability for payment of benefits is governed as follows.

A. The retirement system is not liable for the payment of any benefits to employees or retirees of any participating local district for which reserves have not been previously created from funds contributed by the participating local district or its employees for those benefits.

B. The retirement system is liable for payment of survivor benefits to beneficiaries of a participating local district member if the participating local district has elected survivor benefits.

2. Participating local districts. If, when the contributions of a participating local district are computed for any fiscal year in accordance with sections 18302 and 18303, any of the reserve funds of

the participating local district are less than the liabilities of the reserve fund, then the amount of the contributions to be paid shall be increased either:

A. By the amount the liabilities exceed the reserve funds; or

B. At the option of the participating local district, by the total amount of benefits payable during the fiscal year from the reserve funds that have a deficit.

§18407. Cost-of-living adjustment to retirement benefit

Cost-of-living adjustments to the retirement benefits being paid to retired participating local district employees shall be governed as follows.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Covered district" means a participating local district that provides coverage under the United States Social Security Act for its employees.

B. "Noncovered district" means a participating local district that does not provide coverage by the United States Social Security System for its employees.

2. Noncovered districts. Notwithstanding section 18202 and except as provided in this subsection, subsections 3 to 5 apply to all retired employees of noncovered districts and to beneficiaries of those retired employees.

A. A noncovered district which has withdrawn from participation in the retirement system on or before June 30, 1987, under section 18203 is not required to provide cost-of-living adjustments for its retired employees or their beneficiaries.

B. A noncovered district which, on or after September 19, 1985, engages in collective bargaining or has in force a collective bargaining agreement under Title 26, chapter 9-A, with some or all of the district's members is not required by this section to provide cost-of-living adjustments for its retired employees or their beneficiaries. When the district subsequently agrees through the

collective bargaining process to provide the cost-of-living adjustment under this section, the adjustment shall apply to all the district's retired employees or their beneficiaries receiving retirement allowances.

3. Covered districts. A covered district may provide cost-of-living adjustments for its retired employees or their beneficiaries by application to the board of trustees supplying the necessary information. Upon acceptance of such a plan, the district shall supply a certified copy of its action and a statement of agreement of payment and costs.

4. Determination of adjustment. The cost-of-living adjustment shall be determined as follows.

A. Whenever there is a percentage change in the Consumer Price Index from July 1st to June 30th, the board shall automatically make an equal percentage increase or decrease in retirement benefits, beginning in September, up to a maximum annual increase or decrease of 4%.

B. Whenever the annual percentage change in the Consumer Price Index from July 1st to June 30th exceeds 4%, the board shall make whatever adjustments in the retirement benefits are necessary to reflect an annual increase or decrease of 4% and shall report that adjustment and the actual increase or decrease in the Consumer Price Index to the Legislature during the month of February of the following year.

C. Notwithstanding any other provision of this section, the amount of annual retirement benefit otherwise payable under this Part may not be less than the retired member received on the effective date of his retirement or on July 1, 1977, whichever amount is greater.

5. Cost. The board shall determine the costs of the adjustments under this section and shall include those costs in the annual valuation.

6. Eligibility. Cost-of-living adjustments under this section shall be applied to the retirement benefits of all retirees who have been retired for at least 6 months before the date that the adjustment becomes payable. Beneficiaries of deceased retirees shall be eligible for the cost-of-living adjustment at the same time the deceased retiree would have become eligible.

§18408. Payment of benefits when a district disbands or dissolves

If the membership of the employees of a participating local district ceases under section 18255, the funds that have been established under the retirement system for that district shall be used to provide benefits for members or beneficiaries at the date of the cessation of membership.

1. Allocation. The amount of the funds that have been established under the retirement system for the district at the date of the cessation of membership shall be allocated by the board in an equitable manner to provide benefits for the members or beneficiaries:

A. In accordance with this Part as in effect at the date of the cessation; and

B. Based upon years of creditable service, average final compensation and accumulated contributions as of the date of the cessation, in the following order of priority:

(1) For the benefit of members to the extent of the then value of their accumulated contributions in the Members' Contribution Fund;

(2) If any funds remain after allocation under subparagraph (1), then for the benefit of beneficiaries then receiving payment of benefits after cessation of payments to those beneficiaries, in proportion to the then actuarial value of their respective benefits, but not to exceed the amount of those values;

(3) If any funds remain after allocation under subparagraph (2), then for the benefit of members with at least 10 years of creditable service who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions, allocating the funds on the basis of the oldest ages first; and

(4) If any funds remain after allocation under subparagraph (3), then for the benefit of members in service with the district on the date of the cessation with less than 10

years of creditable service, who are not then receiving benefit payments, to the extent of the actuarial value of their retirement allowances not provided by their accumulated contributions, allocating the funds on the basis of the oldest ages first.

2. Manner of payment. The allocation of the funds under subsection 1, as decided by the board, may be carried out through the continuance of the benefit payments or the funds may be distributed in one lump sum to the persons entitled to the benefits under subsection 1.

3. Right to benefits. No member may be deprived of his right to any benefits under this section solely because he later terminates employment with the participating local district before his service retirement date.

§18409. Payment from certain funds

All benefits payable under this chapter shall be paid from the Retirement Allowance Fund, except those payable from the Members' Contribution Fund and the Survivors' Benefit Fund or as specifically provided in this chapter.

§18410. Incorrect records

If any error in any record of the retirement system results in a member or beneficiary receiving more or less from the system than he would have been entitled to receive had the record been correct, payments shall, as far as practicable, be adjusted so that the actuarial equivalent of the benefit to which he was correctly entitled is paid.

§18411. Earnable compensation continued

For purposes of determining benefits under this chapter, the earnable compensation of a member retired with a disability retirement allowance under article 3 is assumed to be continued after his date of termination of service:

1. Rate. At the same rate as received immediately before the date of termination of service; and

2. Percentage adjustments. Subject to the same percentage adjustments, if any, that may apply to the amount of retirement allowance of the beneficiary under section 18407.

ARTICLE 2. SERVICE RETIREMENT BENEFITS§18451. Qualification for benefits

A member's qualification for service retirement benefits is governed by subsection 1, 2 or 3, unless the requirements of section 18543 are satisfied, in which case, one or more of the subsections of section 18453 governs.

1. Member in service. A member who is in service when he reaches 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age;

B. Has been in service for a minimum of one year immediately before retirement or has at least 10 years of creditable service, which may include creditable service as a member of the Maine Legislative Retirement System before becoming a member of the Maine State Retirement System; and

C. Applies to the board in writing, stating the time he desires to retire.

2. Member not in service. A member who is not in service when he reaches 60 years of age qualifies for a service retirement benefit if the member:

A. Retires upon or after reaching 60 years of age;

B. Has at least 10 years of creditable service or 5 full terms as a Legislator, which may include creditable service as a member of the Maine Legislative Retirement System before becoming a member of the Maine State Retirement System; and

C. Applies to the board in writing, stating the time he desires to retire.

3. Member with creditable service of 25 years or more. A member who has completed 25 or more years of creditable service qualifies for a service retirement benefit if he:

A. Retires at any time after completing the 25 years of service, which may include creditable service as a member of the Maine Legislative Retirement System before becoming a member of the Maine State Retirement System; and



B. Applies to the board in writing, stating the time he desires to retire.

§18452. Computation of benefit

1. Member in service. The total amount of the service retirement benefit for members qualified under section 18451, subsection 1, equals:

A.  $1/50$  of the member's average final compensation multiplied by the number of years of his membership service; and

B. If the member has prior service,  $1/50$  of his average final compensation multiplied by the number of years of prior service provided, that the number of years of prior service used in this computation may not exceed 25 years unless the participating local district has made the election provided under section 18352, subsection 2.

2. Member not in service. The amount of the service retirement benefit for members qualified under section 18451, subsection 2, shall be computed in accordance with subsection 1.

3. Member with creditable service of 25 years or more. The amount of the service retirement benefit for members qualified under section 18451, subsection 3, shall be computed in accordance with subsection 1, except that:

A. The amount arrived at under subsection 1 shall be reduced by applying to that amount the percentage that a life annuity due at age 60 bears to the life annuity due at the age of retirement.

B. For the purpose of making the computation under paragraph A, the board-approved tables of annuities in effect at the date of the member's retirement shall be used.

§18453. Special retirement benefits

A participating local district may, by filing with the board a duly certified copy of its action, provide, in lieu of any other retirement benefit in this Part, special retirement benefit plans in this section. If a member retires after becoming qualified to retire under section 18451, his retirement benefit will be computed in accordance with section 18452, if that amount is greater than the amount computed under this section.

1. Employee Special Plan #1. A retirement benefit equal to 1/2 average final compensation for members who have reached 60 years of age and who have at least 30 years of creditable service.

2. Employee Special Plan #2. A retirement benefit to police officers, firefighters, sheriffs and full-time deputy sheriffs or any other participating local district employees who have completed 20 to 25 years of creditable service, the number of years to be selected by the participating local district. The benefits shall be computed as follows:

A. Except as provided in paragraph B, 1/2 of his average final compensation; or

B. If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1977, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1977, shall be determined in accordance with paragraph A.

3. Firefighter Special Plan #1. A retirement benefit equal to 1/2 of his average final compensation to a firefighter, including the chief of a fire department, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55.

4. Firefighter Special Plan #2. A retirement benefit to a firefighter, including the chief of a fire department, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. The benefits shall be computed as follows:

A. Except as provided in paragraph B, 2/3 of his average final compensation; or

B. If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1977, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1977, shall be determined in accordance with paragraph A.

5. Firefighter Special Plan #3. A retirement benefit to a firefighter, including the chief of a fire department, who has completed 20 to 25 years of

creditable service in that capacity, the number of years to be selected by the participating local district and who retires at any age. The benefits shall be computed as follows:

A. Except as provided under paragraph B,  $\frac{2}{3}$  of his average final compensation; or

B. If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1977, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1977, shall be determined in accordance with paragraph A.

6. Police Officer Special Plan #1. A retirement benefit equal to  $\frac{1}{2}$  of his average final compensation to a police officer, including the chief of a police department, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55.

7. Police Officer Special Plan #2. A retirement benefit to a police officer, including the chief of a police department, who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55. The benefits shall be computed as follows:

A. Except as provided under paragraph B,  $\frac{2}{3}$  of his average final compensation; or

B. If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1977, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1977, shall be determined in accordance with paragraph A.

8. Police Officer Special Plan #3. A retirement benefit equal to  $\frac{2}{3}$  of average final compensation to a police officer, including the chief of a police department, who has completed 20 to 25 years of creditable service in that capacity, the number of years to be selected by the participating local district and who retires at any age. The benefits shall be computed as follows:

A. Except as provided under paragraph B,  $\frac{2}{3}$  of his average final compensation; or

B. If his benefit would be greater, the part of his service retirement benefit based upon membership service before July 1, 1977, shall be determined, on a pro rata basis, on his current annual salary on the date of retirement and the part of his service retirement benefit based upon membership service after June 30, 1977, shall be determined in accordance with paragraph A.

9. Sheriff and Deputy Sheriff Special Plan. A retirement benefit equal to 1/2 of his average final compensation to a sheriff or deputy sheriff who has completed at least 25 years of creditable service in that capacity and who retires upon or after reaching age 55.

10. Additional Benefits #1. An additional retirement benefit for all employees qualifying under subsections 1 to 9 of 2% of average final compensation for each year of membership service in the qualifying employment served after completion of the age and service conditions under those subsections.

11. Additional Benefits #2. An additional retirement benefit for any class of employees qualifying under subsections 1 to 9 of 2% of average final compensation for each year of membership service in the qualifying employment served after completion of the age and service conditions under those subsections and after the effective date of the action by the participating local district.

§18454. Spouse option - no reduction

A participating local district may, by filing with the board a duly certified copy of its action, provide, in lieu of any other retirement benefit in this Part, a retirement benefit on the straight life plan in accordance with the following terms and conditions.

1. Payment. The retirement benefit shall be paid to the retiree during his lifetime and, upon the retiree's death, 1/2 of the benefit shall be paid to the retiree's designated beneficiary. The benefit shall continue during the lifetime of the designated beneficiary if that beneficiary is a surviving spouse.

A. If no spouse survives and the retiree's designated beneficiary is a dependent child or children, a retirement benefit of an equal amount shall be paid to the dependent child or children.

B. When more than one dependent child survives, the retirement benefit shall be divided equally among the dependent children.

C. When any dependent child reaches age 18, the retirement benefit shall be divided equally among the remaining dependent child or dependent children until no dependent child remains.

2. Limitation on beneficiary. The beneficiary is limited to a surviving spouse or a dependent child or children.

3. Cost. The cost to the participating local district may be paid into the retirement system on a funded basis or on a pay-as-you-go basis, whichever basis is elected by the body of the participating local district entitled to approve participation under section 18201.

§18455. Law governing benefit determination

1. Termination on or after January 1, 1976. If a member's final termination of service occurred on or after January 1, 1976, the retirement system law in effect on the date of termination shall govern the member's service retirement benefit.

2. Termination before January 1, 1976. If a member's final termination of service occurred before January 1, 1976, the retirement system law in effect on January 1, 1976, shall govern the member's service retirement benefit.

§18456. Minimum benefit

Any member who has 10 or more years of creditable service at retirement is entitled to a minimum service retirement benefit of \$100 a month. Any former participating local district employee who had 10 or more years of creditable service and who is receiving a retirement allowance, including adjustments provided by section 18407, which is less than \$100 a month, shall have his retirement benefit increased to \$100 a month the first day of the month following adoption of this section by the participating local district.

§18457. Restoration to service

If any recipient of a service retirement benefit is restored to service and, if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for

that year exceeds his average final compensation at retirement, increased or decreased by the same percentage adjustments as have been received under section 18407, the excess shall be deducted from the service retirement benefit payments during the next calendar year.

1. Prorated deductions. The deductions shall be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board.

2. Payments not deducted. The recipient of the service retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section.

3. Retirement benefits eliminated. If the retirement benefit payments are eliminated by operation of this section:

A. The person shall again become a member of the retirement system and shall begin contributing at the current rate; and

B. When the person again retires, he shall receive benefits computed on his entire creditable service and in accordance with the law in effect at that time.

#### §18458. Recomputation of benefit

When a participating local district adopts the benefits provided by the Public Laws of 1973, chapter 542, benefits for former employees receiving a retirement benefit shall be recomputed as follows.

1. 1/50 basis. Each person receiving a service retirement benefit is entitled to a recomputation of benefits based upon the change in formula to a 1/50 basis.

A. The amount resulting from the recomputation, not including retirement benefit adjustments granted under section 18407, shall be paid to the retirement benefit recipient effective the first day of the month following the effective date of adoption of these benefits by the participating local district.

B. Adjustments granted under section 18407 may not be changed by a recomputation of benefits under this section.

2. Three-year average basis. Each person who is receiving a service retirement benefit which had been computed on the basis of a 5-year average highest compensation is entitled to a recomputation of benefits based on a 3-year average highest compensation.

A. If the recomputed benefit represents less than a 2% increase on the basic retirement benefit, not including amounts accrued under section 18407, the recomputed benefit will not be paid.

B. If the recomputed benefit represents more than a 2% increase on the basic retirement benefit, the retirement system shall pay the recomputed benefits, effective the first day of the month following the effective date of adoption of these benefits by the participating local district.

§18459. Interchangeable benefits for law enforcement officers

Any service retirement benefits earned by a law enforcement officer under this article which are substantially similar or equal are interchangeable.

§18460. Discontinuation and substitution of benefits

A participating local district electing retirement programs under section 18453, subsections 1 to 9, may, by filing with the board a duly certified copy of its action:

1. Discontinue benefits. Discontinue any benefit under any of those subsections to any person qualifying for the benefit who was hired after the effective date of the district's action; and

2. Substitution of benefits. Substitute for the discontinued benefit any other benefit provided in this Part.

§18461. Collective bargaining rights

Nothing in section 18453, subsections 1 to 9, may be construed to affect in any way the rights of public employees to engage in collective bargaining for terms and conditions of employment.

ARTICLE 3. DISABILITY RETIREMENT BENEFITS

§18501. Definition

As used in this article, unless the context otherwise indicates, "disabled" means mentally or physically incapacitated:

1. Permanent. To the extent that it is impossible to perform the duties of his employment position and the incapacity can be expected to be permanent; and

2. Revealed by examination. Such that the incapacity will be revealed by medical examination or tests conducted in accordance with section 18503.

#### §18502. Application

In order to receive a benefit under this article:

1. Written application. The person must apply in writing to the executive director in the format specified by the executive director; and

2. Approval. The written application must be approved by the executive director.

#### §18503. Examination or tests

The examination or tests to determine whether a member is disabled under section 18501 are governed as follows.

1. Agreed upon physician. The examination or tests shall be conducted by a qualified physician mutually agreed upon by the executive director and member claiming to be disabled.

2. Agreed upon place. The examination or tests shall be conducted at a place mutually agreed upon by the executive director and member claiming to be disabled.

3. Costs. The costs incurred under subsections 1 and 2 shall be paid by the retirement system.

#### §18504. Qualification for benefit

1. Qualification. Except as provided in subsection 2, a member qualifies for a disability retirement benefit if he becomes disabled:

A. While in service; and

B. Before reaching the normal retirement age.



2. Exception. A member with fewer than 5 years of continuous creditable service immediately preceding his application for a disability retirement benefit is not eligible for that benefit if the disability is the result of a physical or mental condition which existed before the member's latest membership in the retirement system, unless the disability is a result of, or has been substantially aggravated by, an injury or accident received in the line of duty.

§18505. Computation of benefit

When a member qualified under section 18504 retires, the member shall receive a disability retirement benefit equal to 66 2/3 of his average final compensation.

§18506. Reduction in amount of benefit

1. Compensation in excess of \$10,000. If, in any year, the compensation received from engaging in any gainful occupation by a beneficiary of a disability retirement benefit exceeds \$10,000:

A. The excess shall be deducted from the disability or service retirement benefits during the next calendar year, the deductions to be prorated on a monthly basis in an equitable manner prescribed by the board over the year or part of the year for which the benefits are received; and

B. The beneficiary shall reimburse the retirement system for any excess payments not deducted under paragraph A.

2. Disability payments under other laws. The reduction of disability retirement benefits because of disability benefits received under other laws is governed as follows.

A. The amount of any disability retirement benefit payable under this article shall be reduced by any amount received by the beneficiary for the same disability under either or both of the following:

(1) The workers' compensation or similar law, except amounts which may be paid or payable under Title 39, section 56 or 56-A; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also

covered under that Act at the date of disability retirement.

B. The reduction in the disability retirement benefit shall be the amount necessary to make the total of the disability retirement benefit, not including adjustments under section 18407, plus the offset amounts of workers' compensation and social security benefits, as limited under paragraph A, equal to 80% of average final compensation.

C. The disability retirement benefit may not be reduced below the amount of the retirement benefit which is the actuarial equivalent of the member's accumulated contributions at the time of his retirement.

D. Lump-sum settlements of benefits that would reduce the disability retirement benefit under this subsection shall be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to vocational rehabilitation, attorneys' fees, physicians, nurses, hospital, medical, surgical or related fees or charges or any amount paid or payable under Title 39, section 56 or 56-A.

(2) These prorated lump-sum settlements shall reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection.

E. Any dispute about amounts paid or payable under workers' compensation or about the amount of the lump-sum settlement and its proration shall be determined, on petition, by a single member of the Workers' Compensation Commission, in accordance with Title 39. These determinations may be appealed under Title 39, section 103-B.

3. Restoration to service. If any recipient of a disability retirement benefit is restored to service, and if the total of the recipient's monthly retirement benefit for any year and the recipient's total earnable compensation for that year exceed his average final compensation at retirement, increased or decreased by the same percentage adjustments as have been received under section 18407, the excess shall

be deducted from the disability retirement benefit payments during the next calendar year.

A. The deductions shall be prorated on a monthly basis over the year or part of the year for which benefits are received in an equitable manner prescribed by the board.

B. The recipient of the disability retirement benefit shall reimburse the retirement system for any excess payments not deducted under this section.

C. If the retirement benefit payments are eliminated by operation of this subsection:

(1) The person shall again become a member of the retirement system and shall begin contributing at the current rate; and

(2) When the person again retires, he shall receive benefits computed on his entire creditable service and in accordance with the law in effect at that time.

§18507. Payment of benefit

1. Beginning. Payment of disability retirement benefits shall begin on the date of termination of active service of the member, but not more than 6 months before the date of receipt by the executive director of the written application, by or on behalf of the member, for disability retirement, unless it is shown that.

A. It was not reasonably possible to file the application for disability retirement benefits within the 6-month period; and

B. The application was made as soon as was reasonably possible.

2. Cessation. Payment of disability retirement benefits shall continue as long as a person is disabled, except that:

A. A disability retirement benefit ceases and a service retirement benefit shall begin:

(1) On the 10th anniversary of the beneficiary's normal retirement age, as defined in section 17001, subsection 23; or

(2) When the service retirement benefit of a beneficiary would equal or exceed the amount of his disability retirement benefit, if that occurs before the date in subparagraph (1);

B. After the disability has continued for 5 years, the disability of the beneficiary must render him unable to engage in any substantially gainful activity for which the beneficiary is qualified by training, education or experience.

(1) The executive director may require, once each year, a recipient of a disability retirement benefit to undergo medical examinations or tests, conducted in accordance with section 18503, to determine the disability of the beneficiary.

(2) If the beneficiary refuses to submit to the examination or tests under subparagraph (1), his disability retirement benefit shall be discontinued until he withdraws the refusal.

(3) If the beneficiary's refusal under subparagraph (2) continues for one year, all his rights to any further benefits under this article shall cease.

(4) If it is determined, on the basis of the examination or tests under subparagraph (1), that the disability of a beneficiary no longer exists, the payment of his disability retirement benefit shall cease; and

C. The person's average final compensation at retirement shall include the same percentage adjustments, if any, that would apply to the amount of retirement benefit of the beneficiary under section 18407.

#### §18508. Statement of health

1. Statement required. Any person who becomes a member of the retirement system on or after July 1, 1977, shall submit a statement of his health to the executive director on forms prescribed by the executive director.

2. Additional information. If the executive director determines that additional information is necessary to determine the extent of any preexisting disability of the member, the executive director may

require that a medical examination or tests be submitted as evidence of the member's health.

A. The examination or tests shall be conducted at a place mutually agreed upon by the member and the executive director.

B. The costs incurred shall be paid by the retirement system.

3. Limitation on use. The statement of health or the examination or test results may be used only to determine eligibility for a disability retirement benefit under section 18504, subsection 2.

4. Sanction. Any member who is required to submit a statement of health under this section and who does not submit the statement before applying for disability retirement benefits is not eligible to receive those benefits unless he establishes to the satisfaction of the executive director that he meets the qualifications of section 18504, subsection 2.

#### §18509. Statement of compensation

1. Requirement. The executive director shall require each beneficiary of a disability retirement benefit to submit, each calendar year, a statement of his compensation received from engaging in any gainful occupation during that year.

2. Failure to submit statement. Failure to submit the statement under subsection 1, shall result in the following.

A. If the beneficiary fails to submit the statement required under subsection 1 within 30 days of receipt of the executive director's request for the statement, the beneficiary's disability retirement benefit shall be discontinued until the statement is submitted.

B. If the beneficiary fails to submit the statement required under subsection 1 within one year of receipt of the executive director's request for the statement, all the beneficiary's rights to any further benefits shall cease.

#### §18510. Optional election

1. Election. Any beneficiary entitled to a disability retirement benefit under section 1122 of the former retirement system law, as in effect immediate-

ly before July 1, 1977, may elect to be governed by this article instead of the law applicable to the disability retirement benefit which he is receiving.

2. Manner of election. The election under subsection 1 must be made by written application to the executive director within 6 months after adoption of this article by the participating local district.

3. Effect of election. If the election under subsection 1 is made, this article shall apply from the date of the beneficiary's original eligibility for disability retirement, but any increases in benefits may only be granted from the date of election.

§18511. Presumption of disability for active firefighters

1. Definition. For purposes of this section, a person is considered to be an active member of a municipal fire department or of a volunteer fire department or volunteer firefighters' association if the person aids in the extinguishment of fires, whether or not the person has administrative duties or other duties as a member of the department or association.

2. Presumption. In participating local districts which have not adopted the disability retirement benefits enacted by Public Law 1975, chapter 622, section 54, and subsequent amendments, it is presumed that a member incurred a disability in the line of duty which occurred while in actual performance of duty at some definite time and place and which was not caused by the willful negligence of the member if:

A. The disability is the result of a cardiovascular injury which occurred, or a cardiovascular or pulmonary disease which developed, within 6 months of having participated in fire fighting or in a training or drill which involved fire fighting;

B. The member was an active member of a municipal fire department or of a volunteer firefighters' association, as defined in Title 30, section 3771, for at least 2 years before the injury or the onset of the disease; and

C. The member has been granted workers' compensation benefits for the cardiovascular injury or disease or the pulmonary disease.

3. Rebuttal. This presumption is subject to rebuttal in accordance with the Maine Rules of Evidence, Rule 301.

#### ARTICLE 4. ORDINARY DEATH BENEFITS

##### §18551. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Designated beneficiary. "Designated beneficiary" means the beneficiary designated under section 18552.

2. Qualifying member. "Qualifying member" means a member in service or a former member who is receiving a disability retirement benefit.

##### §18552. Designated beneficiary

A qualifying member may designate a beneficiary to receive benefits upon the qualifying member's death by filing a written designation of beneficiary with the executive director. The last designation of any beneficiary revokes all previous designations.

##### §18553. Death before eligibility for service retirement

If a qualifying member dies at any time before completing the age and service requirements for service retirement, the payment of ordinary death benefits is governed as follows.

1. Refund of contributions. The amount of the qualifying member's accumulated contributions shall be paid:

A. To his designated beneficiary, if any; or

B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:

(1) Surviving spouse;

(2) Child or children, regardless of age, sharing equally among themselves; and

(3) The older parent; or

C. To his estate.

2. Survivor benefits. Survivor benefits are governed as follows.

A. Instead of accepting the payment provided in subsection 1, the first listed of the following relatives of the qualifying member who are living at the death of the qualifying member may elect the benefits described in subsections 3 to 5:

(1) The surviving spouse, the dependent child or dependent children, the parent or parents, if any of these are designated beneficiaries; or

(2) If no beneficiary is designated, the surviving spouse, the dependent child or dependent children, or the parent or parents;

B. If the surviving spouse elects a benefit under this paragraph, the dependent child or dependent children are entitled to receive the benefit under subsection 4; or

C. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under article 5.

(1) In order to elect these survivor benefits, both the qualifying member and the beneficiary must comply with each requirement of article 5.

(2) If no election is made under this paragraph, benefits payable under this section shall be in lieu of any benefits payable under article 5.

3. Amount of survivor benefit payment to surviving spouse. If the surviving spouse of the qualifying member elects a benefit under subsection 2, paragraph A, only one of the following options may be paid at one time.

A. A surviving spouse of the qualifying member shall be paid \$150 a month beginning the first month after the death occurs and continuing until the date of the surviving spouse's death, if:

(1) The deceased qualifying member had 10 years of creditable service at the time of his death; or



(2) The surviving spouse is certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and is determined by the executive director to be unable to engage in any substantially gainful employment.

B. A surviving spouse of the qualifying member who has the care of the dependent child or dependent children of the deceased qualifying member and who is not eligible to receive a benefit under paragraph A shall be paid \$150 a month, beginning the first month after the death of the qualifying member and continuing during the surviving spouse's lifetime for as long as the dependent child or the dependent children are in the surviving spouse's care.

C. A surviving spouse of the qualifying member who is not eligible to receive a benefit under paragraph A or B shall be paid \$150 a month, beginning the first month after the surviving spouse reaches 60 years of age and continuing until the date of his death.

4. Amount of survivor benefit to dependent children. If the dependent child or dependent children of the deceased qualifying member elect a benefit under subsection 2, paragraph A, the payment of benefits shall be governed as follows.

A. The amount of the benefit shall be determined as follows.

(1) One dependent child shall be paid \$150 a month.

(2) Two dependent children shall be paid \$225 a month which shall be divided equally between them.

(3) Three or more dependent children shall be paid \$300 a month which shall be divided equally among them.

B. The benefits shall begin the first month after the death of the qualifying member and shall be payable to each dependent child, in accordance with Title 18-A, article V, so long as he meets the definition of "dependent child" in section 17001, subsection 12.

C. When any dependent child becomes ineligible to receive benefits under this subsection, the

other dependent children, if any, shall continue to receive benefits in accordance with this subsection.

5. Amount of survivor benefit to parents. If the parent of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits shall be governed as follows.

A. The amount of the benefit shall be determined as follows.

(1) A parent who is alive at the time of the death of the qualifying member shall be paid \$150 a month if he is at least 60 years of age or, if not, when he reaches that age.

(2) If both parents are eligible for benefits under this article and the older parent elects benefits under this subsection, the older parent shall be paid \$150 a month and the younger parent shall be paid \$105 a month if he is at least 60 years of age or, if not, when he reaches that age.

(3) Upon the death of either parent, the surviving parent shall receive \$150 a month.

B. The payment of benefits to any parent shall begin the first month after the death of the qualifying member and shall continue until the death of the parent.

C. Benefits are payable under this subsection only if no other benefits have been paid under subsection 3 or 4.

6. Transfer of funds. If benefits are paid under subsections 3 to 5, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund shall be transferred to the Survivors' Benefit Fund and the amount of former member's accumulated contributions in the Retirement Allowance Fund shall be transferred to the Survivors' Benefit Fund.

7. Death of beneficiary before payment. If any person becomes entitled to the payment of benefits under this article and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, the person shall be considered to have predeceased the qualifying member.

8. Change of choice of payment option. Any beneficiary under this article may change his choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

9. Defeat of survivor's option. A qualifying member may specify that the refund of his accumulated contributions be paid to a designated beneficiary or to the qualifying member's estate in lieu of any payment to survivors under subsections 3 to 5 by filing an affidavit expressing that intent with the executive director.

10. Cost-of-living adjustment. A participating local district may provide an adjustment to survivor benefits in accordance with section 18407 by:

A. Applying to the board; and

B. Supplying to the board a certified copy of its action together with a statement of agreement to pay costs of the adjustments.

§18554. Death after eligibility for retirement

If a qualifying member dies at any time after completing the conditions for service retirement, but before any service retirement becomes effective, the payment of ordinary death benefits is governed as follows.

1. Payment of benefit. Unless an optional payment method under subsection 2 is selected, the ordinary death benefit shall be paid as follows.

A. A benefit equal to the reduced retirement benefit determined in accordance with section 18404, subsection 3, on the assumption that service retirement of the qualifying member had taken place on the date of his death, shall be paid for the lifetime of the first listed of the following persons who is alive at the death of the qualifying member:

(1) The designated beneficiary;

(2) Surviving spouse;

(3) Mother; or

(4) Father.

B. If no one qualifies under paragraph A, the accumulated contributions of the qualifying member shall be paid to his estate.

2. Optional payments. Optional payments are governed as follows.

A. If the designated beneficiary is a surviving spouse, dependent child or parent of the qualifying member, the designated beneficiary may elect to receive the survivor benefits provided under section 18553, in lieu of the benefits in subsection 1, paragraph A.

B. If the monthly ordinary death benefit under subsection 1, paragraph A is less than \$10, a first listed person under subsection 1, paragraph A, may, before the beginning of the retirement benefit payments, elect to receive, in lieu of those payments, a lump sum which is the actuarial equivalent, at the date of death of the qualifying member, of the benefit payable under subsection 1, paragraph A.

C. A first listed person under subsection 1, paragraph A, other than a designated beneficiary, may, before the beginning of the benefit payment under subsection 1, paragraph A, elect to receive, in lieu of those payments, a lump sum equal to the accumulated contributions of the qualifying member.

D. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under article 5 instead of benefits under this section.

(1) In order to elect these benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions.

(2) If no election is made under this paragraph, benefits payable under this section shall be in lieu of any benefits payable under article 5.

#### §18555. Applicability

Notwithstanding section 18202, the provisions of former section 1124 of the state retirement system law, in effect on June 30, 1982, except former section 1124, subsection 4, are applicable to each par-

ticipating local district which has adopted section 18553 or former section 1124, as part of its plan, whether or not the district has adopted amendments enacted after its adoption of section 18553 or former section 1124, as part of its plan.

§18556. Special survivor benefit option

1. Manner of adoption. A participating local district may adopt the special survivor benefit option under this section in addition to the benefits provided under sections 18553 and 18554 in the manner set forth in section 18202.

2. Limitation of beneficiaries. A participating local district which adopts this section may limit the designated beneficiaries eligible for these benefits and may limit the undesignated beneficiaries eligible for benefits if no beneficiary is designated. Any later change in the designation of the beneficiaries must be made in accordance with section 18202.

3. Effective date. A participating local district which elects to adopt this section shall designate the effective date of this section for purposes of determining which persons currently receiving benefits under section 18553, subsections 3 to 5, may elect benefits under this section, if eligible. Benefit recomputation and payment for any person electing benefits under this section shall become effective on the first day of the month following notification to the board of the adoption of this section.

4. Retroactive adoption of this section. In a participating local district which has adopted this section retroactively, a person currently receiving benefits under section 18553, subsections 3 to 5 may, if eligible, elect to receive benefits under this section in lieu of benefits under section 18553, subsections 3 to 5 under the following conditions.

A. The person must apply in writing to the executive director.

B. The application must be received by the executive director within 6 months after the notification to the board by the participating local district adopting this section.

5. Election of benefit. In lieu of accepting the benefits under section 18553, the first listed of the beneficiaries under paragraph A or B, whichever applies, may, if living at the death of the qualifying

member, elect the benefits in this section, if the deceased qualifying member had 20 years of creditable service at the time of his death.

A. If a beneficiary was designated under section 18552, the following designated beneficiaries of the deceased are eligible to make the election under this subsection:

- (1) Surviving spouse;
- (2) Dependent child or dependent children;  
or
- (3) Parent or parents.

B. If no beneficiary was designated under section 18552, the following relatives of the deceased, if any, alive at the qualifying member's death are eligible to make the election under this subsection:

- (1) Surviving spouse;
- (2) Dependent child or dependent children;  
or
- (3) Parent or parents.

6. Payment of benefits. Benefits under this section shall be paid as follows.

A. The benefit shall be computed in accordance with section 18452, subsection 1, and shall be reduced in accordance with section 18452, subsection 3, as if the service retirement of the qualifying member had taken place on the date of his death.

B. The beneficiary shall be paid, beginning the first month after the death of the qualifying member and continuing until the date of the beneficiary's death.

C. Benefits under this section shall be paid in accordance with section 18404, subsection 3.

#### §18557. Survivor's benefit contribution

1. Information from fiscal officer. Before a participating local district elects survivor benefits under section 18553 or 18556, the chief fiscal officer of the participating local district shall submit

to the board that information prescribed by the board to assist the board in determining the cost of the initial survivor benefit contribution of the participating local district.

A. The determination of the initial survivor benefit contribution shall be made on the actuarial basis adopted by the board.

B. The expense of determining the cost of the initial survivor benefit contribution shall be assessed against and paid by the participating local district on whose account it is made.

2. Annual determination. Annually, the board shall actuarially determine the survivor benefit contribution of a participating local district which has elected survivor benefits, on the basis of information it may prescribe.

3. Increase. The board may increase, by not more than 25% in any year, the survivor benefit contribution of a participating local district, if, in the opinion of the board, the benefits paid on behalf of beneficiaries of members of the participating local district is greater than the benefits expected to be paid on the actuarial basis.

4. Certification. The board shall certify to the chief fiscal officer of the participating local district:

A. The survivor benefit contribution for the participating local district, computed in accordance with this section; plus

B. A pro rata share of the cost of the administration of the survivor benefit program, based on the gross payroll of employees and the expense of determining the annual survivor benefit contribution.

5. Charge. The amounts certified under subsection 4 shall be a charge against the participating local district.

6. Member contribution. A participating local district may require each of its members to make a contribution, not to exceed 1/4 of 1% of earnable compensation, to the Survivors' Benefit Fund, as long as he is employed.

7. Payment. All survivor benefit contributions by participating local districts which have elected

survivor benefits and all contributions by members of those districts shall be paid into the Survivors' Benefit Fund.

§18558. Transfer of funds

If the designated beneficiary elects, in accordance with section 18553, subsection 2, paragraph C, or section 18554, subsection 2, paragraph A, to receive the benefits under section 18553, subsections 3 to 5, the amount of reserve actuarially determined for the retirement benefit under section 18553, subsection 2, paragraph C, or section 18554, subsection 2, paragraph A, minus the amount provided by the members' contributions, shall be transferred from the Retirement Allowance Fund to the Survivors' Benefit Fund.

ARTICLE 5. ACCIDENTAL DEATH BENEFITS

§18601. Definitions

As used in this article, unless the context otherwise indicates, "qualifying member" means a member who dies as a result of an injury arising out of and in the course of employment as an employee or a former member receiving a disability retirement benefit who dies as a result of an injury arising out of and in the course of employment as an employee.

§18602. Qualification for benefit

The beneficiary of a qualifying member shall receive a benefit in accordance with section 18603.

§18603. Computation of benefit

1. Surviving spouse; no dependent children. If the qualifying member is survived by a spouse and no dependent child, the surviving spouse shall be paid 2/3 of the average final compensation of the qualifying member.

2. Surviving spouse having care of dependent children. If the qualifying member is survived by a spouse who has the care of the dependent child or dependent children of the qualifying member, the surviving spouse shall be paid an annual sum equal to the average final compensation of the qualifying member.

3. Surviving spouse not having care of dependent children. If the qualifying member is survived by a spouse who does not have the care of the dependent



child or dependent children of the qualifying member, the surviving spouse shall share with the dependent child or dependent children an annual sum equal to the average final compensation of the qualifying member, the benefit to be divided equally among the surviving spouse and the dependent child or dependent children.

4. No surviving spouse. If no spouse survives the qualifying member, the dependent child or dependent children shall be paid an annual sum equal to the average final compensation of the qualifying member.

§18604. Method of payment

All benefits paid under this article shall be paid in equal monthly installments beginning the first month after the death of the qualifying member.

§18605. Adjustment of benefits

1. Cessation of eligibility. When a person sharing benefits under section 18603 ceases to be eligible to receive benefits, the subsequent benefits of the remaining beneficiaries shall be recalculated as if the remaining beneficiaries had been the only beneficiaries to survive the qualifying member.

2. Workers' compensation or similar law. The amount payable under this article shall be reduced by any amount received by the surviving spouse and dependent child or dependent children under Title 39, the Workers' Compensation Act, or a similar law.

A. Lump-sum settlements of benefits that would reduce the accidental death benefits under this subsection shall be prorated on a monthly basis in an equitable manner prescribed by the board.

B. The prorated lump-sum settlement amounts shall reduce the accidental death benefits payable monthly under this article.

§18606. Termination of benefits

The benefits under this article shall be paid to:

1. Surviving spouse. The surviving spouse until he dies; and

2. Dependent children. The dependent child or dependent children until they die or until they no

longer meet the definition of "dependent child" under section 17001, subsection 12.

§18607. Benefits in lieu of article 4

The benefits provided under this article shall be in lieu of any benefits otherwise payable under article 4.

SUBCHAPTER VI

GROUP LIFE INSURANCE

§18651. Authorization

The board, and only the board, may purchase for the retirement system, from one or more life insurance companies, a policy or policies of life insurance, as defined by Title 24-A, section 702.

1. Procedure. Proposals for the purchase of insurance may be solicited from one or more insurance companies on a competitive basis or an existing policy or policies may be renegotiated.

2. Licensed company. Any policy or policies purchased shall be purchased from a company or companies licensed under the laws of this State.

§18652. Nature of policy

1. Limitation. All provisions of a policy or policies purchased under section 18651 shall be subject to the limitations of Title 24-A, chapter 31.

2. No reduction of benefits. No provisions of a policy or policies purchased under section 18651 may reduce the benefits granted under this subchapter.

§18653. Rules

The board may promulgate and publish, in accordance with chapter 375, subchapter II, whatever rules are necessary and proper to give effect to the intent, purposes and provisions of this subchapter.

§18654. Administration

1. Expenses. All expenses of a group life insurance program shall be reimbursed from premium rate adjustments, dividends or interest earnings on reserves.

2. Report. A report of the activities of the group life insurance program shall be published annually.

§18655. Participation

1. Local district. A local district may participate in the group life insurance program by filing with the board a duly certified copy of the resolution or record of the vote of the body which would be entitled to approve participation in the retirement system under section 18201. The resolution or record of the vote shall state which portions of the life insurance program established under this chapter shall apply to the participating local district.

2. Effective date. The effective date of participation of a local district may not be more than 6 months following receipt of the certified copy of the vote or resolution.

3. Employee. The board may, by rule, provide standards for inclusion or exclusion of employees on the basis of nature and type of employment or conditions. No employee or group of employees may be excluded solely on the basis of the hazardous nature of employment.

§18656. Coverage

1. Basic insurance. Life insurance and accidental death and dismemberment insurance, to be known as "basic insurance," is available to all eligible participants.

A. The amount of life insurance to be paid upon death is to be equal to the participant's annual earnable compensation rounded up to the next \$1,000.

(1) A participant insured under a basic insurance policy shall be automatically covered for any change in the maximum due to a change in annual earnable compensation.

(2) The date of change in coverage under subparagraph (1) shall coincide with the effective date of the change in annual earnable compensation.

B. The accidental death and dismemberment insurance shall provide payments as follows.

(1) Losses and amounts payable shall be determined according to the following table.

<u>LOSS</u>	<u>AMOUNT PAYABLE</u>
<u>Loss of life by accident</u>	<u>An additional amount equal to that provided under subsection 1, paragraph A</u>
<u>Loss of one hand or foot or sight of one eye</u>	<u>One-half the amount provided under subsection 1, paragraph A</u>
<u>Loss of 2 or more limbs or loss of sight of both eyes or loss of one limb and loss of sight of one eye</u>	<u>The amount provided under subsection 1, paragraph A</u>

(2) For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid may not exceed the amount provided under subsection 1, paragraph A.

2. Supplemental insurance. Additional insurance coverage of equal amounts to those described in subsection 1, to be known as "supplemental insurance," shall be available to each participant purchasing insurance under subsection 1.

3. Dependent insurance. Each participant may elect to insure the life of a dependent not insured in the group covered under subsections 1 and 2.

A. A participant may elect either Plan A or Plan B, but not both.

	<u>Plan A</u>	<u>Plan B</u>
<u>Spouse</u>	<u>\$5,000</u>	<u>\$10,000</u>
<u>Full-time unmarried students to age 22</u>	<u>\$5,000</u>	<u>\$5,000</u>
<u>Children, 6 months to age 19</u>	<u>\$5,000</u>	<u>\$5,000</u>
<u>Children, 0 to 6 months</u>	<u>\$1,000</u>	<u>\$2,500</u>

B. Insurance purchased under this subsection is subject to the limitations of Title 24-A, section 2611-A.

C. The number of dependents may not effect 'the premium rate' for insurance purchased under this subsection.

§18657. Payments on death

Any amount of group life insurance and group accidental death insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim, in the following order of precedence.

1. Designated beneficiary. First, to the beneficiary or beneficiaries whom the employee designated in writing, if the written designation was received in the employing office before the employee's death.

2. Widow or widower. Second, if there is no beneficiary qualifying under subsection 1, to the widow or widower of the employee.

3. Children. Third, if no one qualifies under subsection 1 or 2, to the child or children of the employee and descendants of deceased children by representation.

4. Parents. Fourth, if no one qualifies under subsection 1, 2 or 3, to the surviving parent or parents of the employee.

5. Executor or conservator. Fifth, if no one qualifies under subsection 1, 2, 3 or 4, to the duly appointed executor or conservator or the estate of the employee.

6. Next of kin. Sixth, if no one qualifies under subsection 1, 2, 3, 4 or 5, to other next of kin of the employee entitled under the laws of domicile of that employee at the time of his death.

§18658. Insurance automatic

1. Employees automatically insured. All employees eligible for basic insurance under this subchapter shall be automatically insured for the amounts applicable under this subchapter, beginning on the date they first become eligible.

2. Employees not wanting to be insured. Any employee not wanting to be insured under this subchapter shall, on the appropriate form, give written notice to his employing officer and to the retirement system that he does not want to be insured.

A. If the notice is received before the employee has become automatically insured, he shall not be insured.

B. If the notice is received after the employee has become automatically insured, his insurance shall cease, effective at the end of the pay period during which the notice is received by the employing office.

C. Any person who does not want to be insured may subsequently apply for insurance, but shall be required to produce evidence of insurability at his own expense and in accordance with the requirements of the insurance underwriter.

§18659. Payment of premiums

Payment of premiums for group life insurance shall be on the basis determined by the board to be actuarially sufficient to pay anticipated claims.

§18660. Review of insurance program

Each year, upon receipt of the annual report submitted by the underwriter, the board shall review all phases of the group life insurance program and shall, within 90 days of receipt of the annual report, determine the reserves necessary to pay anticipated claims and the method of distribution of any accumulations above those reserves.

§18661. Termination of coverage

1. Separation from service. The insurance on any employee shall terminate upon his separation from service, except as extended by:

A. Provisions contained in the policy for waiver of premiums upon total and permanent disability; and

B. Provisions for temporary extension of coverage and conversion to an individual policy of life insurance.

2. Retirement. If, on the date the insurance would otherwise terminate, the employee retires, in accordance with this Part, the employee's basic life insurance only shall be continued without cost to him and in the amounts provided in this subsection.

A. On retirement for reasons other than disability, the average amount of basic insurance in

force for the last 3 years prior to retirement shall be continued in force at no cost to the participant, if he has participated in the group life insurance program for a minimum of 10 years continuously and immediately before retirement.

(1) Except as provided in paragraph B, the average amount shall be reduced at the rate of 15% a year to a minimum of 40% of the average amount or \$2,500, whichever is greater.

(2) In determining benefits under this subchapter, the reductions shall become effective at 12:01 a.m. of the day following the first year anniversary of the date of retirement and each succeeding retirement anniversary thereafter until the minimum has been reached.

B. On retirement for disability, the amount of basic insurance in force at the time of retirement shall be continued in force until normal retirement age, after which the amount shall be reduced, as provided in paragraph A at no cost to the recipient.

#### §18662. Participation of local districts

The employees of any local district may participate in the group life insurance program to the full extent of any and all benefits provided for in this subchapter subject to section 18655, subsections 1 and 2. The participation of these employees is governed as follows.

1. Minimum number. Initially, the minimum number of persons required for a covered group is 75% of the eligible employees of a local district.

2. Supplemental and dependent insurance. Employees of a local district who are covered under the basic group life insurance plan are also eligible for the supplemental insurance under section 18656, subsection 2, and dependent insurance under section 18656, subsection 3, if the local district elects to adopt those benefit plans.

3. Information required. The chief fiscal officer of a local district shall submit to the board whatever information about the employees of the district is prescribed by the board as necessary to administer this subchapter.

4. Pro rata cost. The chief fiscal officer of a local district shall pay whatever pro rata cost of premiums and expenses is levied by the board.

§18663. Withdrawal of local districts

Any local district participating in the group life insurance program under this subchapter may withdraw from further participation by filing with the board a duly certified copy of the results of the vote of the body which would be entitled to approve participation in the retirement system under section 18201. This certification shall include certification to the board that equivalent coverage has been provided.

1. Continuous coverage. In order to provide continuous coverage, withdrawal of a local district under this section is not effective until equivalent coverage is made available to current active and retired employees of the district.

2. Effective date. Withdrawal is effective on the last day of the last full pay period before the end of the month following the month in which the certification under subsection 1 is received by the board.

PART 21

SOCIAL SECURITY FOR STATE AND MUNICIPAL EMPLOYEES

CHAPTER 431

SOCIAL SECURITY FOR STATE AND MUNICIPAL EMPLOYEES

§19001. Declaration of policy

In order to extend to employees of the political subdivisions of the State of Maine, and to the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., sec. 42), whether members of existing retirement or pension systems or not, the benefits of social security, provided under the Federal Social Security Act enacted by the Congress of the United States, it is declared to be the policy of the Legislature, subject to the limitations of this chapter, that such steps be taken as to provide such protection to such employees on as broad a basis as is permitted under the Social Security Act. This chapter shall apply to employees of Maine Maritime Academy who are members of an existing retire-



ment or pension system. This chapter shall not apply to teachers who are under a state or local government pension or retirement plan, except teachers at the Maine Maritime Academy. For the purposes of bringing sheriffs and their deputies under social security, these law enforcement officers shall be deemed policemen.

§19002. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Civilian employees of the Maine National Guard. The phrase "the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42)" means the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42) and paid from funds allotted to the Maine National Guard by the Department of Defense and such employees shall, for the purpose of this chapter, be deemed to be employees of the State of Maine; provided that this chapter shall apply to the Maine National Guard, with respect to such employees, as if it constituted a "political subdivision" within the meaning of this section.

2. Employee. The term "employee" includes an officer of a political subdivision of the State.

3. Employment. The term "employment" means any service performed by an employee in the employ of any political subdivision of the State, for such employer, except service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act; or service which under the Social Security Act may not be included in an agreement between the State and the Federal Security Administrator entered into under this chapter. Employment in positions covered by any retirement system supported wholly or in part by the State or any of its subdivisions may not be included in such agreement.

4. Federal Insurance Contributions Act. The term "Federal Insurance Contributions Act" means the Federal Internal Revenue Code, chapter 9, subchapter A, as such Code has been and may from time to time be amended.

5. Federal Security Administrator. The term "Federal Security Administrator" includes any individual to whom the Federal Security Administrator has delegated any of his functions under the Social Security Act with respect to coverage under such Act of employees of states and their political subdivisions.

6. Political subdivision. The term "political subdivision" includes an instrumentality of the State of Maine, of one or more of its political subdivisions, the University of Maine, academies, water, sewer and school districts and associations of municipalities, or an instrumentality of the State and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the State or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision.

7. Social Security Act. The term "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620 officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as such Act has been and may from time to time be amended.

8. State agency. The term "state agency" means the Maine State Retirement System.

9. Wages. The term "wages" means all remuneration for employment as defined, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that Act.

#### §19003. Federal-state agreement

The state agency, with the approval of the Governor, is authorized to enter on behalf of the State into an agreement with the Federal Security Administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the Federal Old Age and Survivors Insurance System to employees of any political subdivision of the State and to the civilian employees of the Maine National Guard who are employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U.S.C., Sec. 42), with respect to services specified in such agreement which constitute "employment" as

defined in section 19002. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration and other appropriate provisions as the state agency and Federal Security Administrator shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:

1. Benefits. Benefits shall be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of the Social Security Act, Title II;

2. Contributions. The State shall pay to the Secretary of the Treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in section 19002, equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act, sections 1400 and 1410, if the services covered by the agreement constituted employment within the meaning of that Act;

3. Effective date. Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein, but in no event may it be effective with respect to any such services performed prior to the first day of January, 1951; and

4. Services covered. All services, which constitute employment as defined in section 19002, are performed in the employ of a political subdivision of the State, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under section 19005, shall be covered by the agreement.

§19004. Coverage of employees of political subdivisions

1. Plan. Each political subdivision of the State following the approval of the town meeting of a town or the governing body of a city, district or other instrumentality is authorized to submit for approval by the state agency a plan for extending the benefits of the Social Security Act, Title II, in conformity with applicable provisions of such Act, to employees of such political subdivision. Each such plan and any amendment thereof shall be approved by the state

agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless:

A. It is in conformity with the requirements of the Social Security Act, and with the agreement entered into under section 19003;

B. It specifies the source or sources from which the funds necessary to make the payments required by subsection 3, paragraph A, and by subsection 4 are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

C. It provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;

D. It provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the Federal Security Administrator may from time to time find necessary to assure the correctness and verification of such reports; and

E. It authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the Social Security Act.

2. Hearing. The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection 1 and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

### 3. Contributions.

A. Each political subdivision as to which a plan has been approved under this section shall pay into the Contribution Fund, with respect to

wages, as defined in section 19002, at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rate specified in the applicable agreement entered into by the state agency under section 19003.

B. Each political subdivision required to make payments under paragraph A is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this chapter, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, as defined in section 19002, not exceeding the amount of tax which would be imposed by section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the Contribution Fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph A. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

4. Delinquent payments. Delinquent payments due under subsection 3, paragraph A, may, with interest at the rate of 6% per year, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the State.

#### §19005. Contribution fund

The "Contribution Fund", as heretofore established, shall consist of and there shall be deposited in such fund: All contributions, interest and penalties collected under section 19004; all moneys appropriated thereto under this chapter; any property or securities and earnings thereof acquired through the use of moneys belonging to the fund; interest earned upon any moneys in the fund; and all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided. Subject to this chapter, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether

or not specifically designated, which are necessary to the administration thereof and are consistent with this chapter.

The Contribution Fund shall be established and held separate and apart from any other funds or moneys of the State and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such fund shall be made for, and solely for, payment of amounts required to be paid to the Secretary of the Treasury pursuant to an agreement entered into under section 19003; and refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.

From the Contribution Fund the custodian of the fund shall pay to the Secretary of the Treasury such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 19003 and the Social Security Act.

The Treasurer of State shall be ex officio treasurer and custodian of the Contribution Fund and shall administer such fund in accordance with this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with this section and with such regulations as the state agency may prescribe pursuant thereto.

There are authorized to be appropriated biannually to the Contribution Fund, in addition to the contributions collected and paid into the Contribution Fund under section 19004, to be available for the purposes of the 2nd and 3rd paragraphs of this section until expended, such additional sums as are found to be necessary in order to make the payments to the Secretary of the Treasury which the State is obligated to make pursuant to an agreement entered into under section 19003.

The state agency shall submit to each regular session of the Legislature, at least 90 days in advance of the beginning of each session, an estimate of the amounts authorized to be appropriated to the Contribution Fund by the preceding paragraph of this section for the next appropriation period.

#### §19006. Rules and regulations

The state agency shall make and publish such rules and regulations, not inconsistent with this chapter, as it finds necessary or appropriate to the

efficient administration of the functions with which it is charged under this chapter.

§19007. Cost of administration

Any cost of administering this chapter may be prorated among the political subdivisions joining this plan. A revolving fund is established from which costs of administration shall be paid and to which shall be credited the amounts billed to and received from the political subdivisions in the plan.

**Sec. 6. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1986-87

MAINE STATE RETIREMENT SYSTEM

All Other \$14,016

**Sec. 7. Effective date.** This Act shall take effect on January 1, 1987.

Effective January 1, 1987.

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## CHAPTER 802

S.P. 945 - L.D. 2371

AN ACT Concerning Radioactive Waste Activity  
and Disapproving High-level  
Radioactive Waste Sites in the State.

Be it enacted by the People of the State of Maine as follows:

**Sec. 1.** 1 MRSA §1, as amended by PL 1979, c. 512, §1, is further amended to read:

§1. Extend of sovereignty and jurisdiction

The jurisdiction and sovereignty of the State extend to all places within its boundaries, subject only to such rights of concurrent jurisdiction as are granted by the State over places ceded by the State to the United States. This section shall not limit or restrict the jurisdiction of the State over any person or with respect to any subject, within or without