

MAINE STATE LEGISLATURE

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EIGHTH REVISION

THE
REVISED STATUTES

OF THE
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ceases between the United States and every foreign government except in cases where a male or female veteran of World War II was receiving treatment in a hospital at the time of his or her discharge, and except in cases where such veteran has not been returned from and discharged from foreign service, in which event his or her status shall be governed by section 2 of chapter 300 of the public laws of 1943.

See 1943, c. 300, § 2, re duration of provisions of § 23.

CHAPTER 60.

STATE EMPLOYEES' RETIREMENT SYSTEM.

Sec. 1. Definitions. 1941, c. 328. The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

I. "Retirement system" shall mean the employees' retirement system of the state, as defined in section 2.

II. "Board of trustees" shall mean the board provided for in section 11 to administer the retirement system.

III. "Department" shall mean any department, commission, institution, or agency of the state government.

IV. "Employee" shall mean any regular classified or unclassified officer or employee in a department, including teachers in the state normal schools and Madawaska training school, and superintendents of schools in service as such prior to July 1, 1924, but shall not include any member of the state legislature or the council, nor shall it include any member of the state police who is now entitled to retirement benefits under the provisions of sections 21 and 22 of chapter 13, or any judge of the superior court or supreme judicial court who is now or may be later entitled to retirement benefits under the provisions of section 5 of chapter 91 and section 3 of chapter 94. In all cases of doubt the board of trustees shall determine whether any person is an employee as defined in this chapter.

See § 5, sub-§ V; c. 13, §§ 21, 23, re state police retirement.

V. "Member" shall mean any employee included in the membership of the retirement system, as provided in section 3.

VI. "Beneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance, or other benefit as provided by this chapter.

VII. "Service" shall mean service as an employee for which compensation is paid by the state.

VIII. "Membership service" shall mean service rendered while a member of the retirement system for which credit is allowable under the provisions of section 4.

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

X. "Creditable service" shall mean membership service plus prior service.

XI. "Earnable compensation" shall mean the full rate of compensation that would be payable to an employee if he worked the full normal working time for his position. In cases where compensation includes maintenance, the board of trustees shall fix the value of that part of the compensation not paid in money.

XII. "Average final compensation" shall mean the average annual earnable compensation of a member during his last 10 years of creditable service, or if has less than 10 years of creditable service, it shall mean his average annual earnable compensation during his total creditable service.

XIII. "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a member and credited to his individual account in the annuity savings fund, together with regular interest thereon, as provided in paragraph I of subsection III of section 13.

XIV. "Annuity" shall mean annual payments for life derived from the accumulated contributions of a member.

XV. "Annuity reserve" shall mean the present value of all payments to be made on account of an annuity, or benefit in lieu thereof, computed at regular interest upon the basis of such mortality and service tables as the board of trustees shall adopt.

XVI. "Pension" shall mean annual payments for life derived from contributions by the state.

XVII. "Pension reserve" shall mean the present value of all payments to be made on account of a pension, or benefit in lieu thereof, computed at regular interest upon the basis of such mortality and service tables as the board of trustees shall adopt.

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

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

XX. "Regular interest" shall mean interest at such rate as may be set from time to time by the board of trustees in accordance with the provisions of subsection II of section 12.

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

XXII. The masculine pronoun, wherever used, shall include the feminine pronoun.

Sec. 2. Name and date of establishment. 1941, c. 328. A retirement system, as heretofore established, shall be placed under the management of the board of trustees for the purpose of providing retirement allowances and other benefits under the provisions of this chapter for employees of this state. The retirement system so created shall be established as of July 1, 1942, which date shall be known as the "date of establishment" for the purposes of this chapter. It shall have the powers and privileges of a corporation, and shall be known as the "Employees' Retirement System of the State of Maine", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.

Sec. 3. Membership. 1941, c. 328. 1943, c. 26; c. 50, § 2; c. 296; c. 329, § 1. The membership of the retirement system shall consist of the following:

I. (1943, c. 26) Any person who shall become an employee after the date of establishment shall become a member of the retirement system as a condition of employment and shall not be entitled to receive any pension or retirement allowance, under any other pension or retirement provisions supported wholly or

in part by the state, anything to the contrary notwithstanding, except that any service rendered as a teacher, superintendent, or supervisor prior to becoming a member of this system shall be considered as creditable service under the provisions of this chapter, and any funds which have accumulated to his benefit under any teachers' pension plan shall be transferred to this system; provided, however, that membership shall be optional in the case of any class of elected officials or any class of officials appointed for fixed terms.

II. Any person who is an employee on the date of establishment shall become a member as of that date, unless within 30 days thereafter he shall file with the board of trustees on a form prescribed by the board a notice of his election not to be included in the membership of the system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system. Any employee who elects not to become a member by filing such a waiver may thereafter apply for and be admitted to membership, but no such employee shall receive prior service credit unless he becomes a member within the first year after the date of establishment.

A. (1943, c. 296) Any person who was on the pay-roll as of December 31, 1941, and who was transferred to the federal employment service and any person employed by the employment service after December 31, 1941, and who subsequently may become a state employee when the so-called employment service shall be returned to the state of Maine as an operating unit, shall be considered a member of the retirement system; provided, however, that the employee designated in this paragraph shall have made payments to the state retirement fund in the same amounts and during the same periods as the other state employees have made to said fund, but the employee in the service of the federal employment service, so called, may be permitted to make up any amounts due to the retirement fund if this is done within 1 year of the date when the so-called employment service is returned to the state of Maine, but any employee of the federal employment service who has not paid the contributions shall not be entitled to the benefits of this chapter. Any employee to whom the provisions of this chapter are applicable shall be entitled to all the rights and benefits which he would have accrued had he been employed by this state.

III. (1943, c. 329, § 1) Any person, who becomes a member prior to July 1, 1943 and who has total prior service credit of at least 13 years, shall be entitled to a total retirement allowance of $\frac{1}{2}$ average final compensation after attaining at least age 65, provided he is still a member and has creditable service of at least 25 years on date of retirement; provided further, that any such member upon attaining age 70, and having creditable service of at least 20 years, shall be entitled to a total retirement allowance of $\frac{1}{2}$ average final compensation. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of $\frac{1}{2}$ of his average final compensation, he shall be entitled to the higher retirement allowance.

Any person, who becomes a member prior to July 1, 1943 and who has total prior service credit of at least 22 years, shall be entitled to a total retirement allowance of $\frac{1}{2}$ average final compensation, provided he is still a member and has creditable service of at least 25 years on retirement. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of $\frac{1}{2}$ of his average final compensation, he shall be entitled to the higher retirement allowance. Any

employee may, if he so elects, pay into the retirement system any or all back contributions covering any or all of the period from July 1, 1942 to July 1, 1943 and receive therefor the proper membership credit for the period for which such back contributions are made.

IV. The board of trustees may, in its discretion, deny the right to become member to any class of employees whose compensation is only partly paid by the state or who are serving on a temporary or other than per annum basis, and it may also, in its discretion, make optional with members in any such class their individual entrance into membership.

V. It shall be the duty of the head of each department to submit to the board of trustees a statement showing the name, title, compensation, duties, date of birth, and length of service of each member and such information regarding other employees in his department as the board may require.

VI. (1943, c. 50, § 2) Should any member in any period of 5 consecutive years after last becoming a member be absent from service more than 3 years, or should he withdraw his contributions, or should he become a beneficiary as the result of his own retirement, or die, he shall thereupon cease to be a member; provided, however, that the membership of any employee entering such classes of military or naval service of the United States as may be approved by resolution of the board of trustees, shall be continued during such military or naval service if he does not withdraw his contributions, and provided further, that any member, who enlists in or is inducted or drafted into the service of the armed forces of the United States, shall be considered as an employee under the provisions of this chapter and shall have all the benefits of section 23 of chapter 59, and the state shall contribute to the annuity savings fund such amounts as the member would have been required to contribute if he had been serving the state during his service in the said armed forces in the same capacity as that in which he was serving at the time he joined the service; provided, however, that any member, whose contributions to the annuity fund are paid by the state under the provisions of this section, who withdraws from or ceases to be a member of the retirement system, may not withdraw any of the contributions made by the state under this subsection.

Sec. 4. Creditable service. 1941, c. 328. 1943, c. 50, § 1; c. 68.

I. All service of a member since he last became a member on account of which contributions are made shall be credited as membership service, and none other.

II. (1943, c. 50, § 1) Under such rules and regulations as the board of trustees shall adopt, each employee in service on the date of establishment who becomes a member within 1 year after the date of establishment shall file a detailed statement of all service as an employee rendered by him prior to the date of establishment for which he claims credit. Provided further, that any person formerly employed by the state at any time during the period of 3 years prior to July 1, 1942 and who is reemployed by the state at any time prior to July 1, 1945 shall, upon becoming a member, be allowed prior service credit.

III. (1943, c. 68) The board of trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to 1 year of service, but in no case shall it allow credit for a period of absence without pay of more than a month's duration, nor shall more than 1 year of service be creditable for all service in 1 calendar year. Service rendered for the full normal working time in any year shall be equivalent to 1 year's service. Provided, however, that the persons who served as stenographers of the supreme judicial or

superior courts prior to January 1, 1930 shall be credited with prior service for that period of time for which they served as such stenographers.

IV. Subject to the above restrictions and to such other rules and regulations as the board of trustees may adopt, the board shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed.

V. Upon verification of the statements of service, the board of trustees shall issue prior service certificates, certifying to each member the length of service rendered prior to the date of establishment with which he is credited on the basis of his statement of service. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any member may, within 1 year from the date of issuance or modification of such certificate, request the board of trustees to modify or correct his prior service certificate.

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

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

Sec. 5. Service retirement benefits. 1941, c. 328. 1943, c. 58; c. 329, § 2; c. 348, § 2; c. 352, § 2.

I.

A. Any member in service may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the filing thereof, he desires to be retired, provided that such member at the time so specified for his retirement shall have attained age 65 and notwithstanding that during such period of notification he may have separated from service.

B. (1943, c. 329, § 2) Any member in service who attains age 70 and any employee who has attained age 70 on the date of establishment shall be retired forthwith on a service retirement allowance or on the 1st day of the next calendar month; except that any member who is an elected official of the state or an official appointed for a term of years may remain in service until the end of the term of his office for which he was elected or appointed. Notwithstanding the foregoing, on the request of the governor with the approval of the council, the board of trustees may permit the continuation for periods of 1 year, as the result of each such request, of the service of any employee who has attained the age of 70 and who desires to remain in service.

II. Upon service retirement the member shall receive a service retirement allowance which shall consist of:

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

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

C. If he has a prior service certificate in full force and effect, an additional pension which shall be equal to $1/70$ of his average final compensation multiplied by the number of years of his prior service.

III. (1943, c. 58) Any warden of the department of inland fisheries and game who is a member of this system and who has creditable service of at least 25 years may be retired at $\frac{1}{2}$ of his average final compensation provided such retirement is requested either by the member or commissioner. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of $\frac{1}{2}$ of his average final compensation, he shall be entitled to the higher retirement allowance.

IV. (1943, c. 348, § 2) The deputy warden, the captain of the guard, and any guard of the state prison who is a member of this system and who has creditable service of at least 25 years may be retired at $\frac{1}{2}$ of his average final compensation provided such retirement is requested either by the member or the commissioner of institutional service. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of $\frac{1}{2}$ of his average final compensation, he shall be entitled to the higher retirement allowance.

V. (1943, c. 352, § 2) Any member of the state police who becomes a member of this system and who has creditable service of at least 25 years may be retired at $\frac{1}{2}$ of his average final compensation provided such retirement is requested either by the member or the chief of the state police. If any such member should become eligible under the provisions of this system, as a result of prior service and membership service, to a retirement allowance in excess of $\frac{1}{2}$ of his average final compensation, he shall be entitled to the higher retirement allowance.

Sec. 6. Disability retirement benefits. 1941, c. 328.

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

II. Upon disability retirement the member shall receive a service retirement allowance if he has attained age 65, otherwise he shall receive a disability retirement allowance which shall consist of:

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

B. A pension which, together with his annuity, shall provide a total retirement allowance equal to 90% of $\frac{1}{70}$ of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds 25% of his average final compensation; otherwise a pension which, together with his annuity, shall provide a total retirement allowance equal to 25% of his average final compensation, provided, however, that such allowance shall not exceed 90% of $\frac{1}{70}$ of his average final compensation multiplied by the number of years which would be creditable to him were his creditable service to include the period from the time of retirement to the attainment of age 65.

III. Once each year during the first 5 years following the retirement of a member on a disability retirement allowance, and once in every 3-year period

thereafter, the board of trustees may, and upon his application shall, require any disability beneficiary who has not attained age 65 to undergo a medical examination by the medical board or by a physician or physicians designated by the medical board, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not attained age 65 refuse to submit to such medical examination, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for 1 year, all his rights in and to his pension may be revoked by the board of trustees.

IV. Should the medical board report and certify to the board of trustees that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation at retirement, and should the board of trustees concur in such report, then his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal his average final compensation at retirement. Should his earning capacity be later changed, his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by him together with his annuity, equals his average final compensation at retirement. For the purposes of this section, "retirement allowance" shall mean the allowance payable without optional modification as hereinafter provided in section 9.

Sec. 7. Restoration to service. 1941, c. 328. Should a disability beneficiary be restored to service and should his annual earnable compensation then or at any time thereafter be equal to or greater than his average final compensation at retirement, or should any other beneficiary be restored to service, his retirement allowance shall cease, the beneficiary shall again become a member of the retirement system, and he shall contribute thereafter at the same rate he paid prior to his retirement. Anything in this chapter to the contrary notwithstanding, any prior service certificate on the basis of which his service was computed at the time of his former retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all the service as a member creditable to him at the time of his former retirement; but should he be restored to membership after the attainment of the age of 55, his pension upon subsequent retirement shall not exceed the sum of the pension which he was receiving immediately prior to his last restoration to membership and the pension that may have accrued to him on account of membership service since his last restoration to membership, provided that the rate per cent of his total pension on his subsequent retirement shall not exceed the rate he would have received had he remained in service during the period of his prior retirement.

Sec. 8. Return of members' contributions. 1941, c. 328. Should a member cease to be an employee except by death or by retirement under the provisions of this chapter, he shall be paid the amount of his contributions, together with such interest thereon, not less than $\frac{3}{4}$ of accumulated regular interest, as the board of trustees shall allow; or should a member die, such amount shall be paid to such person, if any, as he has nominated by written designation duly acknowledged and filed with the board, otherwise to his estate.

Sec. 9. Optional allowances. 1941, c. 328. Until the first payment on account of a retirement allowance becomes normally due, any member may elect to convert the retirement allowance otherwise payable on his account after retire-

ment into a retirement allowance of equivalent actuarial value of one of the optional forms named below; provided, however, that no election of an optional benefit shall be effective until 60 days after the date of the filing of the election thereof with the board of trustees, or until 60 days after retirement, whichever is the later, and should the member die before such election becomes effective, the benefits payable on his account shall be the same as though his election had not been filed and he had not been retired.

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

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

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

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

Sec. 10. Pensions offset by compensation benefits. 1941, c. 328. Any amounts which may be paid or payable by the state under the provisions of any workmen's compensation or similar law to or on account of any member or retired member on account of any disability shall, in such manner as the board of trustees shall determine, be offset against and payable in lieu of any benefits payable out of funds provided by the state under the provisions of this chapter on account of the same disability.

Sec. 11. Administration. 1941, c. 328. 1943, c. 348, § 1.

I. (1943, c. 348, § 1) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in a board of 3 trustees. The board, as heretofore established, shall consist of the chairman of the state personnel board, the treasurer of state, and the state controller, ex officio; their terms of office as such board members to run concurrently with their terms in said state positions.

II. The trustees shall serve without compensation, but they shall be reimbursed from the funds of the retirement system for all necessary expenses that they may incur through service on the board of trustees.

III. Each trustee shall, within 10 days after his appointment or election, take an oath of office that so far as it devolves upon him he will diligently and honestly

administer the affairs of the retirement system, and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the trustee making it, and certified by the officer before whom it is taken, and immediately filed in the office of the secretary of state.

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

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

VI. The board of trustees shall elect from its membership a chairman and shall appoint a secretary who may be, but need not be, one of the trustees. It shall engage such actuarial, medical, and other services as shall be required to transact the business of the retirement system; provided, however, that all employees engaged by such board shall be considered as employees of the state and subject to all the provisions of state law regarding state employees and shall be employed under the rules and regulations established by the personnel board and shall receive such compensation as is provided by the rules and regulations of the personnel board for state employees in similar capacities. The necessary expenses incurred by the board in the operation of the retirement system shall be paid from the funds so allocated.

VII. The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system, and for checking the experience of the system.

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

IX. The attorney-general of the state shall be legal adviser to the board of trustees.

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

XI. The board of trustees shall designate an actuary who shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this chapter and shall perform such other duties as are required in connection therewith.

XII. Immediately after the establishment of the retirement system the actuary shall make such investigation of the mortality, service, and compensation experience of the members of the system as he shall recommend and the board of

trustees shall authorize, for the purpose of determining the proper mortality and service tables to be prepared and submitted to the board for adoption. Having regard to such investigation and recommendation, the board of trustees shall adopt for the retirement system such mortality and service tables as shall be deemed necessary, and shall certify the rates of contribution payable under the provisions of this chapter. In the year 1945 and at least once in each 5-year period thereafter, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.

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

Sec. 12. Management of funds. 1941, c. 328.

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

II. The board of trustees from time to time shall set the rate of regular interest at such per cent rate compounded annually as shall be determined by the board to be equitable in its judgment, both to members and to the taxpayers of the state, such rate to be limited to a minimum of 3% and a maximum of 4%, with the latter rate applicable during the first year after the date of establishment.

III. The treasurer of state shall be the custodian of the several funds of the retirement system. Upon receipt of vouchers signed by 2 persons designated by the board of trustees, the state controller shall draw a warrant on the treasurer of state for the amounts so authorized. A duly attested copy of the resolution of the board of trustees designating such persons and bearing on its face specimen signatures of such persons shall be filed with the state controller as his authority for making payments upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution by the board of trustees.

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

V. Except as otherwise herein provided, no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investment made by the board; nor shall any trustee or employee of the board,

directly or indirectly, for himself or as an agent, in any manner use the same except to make such current and necessary payments as are authorized by the board; nor shall any trustee or employee of the board become an indorser or surety, or in any manner an obligor, for moneys loaned to or borrowed from the board.

See c. 15, § 14, re funds held in trust.

Sec. 13. Method of financing. 1941, c. 328. 1943, c. 30. All of the assets of the retirement system shall be credited, according to the purpose for which they are held, among 5 funds, namely, the annuity savings fund, the annuity reserve fund, the pension accumulation fund, the pension reserve fund, and the expense fund:

I. Annuity savings fund.

A. The annuity savings fund shall be a fund in which shall be accumulated contributions deducted from the compensation of members to provide for their annuities. Upon the basis of such tables as the board of trustees shall adopt and regular interest, the actuary shall determine for each member the proportion of earnable compensation which, when deducted from each payment of his prospective compensation earnable prior to his attainment of age 65 and accumulated at regular interest until his attainment of said age, shall be computed to provide at that time an annuity equal to the pension to which he will be entitled at that age on account of his service as a member. Such proportion of compensation shall be computed to remain constant. The proportion so computed for a member age 64 shall be applied to a member who has attained a greater age before becoming a member of the retirement system. The board of trustees shall certify to the head of each department, and the head of each department shall cause to be deducted from the compensation of each member on each and every pay-roll of such department for each and every pay-roll period, the proportion of earnable compensation of each member so computed. The head of any department shall not have any deduction made for annuity purposes from the compensation of a member who elects not to contribute if he has attained age 65 and has completed 35 years of service. In determining the amount earnable by a member in a pay-roll period, the board of trustees may consider the annual rate of earnable compensation payable to such member on the 1st day of the pay-roll period as continuing throughout such pay-roll period, and it may omit deduction from compensation for any period less than a full pay-roll period if an employee was not a member on the 1st day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed 1/10 of 1% of the annual earnable compensation upon the basis of which such deduction is to be made. The head of each department shall certify to the board of trustees on each and every pay-roll, or in such other manner as the board may prescribe, the amounts deducted. Each of said amounts shall be deducted, and when deducted shall be paid into the annuity savings fund, and shall be credited to the individual account of the member from whose compensation said deduction was made.

B. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided herein and shall receipt for his full compensation, and payment of compensation less such deduction shall be

a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this chapter.

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

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

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

III. **Pension accumulation fund.**

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

B. On account of each member there shall be paid annually into the pension accumulation fund by the state for the preceding fiscal year an amount equal to a certain percentage of the annual earnable compensation of such member to be known as the "normal contribution", and an additional amount equal to a percentage of his annual earnable compensation to be known as the "accrued liability contribution". The rates per cent of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuation. Until the first valuation the normal contribution shall be 2.13% and the accrued liability contribution shall be 1.92% of the annual earnable compensation of all members.

C. On the basis of regular interest and of such mortality and service tables as shall be adopted by the board of trustees, immediately after making each valuation during the period over which the accrued liability contribution is payable, the actuary shall determine the uniform and constant per-

centage of the earnable compensation of the average new entrant which, if contributed on the basis of his compensation throughout his entire period of active service, would be sufficient to provide for the payment of any pension or other benefit payable on his account from contributions by the state. The rate per cent so determined shall be known as the "normal contribution" rate. After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be determined after each actuarial valuation as the rate per cent of the earnable compensation of all members obtained by deducting from the total liabilities of the pension accumulation fund the amount of the funds in hand to the credit of that fund and dividing the remainder by 1% of the present value of the prospective future compensation of all members, as computed at regular interest on the basis of such mortality and service tables as the board of trustees shall adopt.

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

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

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

G. All pensions and benefits in lieu thereof payable on account of members with prior service credit shall be paid from the pension accumulation fund, and all pensions payable to employees retired before the establishment of this retirement system shall be paid from the pension accumulation fund.

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

I. All interest and dividends earned on the funds of the retirement system shall be credited to the pension accumulation fund. The board of trustees annually shall allow regular interest on the individual accounts of members in the annuity savings fund and on the mean amounts for the pre-

ceding year in the annuity reserve fund and pension reserve fund, and shall transfer such amounts from the pension accumulation fund.

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

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

V. **Expense fund.** The expense fund shall be the fund to which shall be credited all money provided by the state to pay the administration expenses of the retirement system, and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially the board of trustees shall estimate the amount of money which shall be deemed necessary to be paid into the expense fund during the ensuing biennium to provide for the expenses of operation of the retirement system, and such amount shall be paid by the state to the expense fund for this purpose.

VI. **State contributions.** (1943, c. 30) The board of trustees shall submit budget estimates to the state budget officer in accordance with the provisions of section 10 of chapter 14. These estimates shall show the total requirements for the pension accumulation fund and for the expense fund for the ensuing biennium. These amounts shall be broken down in such a way as to permit the proper allocation of costs among the general fund of the state, the general highway fund, and such other funds as it may be found practicable by the state budget officer to charge with their proportionate share of the cost. The amount determined as due from the general fund shall be included in the appropriation bill transmitted to the legislature by the governor with the budget document. Payments to the retirement system of the amounts appropriated for the pension accumulation fund and for the expense fund shall be made in quarterly installments on the 1st day of July, October, January, and April.

Sec. 14. **Benefits to employees retired prior to date of establishment of this retirement system.** 1941, c. 328. All pensions payable to former employees retired under the provisions of sections 227 to 233, inclusive, of chapter 1 of the public laws of 1933 as they existed immediately prior to July 1, 1942 shall be continued and paid hereafter from the pension accumulation fund at the full amounts stipulated under said sections prior to such effective date. The residue of any appropriation made for the payment of such pensions shall be transferred and credited to the pension accumulation fund. Any additional amounts required to continue such pensions shall be provided by an increase in the accrued liability contribution otherwise payable to the pension accumulation fund.

Sec. 15. **Employees of counties, cities, and towns entitled to membership.** 1941, c. 328.

I. The employees of any county, city, or town of the state may participate in the retirement system, provided the county commissioners, or the city

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

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

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

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

able under the provisions of this section, and the treasurer of state shall credit such amounts to the appropriate funds of the retirement system.

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

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

Sec. 16. Exemption from taxation and execution. 1941, c. 328. The right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, or any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the various funds created thereby, shall be exempted from any state, county, or municipal tax in the state, and shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as this chapter specifically provides.

Sec. 17. Protection against fraud. 1941, c. 328. Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable therefor under the laws of the state. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the board of trustees shall have the power to correct such error, and to adjust as far as practicable the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Sec. 18. Limitation on membership. 1941, c. 328. No other provision of law in any other statute, which provides wholly or partly at the expense of the state or of any subdivision thereof for pensions or retirement benefits for employees of the state, their widows, or other dependents, shall apply to members or beneficiaries of the retirement system established by the provisions of this chapter, or the widows or other dependents of such members or beneficiaries.

Sec. 19. Appeal. 1941, c. 328. Any person aggrieved by any decision or ruling of the board of trustees shall have the right of appeal from such decision or ruling to the next term of the superior court to be held in the county of Kennebec, held not less than 30 days after the rendition of said decision or ruling. The appellant shall also file a written notice of his appeal from said decision or ruling with the board of trustees and with the clerk of the said superior court. Certified copies of the ruling or decision, together with a copy of the appeal, shall be forwarded to the clerk of the said superior court. The attorney-general shall appear for and in behalf of the board of trustees. The procedure in the said court shall be the same as that in appeal from decisions of the municipal courts.