

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1963 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 2

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**Discard Previous Supplement**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1963

**Sec. 28. Employees in armed forces.**—Whenever any employee, regularly employed for a period of at least 6 months by the state or by any department, bureau, commission or office thereof, or by any county, municipality, township or school district within the state, and who has attained permanent status in such employment, shall in time of war, contemplated war, emergency or limited emergency enlist, enroll, be called or ordered, or be drafted in the armed forces of the United States or any branch or unit thereof, or shall be regularly drafted under federal man power regulations, he shall not be deemed or held to have thereby resigned from or abandoned his said employment, nor shall he be removable therefrom during the period of his service.

Such employee while in the armed forces of the United States or still employed after draft under federal man power regulations shall be considered as on leave of absence without pay and, for the purpose of computing time in regard to pension rights and seniority, shall be considered during the period of his federal service as in the service of the governmental agency by which he was employed at the time of his entry into such federal service. Such employee shall be entitled to reemployment if he reports for duty within a 90-day period from the date of his separation under conditions other than dishonorable from the armed forces of the United States. In case such employee is receiving treatment in a hospital at the time of his separation as aforesaid, he shall report for duty within 90 days from his discharge from the hospital.

This section shall apply to any such employee entering the armed forces of the United States under Public Law 759, 80th Congress (Selective Service Act of 1948) or while said Public Law 759 or any amendment thereto or extension thereof shall be in effect.

Rights to reemployment, credits toward retirement under the state retirement system, and vacation or sick leave accumulation, shall not be allowed beyond the period of first enlistment or induction, but in no event beyond 4 years from the date of his original call to active duty in said armed forces of the United States except if his return to active duty in said armed forces or the extension of his period of service beyond 4 years is required by some mandatory provision and he shall present proof thereto satisfactory to the agency concerned. (R. S. c. 59, § 23. 1949, c. 91. 1951, c. 157, § 20. 1957, c. 25. 1963, c. 329, § 1.)

**Effect of amendments.**—The 1957 amendment added the last paragraph.

The 1963 amendment substituted "armed forces" for "military or naval service" in the first paragraph and in the first sentence of the second paragraph, deleted the exception at the end of the first paragraph

and the former second sentence of the second paragraph, relating to interim appointments of substitutes, added the present second sentence of the second paragraph, rewrote the last paragraph, and made other minor changes.

## Chapter 63-A.

### Maine State Retirement System.

**Sec. 1. Definitions.**—"Accumulated contributions" shall mean the sum of all the amounts credited to a member's individual account in the members' contribution fund, together with regular interest thereon, as provided in section 15.

"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.

"Average final compensation" shall mean the average annual rate of earnable compensation of a member during the 5 years of creditable service as an employee in Maine, not necessarily consecutive, in which such average annual rate of earnable compensation is highest, or during his entire period of creditable service if such period is less than 5 years.

"Beneficiary" shall mean any person in receipt of a benefit or any person designated to be a recipient of a benefit as provided by this chapter.

"Board of trustees" shall mean the board provided for in section 13 to administer the retirement system.

"Child" or "children" shall mean any unmarried natural, born or unborn, or legally adopted progeny of the member, under 18 years of age, or adjudged mentally incompetent by a probate court of the state of Maine, or certified by the medical board of the Maine state retirement system to be physically and permanently incapacitated. For the purposes of this chapter, providing any beneficiary is not lawfully qualified to make an election, such election shall be entered into in his behalf by his legally appointed guardian.

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

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

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

"Employee" shall mean any regular classified or unclassified officer or employee in a department, including teachers in the state teachers' colleges, and for the purposes of this chapter, teachers in the public schools, but shall not include any member of the legislature or the council or any justice of the superior court or supreme judicial court who is now or may be later entitled to retirement benefits under chapter 103, section 5, and chapter 106, section 3, nor shall it include any judge of the district court who is now or may be later entitled to retirement benefits under chapter 108-A, nor shall it include any member of the state police who is now entitled to retirement benefits under chapter 15, sections 22, 22-A, 23 and 23-A. Persons serving during any probationary period required under the personnel law and rules of the personnel board shall be deemed regular employees for purposes of this definition. In all cases of doubt, the board of trustees shall determine whether any person is an employee as defined in this chapter.

"Father" shall mean father, or step father.

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

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

"Mother" shall mean mother, or step mother.

"Out-of-state service" shall mean service rendered as an employee of any state of the United States, except Maine, or of any political subdivision of any such state.

"Parent" shall mean mother or father, step mother, step father.

"Prior service" shall mean service rendered prior to the date of establishment of the retirement system for which credit is allowable under section 4. In the case of participating local districts "prior service" shall mean service to the district rendered prior to the district joining the retirement system.

"Public school" shall mean 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 any school which received any direct state aid in 1950, and municipal tuition funds amounting to at least the amount of such state aid, during the same year.

"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 14.

"Retirement" shall mean termination of membership with a retirement allowance granted under the provisions of this chapter.

"Retirement allowance" shall mean the retirement payments to which a member is entitled as provided in this chapter.

"Retirement system" shall mean the Maine state retirement system, as defined in section 2.

"Service" shall mean service as an employee, as defined in this section, for which compensation was paid.

"Spouse" shall mean a person of the opposite sex either married to or divorced from the member, in that order.

"Teacher" shall mean any teacher, principal, supervisor, school nurse, school dietitian, school secretary or superintendent employed in any public school, including teachers in unorganized territory.

The masculine pronoun, wherever used, shall include the feminine pronoun. (1955, c. 417, § 1. 1957, c. 348; c. 367, §§ 1, 2; c. 397, § 41; c. 443, § 36. 1961, c. 279, §§ 1, 2, 3. 1963, c. 76, § 1; c. 414, § 89.)

**Effect of amendments.**—The first 1957 amendment deleted the word "day" preceding "school which received any direct state aid" and deleted the word "twice" preceding "the amount of such state aid" in the definition of "public school". The second 1957 amendment inserted the definition of "child" or "children" and of "spouse". The third 1957 amendment deleted a former reference to Madawaska training school, substituted "justice" for "judge", and made other minor changes in the definition of "employee". The fourth 1957 amendment deleted the word "or" after the word "education" and before the word "superintending", and added the words "or school directors" after the word "committee" and before the word

"and" in the definition of "public school".

The 1961 amendment added the definitions of "father", "mother" and "parent."

The first 1963 amendment inserted "or any person designated to be a recipient of a benefit" in the definition of "beneficiary" and also deleted "the provisions of" preceding "section" in the definition of "prior service" and added the second sentence of such definition. The second 1963 amendment deleted "and normal schools" in the definition of "employee," inserted "nor shall it include any judge of the district court who is now or may be later entitled to retirement benefits under chapter 108-A" in such definition and made other minor changes therein.

**Sec. 2. Name and date of establishment.**—A retirement system, as herein established, shall be placed under the board of trustees for the purpose of providing retirement allowances and other benefits under the provisions of this chapter for employees of this state. The retirement system, so created, shall be considered to have been established July 1, 1947 for employees employed for the first time thereafter and for all employees who were eligible for the provisions of sections 212 to 241, inclusive, of chapter 37 of the revised statutes of 1944; July 1, 1942 for all employees who were eligible for the provisions of chapter 60 of the revised statutes of 1944; and for all other employees the date on which contributions were first made by them to any retirement system supported in whole or in part by the state. It shall have the powers and privileges of a corporation and shall be known as the "Maine state retirement system," 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. (1955, c. 417, § 1.)

**Sec. 3. Membership.**—The membership of the retirement system shall be as set forth following:

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

**II.** Any employee who elected not to become a member by filing a waiver in accordance with the provisions of section 3 of chapter 60 of the revised statutes of 1944, may at any time apply for and be admitted to membership.

**III.** Any person who was an employee on December 31, 1941 and was trans-

ferred to the federal employment service and any person employed by said employment service after December 31, 1941, and who subsequently became a state employee when the said employment service was returned to the state of Maine as an operating unit, shall be considered a member of the retirement system if such person makes 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 and any such person shall be permitted to make up any such amounts due to the said fund. Any person to whom the provisions of this subsection are applicable shall be entitled to all the rights and benefits which he could have accrued had he been employed by the state.

**IV.** The board of trustees may, in its discretion, deny the right to become a member to any class of employees whose compensation is only partly paid by the state, with the exception of teachers, or who are serving on a temporary or other than per annum basis.

**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, sex, date of birth and length of service of each member and such information regarding other employees in his department as the board may require. For the effective handling of this subsection, the commissioner of education shall furnish this information to the board of trustees for all teachers.

**VI.** Should any member withdraw his contributions, or should he become a beneficiary as the result of his own retirement, or die, he shall thereupon cease to be a member; provided, however, that the membership of any employee entering such classes of military or naval service of the United States as may be approved by resolution of the board of trustees, shall be considered to be continued during such military or naval service if he does not withdraw his contributions, and provided further, that any employee who enlists in or is inducted or drafted into the service of the armed forces of the United States in time of war including World War I between the dates of April 6, 1917 and March 3, 1921, inclusive, or while the provisions of Public Law 759, 80th Congress (Selective Service Act of 1948) or any amendment thereto or extension thereof shall be in effect, shall be considered as an employee under the provisions of this chapter and shall have all the benefits of section 28 of chapter 63, and the state shall contribute to the members' contribution fund such amounts as the employee would have been required to contribute if he had been serving the state during his service in the said armed forces in the same capacity as that in which he was serving at the time he joined the service; regardless of when he entered the United States armed forces or when he was released therefrom, provided such entry and release occurs during a time of war including World War I between the dates of April 6, 1917 and March 3, 1921, inclusive, or while the provisions of Public Law 759, 80th Congress (Selective Service Act of 1948) or any amendment thereto or extension thereof shall be in effect; provided, however, that any employee, whose contributions to the members' contribution 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. No member who is otherwise entitled to military leave credits shall be deprived of this right if his return to covered employment is delayed beyond the 90 days after his separation under conditions other than dishonorable if the delay is caused by a military service incurred illness or disability. Such credit shall not be allowed to count toward a state retirement benefit beyond the period of first enlistment or induction, but in no event beyond 4 years from the date of his original call to active duty in said armed forces except if his return to active duty in said armed forces or the extension of his period of service beyond 4 years is required by some mandatory provision and he shall present proof thereof satisfactory to the agency concerned. (1957, c. 26. 1963, c. 329, §§ 2, 3.)

**VII.** Any person who was an employee on December 31, 1941 and who there-

after transferred to the Maine national guard and was employed pursuant to section 90 of the National Defense Act of June 3, 1916 (32 U. S. C., § 42) shall be considered a member of the retirement system if such person makes 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 and any such person shall be permitted to make up any such amounts due to said fund. Any person to whom the provisions of this subsection are applicable shall be entitled to all the rights and benefits which he could have accrued had he been employed by the state. [1957, c. 143]. (1955, c. 417, § 1. 1957, cc. 26, 143. 1963, c. 329, §§ 2, 3.)

**Effect of amendments.**—The first 1957 amendment added the last sentence of subsection VI. The second 1957 amendment added subsection VII.

The 1963 amendment substituted “sepa-

ration under conditions other than dishonorable” for “honorable discharge” in the second sentence of subsection VI and rewrote the last sentence of such subsection.

#### **Sec. 4. Creditable service.—**

**I.** 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 certificate.

**II.** All service of a member on account of which contributions are made shall be credited as membership service and none other.

**III.** Under such rules and regulations as the board of trustees shall adopt, each member shall file a detailed statement, on forms provided by the board of trustees, of all service rendered by him both before and after the applicable date of establishment for which he claims credit. Provided further, that any person formerly employed by the state and who is re-employed by the state at any time shall, upon becoming a member, be allowed the appropriate credit.

**IV.** 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 if a full-time position, 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. For the purpose of determining prior service credits, actual time worked in any year shall be deemed to be the normal working time. For evening school credits, any teacher who teaches a full accredited year in any evening school duly accepted and approved by the state department of education shall be allowed not more than  $\frac{1}{2}$  a year's credit toward retirement for each school year so taught. Any period of time during which an evening school teacher teaches less than a full so-called accredited year shall be allowed toward retirement on a pro rata basis only.

**V.** Subject to the above restrictions and to such other rules and regulations as the board may adopt, the board shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed. Provided that those members who have already filed such statements under the provisions of section 4 of chapter 64 of the revised statutes of 1954 as in effect immediately prior to the effective date of this chapter, need not again file.

**VI.** Upon verification of the statements of service, the board of trustees shall issue prior service certificates certifying to each member the length of service rendered prior to the applicable date of establishment with which he is credited on the basis of his statement of service. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided that, whenever any error is discovered in a prior service certificate already issued, the proper correction shall be made by the board of trustees and a revised certificate issued to the member involved.

**VII.** Prior service credit will be granted to those members formerly subject to the provisions of sections 221 to 241, inclusive, of chapter 37 of the revised statutes of 1944 for service rendered prior to their attaining age 25 or during the period from July 1, 1924 to July 1, 1930, provided that such members pay into the members' contribution fund 5% of the salary received during such service, and provided further, that for each year of such service such payments shall not be less than \$20 or more than \$100.

**VIII.** Any member for whom the date of establishment of the retirement system is July 1, 1942 may, if he so elects, pay into the members' contribution fund any or all back contributions covering any or all of the period from July 1, 1942 to the date when such member first began to make contributions to the retirement system, and receive therefor the proper membership credit for the period for which such back contributions are made.

**IX.** Any member who was an employee on July 1, 1947 but became a member as of a date thereafter, may, if he so elects, pay into the members' contribution fund back contributions for the period from the date of establishment of the retirement system so far as he is concerned to the date he became a member and receive the proper service credits. Payments made after July 1, 1957 of any such back contributions shall include regular interest thereon for the period from July 1, 1957 to the date of payment.

**X.** Any former member who withdrew his contributions after termination of service may, upon later restoration to membership and prior to the date any retirement allowance becomes effective for him, deposit in the members' contribution fund by a single payment or by an increased rate of contribution an amount equal to the accumulated contributions withdrawn by him together with regular interest thereon from the date of withdrawal to the date the deposit payment or payments are made. Upon the completion of such deposit the member shall be entitled to all creditable service that he acquired during his previous membership. In the event any retirement allowance becomes effective before the completion of such deposit, the member shall be entitled to credit for that portion of the total of such previous creditable service which the total amount of deposit payments actually made bears to such single deposit if paid on the date of restoration to membership, in each instance including regular interest from the date of payment to the date the retirement allowance becomes effective.

**XI.** Any employee of the federal employment service who transferred to a state department prior to the time said service was returned to state control shall be allowed prior service credit and membership credit for such time as he was with the said federal employment service provided he makes up such contributions as may be necessary to cover membership credit.

**XII.** Out-of-state service credit.

**A.** Out-of-state service rendered prior to July 1, 1955 shall be allowed as additional creditable service for any member in the determination of his retirement allowance under any provisions of this chapter provided that the member has creditable service in Maine of at least 20 years in the aggregate; provided further, that the member, prior to the date any retirement allowance becomes effective for him, makes 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 such service been in Maine, and subject to the following:

1. If the member began to teach in the public schools in Maine for the first time prior to July 1, 1924, his last 15 years of creditable service prior to the date of retirement must be in Maine;
2. If the member was formerly subject to the provisions of sections 221 to 241, inclusive, of chapter 37 of the revised statutes of 1944, his last 7 years of creditable service prior to date of retirement must be in Maine;
3. If the member is a teacher employed for the first time after July 1,



1947, his last 10 years of creditable service prior to the date of retirement must be in Maine and no more than 10 years of such out-of-state service shall be allowed as creditable service; and

4. If the member is other than a teacher, his last 10 years of creditable service prior to the date of retirement must be in Maine, no more than 10 years of such out-of-state service shall be allowed as creditable service, and years of out-of-state service prior to the date of establishment of the retirement system so far as he is concerned shall be allowed as creditable service only if the member makes contributions into the members' contribution fund for such years of out-of-state service on the basis set forth in paragraph B of this subsection in lieu of the basis set forth preceding.

**B.** Out-of-state service rendered after July 1, 1955 or rendered prior thereto if not allowed as creditable service under the provisions of paragraph A of this subsection, shall be allowed as additional creditable service for any member in the determination of his retirement allowance under any provision of this chapter provided that the member, prior to the date any retirement allowance becomes effective for him deposits in the members' contribution fund by a single payment or by an increased rate of contribution such amount as together with regular interest credited thereon, will be the actuarial equivalent, at the effective date of his retirement allowance, of the portion of his retirement allowance based on such additional creditable service. Such additional amounts so deposited shall become a part of the member's accumulated contributions. In the event any retirement allowance becomes effective before the completion of such deposit the member shall be entitled to credit for that portion of such additional creditable service which the total amount of deposit payment actually made, together with regular interest thereon to the date the retirement allowance becomes effective, bears to the actuarial equivalent of the total portion of the retirement allowance based on such additional creditable service. (1955, c. 417, § 1.)

**Sec. 5. Employees' contributions.**—Each member shall, after July 1, 1955, make a 5% contribution of earnable compensation to the retirement system as long as he is employed, any excess of contributions that have ever been made shall be used to increase the retirement allowance or may be refunded at point of retirement. Anything to the contrary notwithstanding each member of the state police, including the chief thereof, who became a member of that department subsequent to July 9, 1943, shall, beginning with the first full week after the effective date of this act, make an 8% contribution of earnable compensation to the retirement system as long as he is employed.

Each member shall, as soon after July 1, 1957 as the board of trustees determines is practicable make a contribution of  $\frac{1}{4}$  of 1% of earnable compensation to the survivors' benefit fund as long as he is employed. (1955, c. 417, § 1. 1957, c. 367, § 3; c. 422, § 1. 1963, c. 377, § 1.)

**Effect of amendments.**—The first 1957 amendment added the last paragraph. The second 1957 amendment, which became effective on its approval, October

31, 1957, rewrote the last paragraph.

The 1963 amendment added the second sentence to the first paragraph.

## **Sec. 6. Service retirement.**—

### **I.**

**A.** Any member who at the attainment of age 60 is in service may retire at any time then or thereafter on a service retirement allowance upon written application to the board of trustees setting forth at what time he desires to be retired. Any member not in service may retire at age 60 or thereafter on a service retirement allowance upon written application to the board of trustees setting forth at what time he desires to be retired, provided that he has at least 10 years of creditable service, any part of which service must

have been rendered when he was, or could have been under then existing law, a contributing member to any publicly supported contributory retirement system sponsored by the state of Maine, provided further that at the effective date of the retirement allowance, his contributions are on deposit in the members contribution fund.

**B.** Any member specified in paragraph A of this subsection who attains age 70 shall be retired forthwith on a service retirement allowance 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 member who has attained the age of 70 and who desires to remain in service. Requests for extension of service for employees in participating local districts shall be filed directly with the board of trustees by the proper municipal officers and such requests shall not be referred to the governor and council.

**C.** Any member of the state police who became a member of that department subsequent to July 9, 1943 must retire at attained age 50 or upon completion of 25 years of total creditable service as a state police officer, whichever is the later. Except that any member of the Maine state police who was employed as a state police officer on or after July 9, 1943 and who is a state police officer on the effective date of this act, shall be permitted to retire upon completion of 25 years of creditable service, regardless of age. Notwithstanding anything to the contrary, the chief and the deputy chief shall be permitted to continue in said position beyond attained age 50 or after completion of 25 years of creditable service until the end of the term for which he was appointed, and the chief or the deputy chief may be appointed or reappointed regardless of attained age or length of creditable service. The total amount of the service retirement allowance of a member retired in accordance with this paragraph shall be equal to  $\frac{1}{2}$  of his current annual salary.

## II.

**A.** The total amount of the service retirement allowance of a member retired in accordance with subsection I of this section shall be equal to the sum of subparagraphs 1 and 2, subject, however, to the provisions of paragraphs B and C of this subsection and subsection IV of this section:

1.  $\frac{1}{70}$  of his average final compensation multiplied by the number of years of his membership service, and

2. If he has a prior service certificate in full force and effect,  $\frac{1}{50}$  of his average final compensation multiplied by the number of years, not to exceed 25, of his prior service or, if the member was formerly subject to the provisions of sections 212 to 241, inclusive, of chapter 37 of the revised statutes of 1944,  $\frac{1}{70}$  of his average final compensation multiplied by the number of years of his prior service.

**B.** The total amount of the service retirement allowance of any member retired in accordance with subsection I of this section who became a member prior to July 1, 1947 and for whom the date of establishment of the retirement system is July 1, 1942, shall be at least equal to  $\frac{1}{2}$  of his average final compensation, provided that

1. He has at least 25 years of total creditable service which includes at least 22 years of prior service credit if he retires prior to the attainment of age 60 or includes at least 13 years of prior service credit if he retires on or after the attainment of age 65, or

2. He has at least 20 years of total creditable service including at least 13 years of prior service if he retires on or after the attainment of age 70.

**C.** The total amount of the annual service retirement allowance of any member retired in accordance with subsection I who has taught in the public schools shall be at least equal to the following:

1. \$1,465, if the member has at least 35 years of creditable service as a teacher;
2. \$1,365, if the member has at least 30 but less than 35 years of creditable service as a teacher; or
3. \$1,265, if the member has at least 25 but less than 30 years of creditable service as a teacher.

**C-1.** The total amount of the annual service retirement allowance of any member retired in accordance with subsections I and V who has taught in the public schools shall be at least equal to the following:

1. \$600, if the member has at least 20 but less than 25 years of creditable service as a teacher.

**C-2.** Any teacher now or hereafter retired who is receiving a veterans administration benefit may elect to receive, or not receive, any additional benefit under this chapter if it affects the receiving of any such veterans administration benefit.

**D.** Paragraph C shall apply to all teachers who have theretofore or shall hereafter retire under this chapter, or any amendment thereto. (1957, c. 420, § 1. 1961, c. 396, §§ 1, 2.)

**III.** Any member who has completed 30 or more years of creditable service may retire any time prior to the attainment of age 60 and receive a service retirement allowance upon written application to the board of trustees setting forth at what time he desires to be retired. The retirement allowance shall be determined in accordance with the provisions of paragraph A of subsection II of this section but shall be at a reduced amount determined by applying to the retirement allowance the percentage that a life annuity due at age 60 bears to the life annuity due at the age of retirement, subject, however, to the provisions of subsection IV of this section. For this purpose the tables of annuities as approved by the board of trustees at the date of retirement shall be used.

**IV.**

**A.** Any member who

1. Was a member on July 1, 1947 and is the deputy warden, the captain of the guard, or a guard of the state prison; or a warden in the department of inland fisheries and game, or a warden of the department of sea and shore fisheries, or
2. Is an airplane pilot employed by the state of Maine; or a member of a fire or police department including the chiefs thereof and sheriffs and deputy sheriffs, and, in any case, who has at least 25 years of creditable service in his respective capacity, may be retired on or after the attainment of age 55 on a service retirement allowance.

**B.** The retirement of any member in accordance with paragraph A of this subsection may be requested either by the member or, except in the case of a member of a fire or police department, by the head of his department. Retirement shall be compulsory at the attainment of age 60 except that 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 such member.

**C.** The total amount of the service retirement allowance of a member retired in accordance with paragraph A of this subsection shall be equal to  $\frac{1}{2}$  of his average final compensation, or, if retirement occurs at or after the attainment of age 60, equal to the amount of his total service retirement allowance as determined in accordance with subsection II of this section, if greater.

**V. Teachers.** Any teacher who began to teach in the public schools of Maine

prior to July 1, 1947 and has attained 60 years of age shall, upon proper application and verification of at least 15 years of such teaching service, be granted a minimum monthly benefit of \$25. If, by virtue of length of teaching service in Maine and using the formula of  $1/70$  of average final compensation times the years so taught and verified, a greater monthly benefit is developed, then the greater amount shall be paid. Proper adjustments in benefits already being paid under this section shall be made, in those cases affected, on the first monthly pension payroll subsequent to the effective date of this act. (1957, c. 156; c. 422, § 2. 1959, c. 366. 1961, c. 414, § 1.)

**VI.** Notwithstanding any provisions in this chapter to the contrary, there is hereby provided an option in the political subdivisions of this state which are participating members in the Maine state retirement system to allow its employees to retire at age 60 after 30 years of creditable service at  $\frac{1}{2}$  their average final compensation. (1957, c. 292, § 1; c. 429, §§ 56, 57)

**VII.** If a sheriff or deputy sheriff shall die as a result of injury received in line of duty, except while engaged in the duty of serving civil process, his widow, or, if none, his minor child or children, shall receive a pension equal to  $\frac{1}{2}$  of the pay of such sheriff or deputy sheriff at the time of his death, but in no case shall such pension be less than \$1,000. Such pension shall be paid to the widow until she dies or remarries and to a child or children until they die or reach the age of 18 years. [1957, c. 316, § 1; c. 429, §§ 58, 59]. (1955, c. 417, § 1. 1957, c. 156; c. 292, § 1; c. 316, § 1; c. 420, § 1; c. 422, § 2; c. 429, §§ 56-59. 1959, c. 366. 1961, c. 396, §§ 1, 2; c. 414, § 1. 1963, c. 365, §§ 1, 2; c. 377, §§ 2, 3.)

**Effect of amendments.** — The first 1957 amendment added subsection V. Both the second and third 1957 amendments also added a subsection which was designated as "V", but since this number was preempted by the first amendment such subsections were renumbered and codified as VI and VII, respectively. The fourth 1957 amendment substituted "\$1,250" for "\$1,000", "\$1,150" for "\$900", and "\$1,050" for "\$800" in subparagraphs 1, 2 and 3, respectively, of paragraph C of subsection II, and carried appropriations for the fiscal years ending in 1958 and 1959. The fifth 1957 amendment, which became effective on its approval, October 31, 1957, added the second sentence in subsection V. Chapter 429, P. L. 1957, which became effective on its approval, October 31, 1957, repealed the subsections added by chapters 292 and 316, respectively, and added present subsections VI and VII, containing the same language as the repealed subsections.

The 1959 amendment made changes in the first sentence in subsection V and added the last sentence to that subsection.

The first 1961 amendment rewrote the opening statement of paragraph C of subsection II and increased the amounts set out in subparagraphs 1, 2 and 3 of such paragraph C from "\$1,250" to "\$1,350", from "\$1,150" to "\$1,250" and from "\$1,050" to "\$1,150", respectively. It also rewrote paragraph D of subsection II.

The second 1961 amendment rewrote the

first two sentences of subsection V.

The first 1963 amendment, effective October 1, 1963, increased the amounts set out in subparagraphs 1, 2 and 3 of paragraph C of subsection II from "\$1,350" to "\$1,465," from "\$1,250" to "\$1,365" and from "\$1,150" to "\$1,265," respectively. It also added paragraphs C-1 and C-2 to such subsection and made appropriations for the fiscal years ending June 30, 1964 and 1965. The second 1963 amendment added paragraph C to subsection I and deleted "a member of the state police, including the chief thereof, and who became a member of that department subsequent to July 9, 1943;" near the beginning of subparagraph 2 of paragraph A of subsection IV.

**Editor's note.**—P. L. 1961, c. 396, § 3, provides: "There is appropriated from the general fund to the Maine state retirement system to carry out the purposes of this act the sum of \$80,000 for the fiscal year ending June 30, 1962 and the sum of \$80,000 for the fiscal year ending June 30, 1963."

**Effective date.**—Section 4 of c. 396, P. L. 1961, amending this section, makes the act effective October 1, 1961.

**"In service" requirement.**—For case decided under former paragraph A of subsection I of § 6 of chapter 64 as said paragraph appeared prior to the 1953 amendment, see *Parent v. Maine State Retirement System*, 152 Me. 71, 123 A. (2d) 781, treated in note to § 17 of this chapter.

**Sec. 7. Disability retirement.—****I. Ordinary disability.**

**A.** Upon the filing, with the board of trustees, of an application by a member in service or by his department head, any member who has had 10 or more years of creditable service, and has not attained age 60, may be retired on a disability retirement allowance, provided that the medical board, after a medical examination of such member, shall certify that the member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that he should be retired. Except that any member who has had 10 or more years of creditable service, and has not attained age 60, and who has separated from service due to illness or injury may apply for a disability retirement allowance and may become entitled to such benefits if the medical board and the board of trustees are supplied with evidence that the cause of the disability originated while the member was in service. Benefits shall become effective no earlier than the date the board of trustees receives written notification of said disability. The effect of this paragraph shall be retroactive.

**B.** Upon retirement in accordance with paragraph A of this subsection a member shall receive a retirement allowance determined as follows, or, if eligible, a service retirement allowance determined in accordance with section 6, if greater:

An amount equal to 90% of 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 an amount equal to 25% of his average final compensation, provided, however, that such allowance shall not exceed 90% of 1/70 of his average final compensation multiplied by the number of years which would be creditable to him were his creditable service to include the period from the time of retirement to the attainment of age 60. At the death of the member after retirement the excess, if any, of his accumulated contributions at the time of his retirement over the portion of the total retirement allowance payments, actually made to him during his lifetime, which is the actuarial equivalent of such accumulated contributions, shall be paid in a lump sum to such person, if any, as he has nominated by written designation duly acknowledged and filed with the board of trustees, otherwise his estate.

**C.** Any person who attains age 60 while a recipient of a disability retirement allowance in accordance with paragraph A shall be entitled to a recomputation of benefits as provided in section 6 and shall be paid that amount which is greater. Further, if the amount of the service retirement allowance is greater than that being paid as the ordinary disability retirement allowance, the recipient shall no longer be considered as receiving a disability retirement allowance.

**II. Occupational disability.**

**A.** Upon the filing, with the board of trustees, of an application by a member in service or by his department head, and upon the determination by the board of trustees that he has incurred disability as the result of injuries received in the line of duty, any member may be retired on a disability retirement allowance, determined in accordance with paragraph B in lieu of any benefits determined in accordance with paragraph B of subsection I, provided the medical board, after a medical examination of such member, shall certify that the member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that he should be retired. The board of trustees shall determine upon receipt of proper proof that the injury received in the line of duty occurred while in actual performance of duty at some definite time and place and was not caused by the willful negligence of the member.

**B.** Upon retirement in accordance with paragraph A a member shall receive a retirement allowance equal to  $66\frac{2}{3}\%$  the average final compensation of the member. (1957, c. 316, § 2)

**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 60 to undergo a medical examination by the medical board or by a physician or physicians designated by the medical board, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not attained age 60 refuse to submit to such medical examination, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for 1 year, all his rights in and to his pension may be revoked by the board of trustees.

**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 retirement allowance shall be reduced to such an amount which, together with the amount earnable by him, shall equal his average final compensation at retirement. Should his earning capacity be later changed, his retirement allowance may be further modified; provided that the new retirement allowance shall not exceed the amount of the retirement allowance originally granted. For the purpose of this section, "retirement allowance" shall mean the allowance payable without optional modification as hereinafter provided in section 12.

**V.** Any amounts which may be paid or payable by the state under the provisions of any workmen's compensation or similar law except amounts which may be paid or payable under section 13 chapter 31 to or on account of any member or retired member on account of any disability shall be offset against the amount of any retirement allowance payable under this section on account of the same disability.

**VI.** Anything in this section to the contrary notwithstanding, no reduction in the amount of a member's retirement allowance made in accordance with the provisions of this section shall reduce the amount of the retirement allowance to less than the portion of the retirement allowance which is the actuarial equivalent of his accumulated contributions at the time of his retirement. (1955, c. 417, § 1. 1957, c. 316, § 2. 1961, c. 126. 1963, c. 361.)

**Effect of amendments.** — The 1957 amendment deleted the clause "who is a member of a fire or police department" which formerly appeared following the word "service" in line 2 of paragraph A of subsection II, inserted the last sentence of said paragraph A, substituted " $66\frac{2}{3}\%$ " for " $\frac{1}{2}$ " in paragraph B of

subsection II, and made other minor changes in such subsection.

The 1961 amendment added the last three sentences to paragraph A of subsection I.

The 1963 amendment added paragraph C to subsection I.

**Sec. 8. Restoration to service.**—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, 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, his retirement allowance upon subsequent

retirement shall not exceed the sum of the retirement allowance which he was receiving immediately prior to his last restoration to membership and the retirement allowance that may have accrued to him on account of membership service since his last restoration to membership except that if he has accrued at least 2 years of membership service since his last restoration to membership his subsequent retirement allowance shall be as provided in section 6. Should any recipient of benefits other than disability benefits be restored to service, the same general limitations with respect to whether or not the benefits should be suspended will be as outlined above, except that in the event benefits are suspended during such period of employment and such member subsequently again retires, he shall receive such combined benefits as may be computed on his entire creditable service and in accordance with the then existing law. Any retired person who so returned to active service since July 1, 1947 and who subsequently again retired shall have his benefit recomputed in accordance with the foregoing sentence, such adjusted benefit to be effective as of the date of last retirement except any such adjustment shall not be made effective unless the new benefit amount arrived at exceeds the amount of benefit already being paid to such retired person. (1955, c. 417, § 1. 1957, c. 130. 1963, c. 372.)

**Effect of amendments.** — The 1957 amendment added the exception relative to time of effect of adjustments at the end of the last sentence.

The 1963 amendment deleted "after attainment of the age of 55" following "re-

stored to membership" near the middle of the second sentence, added the exception at the end of that sentence, deleted "other than one receiving disability benefits" near the beginning of the fourth sentence, and made other minor changes.

### **Sec. 9. Ordinary death benefits before retirement.—**

**I.** Should a member die any time before attaining eligibility for retirement, one of the following payments shall be made.

**A.** The amount of his contribution to the members' contribution fund together with not less than  $\frac{3}{4}$  of the accumulated regular interest, as the board of trustees shall allow, shall be paid to such person, if any, as he has nominated by written designation duly acknowledged and filed with the board prior to his death. The last nomination of any beneficiary revokes all previous nominations. If a member dies before retirement, and is not survived by a designated beneficiary, the first of the following listed persons, if any, alive at the death of the member shall qualify as beneficiary in the following order of precedence with all attendant rights and privileges: the spouse of the member; the children of the member, share and share alike; the older parent of the member; the estate of the member. By filing a notarized statement of intent with the board of trustees, a member may specify the refund of his own contribution to the members' contribution fund plus allowable interest to a designated beneficiary or to his estate in lieu of any payments to survivors provided in paragraph B.

**B.** If the member has not so specified a refund of his own contribution to the members' contribution fund, in lieu of accepting the payment provided in paragraph A, the first of certain designated beneficiaries, if living at the death of the member, may elect to substitute the benefits described below, providing the member prior to his death has met certain conditions of eligibility. Such designated beneficiary shall be a spouse, child or children of the member, mother or father, mother and father, or if no designation was made, the first of the following listed persons, if any, alive at the death of the member, spouse, child or children, mother or father, mother and father of the deceased.

**1. General eligibility provision for non-service-connected death.** The deceased member must have had at least 18 months of creditable service within the 42 months prior to date of death, or be under 60 years of age and receiving at the time of death an ordinary dis-

ability allowance as provided in section 7 and any lump sum due under section 7 shall be paid into the survivors' benefit fund, except that any member who has been restored to service after having been a recipient of a disability retirement allowance or a service incurred disability retirement allowance shall be exempted from the requirement that the member must have had at least 18 months of creditable service prior to date of death.

a. A spouse, alive and not remarried at the time of the death of the member, shall be paid \$75 a month, commencing the first month after such death occurs, and continuing until the date of his death or remarriage, whichever happens first, providing that the deceased member had 10 years of creditable service at the time of his death. Such spouse may qualify for this benefit in addition to any payments received as provided by division b, but shall not receive this benefit simultaneously with that provided by division b.

(b) A spouse, alive and not remarried at the time of the death of the member who has the care of unmarried children of the deceased member under 18 years of age, or any other progeny of the deceased who is considered to be mentally incompetent under the general statutes pertaining thereto, or who is certified to be mentally incompetent by the medical board of the Maine retirement system, or who is certified by the medical board of the Maine state retirement system to be physically and permanently incapacitated, shall be paid \$75 a month, commencing the first month after such death occurs and continuing during his lifetime for such time as such children or progeny are in his care and he has not remarried.

(c) The unmarried child or children under 18 years, or any other progeny of the deceased who is adjudged mentally incompetent by a probate court in the state of Maine or who is certified by the medical board of the Maine state retirement system to be physically and permanently incapacitated at the time of the death of the member, shall receive benefits as follows:

One child shall be paid \$75 per month.

Two children shall be paid \$100 per month, which shall be divided equally between them.

Three children or more shall be paid \$125 per month, which shall be divided equally among them.

The benefits shall commence the first month after the death of the member and be payable to each child until he reaches his 18th birthday or prior death, whichever occurs first. In the event of the marriage or death of any such child prior to his 18th birthday, subsequent benefits to the other children, if any, shall be payable as if he had never lived.

(d) A spouse living at the time of the death of the member and not remarried subsequent to the death of the member shall be paid \$75 a month, commencing the first month after the attainment of 60 years of age and continuing until the date of his death or remarriage, whichever happens first. Such spouse may qualify for this benefit in addition to any payments received as provided by division (b) but shall not receive this benefit simultaneously with that provided by division (a) or division (b).

(e) A parent, if living at the time of the death of the member, and at least 60 years of age or when that age is attained shall be paid \$75 per month. If both parents are eligible to benefits under this section and the older parent elects benefits under this subsection, the younger parent shall receive \$50 per month if at least 60 years of age or when that age is attained. Upon the death of either parent, the survivor



shall receive \$75 per month. Such payments to any parent shall commence the first month after the death of the member occurs and continue until death or remarriage, whichever happens first. Benefits are only payable under this provision in the event no other benefits have been received in accordance with divisions (a), (b), (c) or (d).

**2. Service-connected death.** Should a member die as the result of illness or injury received in line of duty while in the service of the state of Maine, irrespective of the number of years of creditable service, the provisions of divisions (a), (b), (c) or (e) shall be payable if applicable. If the member died on or after March 1, 1952 as a result of illness or injury received in line of duty while in the service of the state of Maine, divisions (a), (b), (c) or (e) shall be payable if applicable, except that the payments shall begin on the first day of the month following the effective date of this act and shall not be retroactive to the date of death if the death occurred before July 1, 1957. Notwithstanding anything to the contrary, benefits payable hereunder shall be in lieu of any benefits payable under section 10, provided further that the beneficiary specified in this section may elect to receive the benefits under section 10 instead of any benefits under this section. The board of trustees shall determine upon receipt of proper proof that the illness or injury received in line of duty occurred while in actual performance of duty at some definite time or place, and was not caused by the willful negligence of the member.

**3. Transfer of accumulated contributions.** If benefits are paid under subparagraph 1 of paragraph B, the amount of deceased member's accumulated contributions in the members' contribution fund shall be transferred to the survivors' benefit fund. If benefits are paid under subparagraph 2 of paragraph B, the amount of the deceased member's contributions in the members' contribution fund, together with such interest thereon, not less than  $\frac{3}{4}$  of accumulated regular interest, as the board of trustees shall allow shall also be paid to the specified beneficiary.

**4. Death of beneficiary before payment.** In the event that any beneficiary becomes entitled to any of the provisions of this section and dies before either the refund check or the initial survivor benefit check shall be endorsed and presented to a holder in due course then it shall be considered as if the beneficiary had predeceased the member. Further, any beneficiary of this section shall have the right to 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. (1957, c. 367, § 4. 1961, c. 45, §§ 1-3; c. 378. 1963, c. 76, §§ 2, 3.)

**II.** Should a member die any time after attaining eligibility for retirement under any of the provisions of this chapter but before any election in accordance with the provisions of section 12 becomes effective, the following benefits shall be payable:

**A.** Such amounts as may be due under an election of option 4 of section 12; otherwise

**B.** A retirement allowance equal to the reduced retirement allowance determined in accordance with option 2 of section 12 on the assumption that retirement of the member had taken place on the date of his death, which will be continued during the lifetime of the first of the following listed persons, if any, alive at the death of the member: designated beneficiary, wife, husband, mother, father; provided that, if the monthly amount of such retirement allowance is less than \$10, any such first listed person may, prior to the commencement of such retirement allowance payments, elect to receive, in lieu of such payments, a lump sum which is the actuarial equivalent at

the date of death of the member of such retirement allowance payments; and provided further that, any such first listed person, other than a designated beneficiary, may, prior to the commencement of such retirement allowance payments, elect to receive, in lieu of such payments, a lump sum equal to the accumulated contributions of the member; otherwise

**C.** The accumulated contributions of the member which will be paid to the estate of the member.

**III.** Should a member die any time after attaining eligibility for retirement under any of the provisions of this chapter, but before any election in accordance with the provisions of section 12 becomes effective, the designated beneficiary if a spouse, child or children, mother or father may elect to receive either the benefits provided under subsection I or those provided under paragraphs A or B of subsection II, but not both. [1957, c. 367, § 5]. (1955, c. 417, § 1. 1957, c. 367, §§ 4, 5; c. 422, § 3; c. 429, § 60. 1961, c. 45, §§ 1, 2, 3; c. 378. 1963, c. 76, §§ 2, 3.)

**Effect of amendments.**—The first 1957 amendment rewrote subsection I and added subsection III. The second 1957 amendment, which became effective on October 31, 1957, added the words “any portion of which had been rendered” to subparagraph 1 of paragraph B of subsection I. The third 1957 amendment, which became effective on its approval, October 31, 1957, substituted the word “such” for the word “each” in division b of subparagraph 1 of paragraph B of subsection I of this section.

P. L. 1961, c. 45, inserted “mother and father” twice in the second sentence of paragraph B, subsection I, deleted “any portion of which had been rendered”,

which had been inserted by the second 1957 amendment in subparagraph 1 of that paragraph, added the exception at the end of the first sentence of such subparagraph and rewrote the portion of division (b) of such subparagraph relating to a mentally incompetent child. P. L. 1961, c. 378, inserted the second sentence of subparagraph 2 of paragraph B of subsection I.

The 1963 amendment substituted “had 10 years” for “also had 17½ years” in division a of subparagraph 1 of paragraph B of subsection I and made other minor changes in such division. It also added subparagraph 4 to paragraph B of subsection I.

### **Sec. 10. Accidental death benefits.**—

**I.** If a member of the retirement system who is a member of a fire or police department or a member of the state police shall die as the result of injury received in line of duty, his widow, or, if none, his child or children under age 18, jointly, shall receive an annual sum equal  $\frac{1}{2}$  the average final compensation of such member at time of his death. In addition to the foregoing payments 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 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.

**II.** If a member of the state police who is not a member of the retirement system shall die as the result of injury received in line of duty, his widow, or, if none, his child or children under age 18, jointly, shall receive an annual sum equal to  $\frac{1}{2}$  the annual salary of such officer at the time of his death; such payments, shall be made from the appropriation of the state police.

**III.** Each annual sum provided for in subsections I and II of this section shall be paid to the widow until she dies or remarries and to a child or children until they die or reach the age of 18 years. If the widow dies without remarrying and leaves a child or children, the payment shall continue until such child or children die or reach the age of 18 years.

**IV.** The benefits provided under the provisions of this section shall be in lieu of any benefits otherwise payable under the provisions of section 9. (1955, c. 417, § 1.)

**Sec. 11. Return of accumulated contributions.**—If the service of any member has terminated, except by death or by retirement under the provisions of

this chapter, he shall be paid, at any time thereafter upon proper application therefor, 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, provided that no interest shall be included for any period beyond the fifth anniversary of the date of such termination of service if the member has less than 10 years of creditable service. (1955, c. 417, § 1.)

**Sec. 12. Payment of retirement allowances.**—All retirement allowances shall be payable for life in equal monthly installments including any fraction of a month up to the date of death. Upon attainment of eligibility for retirement the member may at any time within 30 days from the date he elects to make his benefits effective, if the written application is in the possession of the board of trustees on or before said effective date, or, at any time within 30 days of the actual receipt by the board of trustees of the written request for benefits, change his selection of option to retirement allowance, from retirement allowance to an option or from one of the options to another. After 30 days have expired from the applicable effective date, or after the first payment has been made, whichever is earlier, there may be no change in the selection.

**Option 1.** A reduced retirement allowance payable during his life, with the provision that at his death the excess, if any, of his accumulated contributions at the time of his retirement over the portion of the total retirement allowance payments, actually made to him during his lifetime, which is the actuarial equivalent of such accumulated contributions, shall be paid in a lump sum 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; provided, however, no contributions deducted from the compensation of a teacher prior to July 1, 1947 or required of a teacher for service credit prior thereto shall be included in such accumulated contributions; 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. (1955, c. 417, § 1. 1961, c. 45, § 4.)

**Effect of amendment.**—The 1961 amendment rewrote the first paragraph with the exception of the first sentence therein.

### **Sec. 13. Administration.—**

**I.** The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in a board of 7 trustees. The board, as heretofore established, shall consist of the chairman of the state personnel board, the state controller, the bank commissioner, the treasurer of state, their terms of office as such board members to run concurrently with their terms in said state positions; a member duly elected for a 2-year term by the Maine teachers' association, a state employee duly elected for a 2-year term by the Maine state employees' association and a person appointed for a 2-year term by the governor.

**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 one vote in the board of trustees. Four trustees shall constitute a quorum for the transaction of any business. Four votes shall be necessary for any resolution or action by the board of trustees at any meeting of the board.

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

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

**VIII.** The board of trustees shall meet at least once in each month for the transaction of such business as may properly come before it. The head of any department upon request from the board of trustees shall promptly furnish it with such information as shall be required to effectuate the provisions of this chapter. Whenever the board of trustees shall find it impossible or impracticable to consult an original record to determine the date of birth, length of service, amount of regular compensation or other pertinent fact with regard to any member, it may, subject to the approval of the executive secretary and actuary, use estimates thereof on any basis which in its judgment is fair and just. The board of trustees, upon discovery of any error in any record of the system, shall, as far as practicable, correct such record. If any such error results in the receipt from such system by any member or beneficiary of more or less than he would have been entitled to receive had the records been correct, payments shall, as far as practicable, be adjusted in such manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

**IX.** The board of trustees shall keep a record of all its proceedings, which shall be open to public inspection. It shall publish biennially a report showing the fiscal transactions of the retirement system for the preceding fiscal years, 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.

**X.** The attorney general of the state or an assistant designated by him shall be legal adviser of the board of trustees.

**XI.** 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.

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

**XIII.** When he deems it necessary, the actuary shall make such investigation of the mortality, service and compensation experience of the members of the system, for the purpose of determining the proper mortality and service tables to be prepared and submitted to the board for adoption. Having regard to such investigation and recommendation, the board of trustees shall adopt for the retirement system such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter. In the year 1960 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.

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

**XV. Investment and other counsel.** The board of trustees shall employ investment counsel or advice and may employ or engage such other expert, professional or other assistance as may be necessary or appropriate to aid in carrying out its functions.

**XVI.** The board of trustees of the Maine state retirement system shall have power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the negotiable securities belonging to any fund of the retirement system. Such services shall consist of the safekeeping of said negotiable securities in the vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of such coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by the retirement system, and any other fiscal service which is normally covered in a custodial contract or agreement.

The said board of trustees is hereby empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of the several funds of the system, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards, which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The said board of trustees shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require.

The finance committee shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, except that all withdrawal orders or delivery instructions shall bear the approval in writing over the signatures of 2 persons duly authorized by a resolution of the board of

trustees, and at least one of the signatures must be that of a member of the finance committee.

All contracts or agreements entered into between the said board of trustees and the custodian bank or safe deposit company selected by them shall have the approval of the governor and executive council. (1955, c. 417, § 1. 1957, c. 316, § 3. 1961, c. 45, §§ 5, 6.)

**Effect of amendments.** — The 1957 amendment added subsection XVI.

The 1961 amendment rewrote subsection XV, which formerly authorized only investment advice, and the fourth paragraph

of subsection XVI, which formerly authorized the board to appoint a finance committee and required at least 2 of the 3 members of the committee to approve withdrawals in writing.

#### **Sec. 14. Funds.—**

**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. Notwithstanding the foregoing, the board of trustees shall be authorized to purchase at their discretion equities in accordance with the prudent man rule, such investments to be limited to not more than 10% of the total assets of the system.

The board of trustees is authorized to appoint a finance committee consisting of 3 of its duly constituted members. The finance committee shall be empowered to withdraw or deposit all securities and mortgages and to implement and conduct the investment business of the retirement system within the framework of the general investment policy. Periodically the finance committee shall report said actions to the board of trustees.

**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.

**III.** Except as otherwise provided, the treasurer of state shall be the custodian of the several funds of the retirement system. Upon receipt of vouchers signed by a person or persons designated by the board of trustees, the state controller shall draw a warrant on the treasurer of state for the amount 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 comptroller as his authority for making payments upon such vouchers. (1957, c. 316, § 4)

**IV.** For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding 10% of the total amount in the several funds of the retirement system, on deposit in one or more banks or trust companies in the state organized under the laws of the state or of the United States, provided that the sum of deposit in any one 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. (1955, c. 417, § 1. 1957, c. 316, § 4. 1961, c. 45, § 7.)

**Effect of amendments.** — The 1957 amendment inserted the words "Except as otherwise provided" at the beginning of subsection III. The 1961 amendment added the second paragraph in subsection I.

### **Sec. 15. Financing.—**

**I. Funds.** All of the assets of the retirement system shall be credited, according to the purpose for which they are held, among 4 funds, namely, the members' contribution fund, the retirement allowance fund, the expense fund and the survivors' benefit fund. (1957, c. 367, § 6)

#### **II. Members' contribution fund.**

**A.** The members' contribution fund shall be a fund in which shall be accumulated contributions deducted from the compensation of members. 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 payroll of such department for each and every payroll period, the proportion of earnable compensation of each member so computed. In determining the amount earnable by a member in a payroll period, the board of trustees may consider the annual rate of earnable compensation payable to such member on the 1st day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll 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 payroll, 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 members' contribution 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 deposit in the members' contribution fund by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional amount of retirement allowance which, together with his prospective retirement allowance, will provide for him a total retirement allowance not in excess of ½ of his average final compensation at any eligible age.

The amount of any contributions of a member made prior to July 1, 1955, in excess of the minimum amount of such contributions required by the system when such contributions were made, shall be considered as additional amount deposited to purchase such additional amounts of retirement allowance. 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 additional retirement allowance 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 members' contribution fund, and any accumulated interest not so paid shall be transferred to the retirement allowance fund. Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution fund to the retirement allowance fund. If the member dies before becoming eligible for retirement and benefits become payable under paragraph B of subsection I of section 9, his accumulated contributions shall be transferred from the members' contribution fund to the survivors' benefit fund.

**E.** Should a beneficiary be 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 such accumulated contributions, shall be transferred to the members' contribution fund and credited to his individual account therein.

**F.** The executive secretary of the retirement system, on or after July 1 of each year, will furnish to each member of the system in service on July 1 of such year a statement showing the amount of accumulated contributions to the members' credit in his individual account in the members' contribution fund.

### **III. Retirement allowance fund.**

**A.** The retirement allowance fund shall be the fund in which shall be accumulated all reserves required for the payment of benefits under this chapter other than reserves in the members' contribution fund and the survivors' benefit fund.

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

**C.** On the basis of regular interest and of such mortality and service tables as shall be adopted by the board of trustees, immediately after making each valuation during the period over which the accrued liability contribution is payable, the actuary shall determine the uniform and constant percentage of the earnable compensation of the average new entrant which, if contributed on the basis of his compensation throughout his entire period of active service, would be sufficient to provide for the payment of any benefit payable on his account that is not provided by his contributions. 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 retirement allowance fund the amount of the funds on 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.** The total amount payable to the retirement allowance fund in each year 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 retirement allowance fund, to provide the benefits payable out of the fund during the year then current.

**E.** The accrued liability contribution shall be discontinued as soon as the accumulated reserves in the retirement allowance 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 contribution to be received on account of persons who are at that time members.

**F.** 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 otherwise specifically provided in this chapter.

**G.** All interest and dividends earned on the funds of the retirement system shall be credited to the retirement allowance fund. The board of trustees annually shall allow regular interest on the individual accounts of members in the members' contribution fund and shall transfer such amounts from the retirement allowance fund. The board of trustees annually shall allow regular interest on the mean amount accumulated in the survivors' benefit fund and shall transfer such interest from the retirement allowance fund to the survivors' benefit fund. (1957, c. 367, §§ 8, 9, 10)

**H.** If the designated beneficiary elects, in accordance with section 9, subsection III, to receive the benefits under section 9, subsection I, paragraph B, there shall be transferred to the survivor's benefit fund from the retirement allowance fund the amount of reserve actuarially determined for the retirement allowance under section 9, subsection III, including the amount provided by the members contributions. (1957, c. 440, § 1)

**IV. Expense fund.** The expense fund shall be the fund to which shall be credited all money provided by the state to pay the administration expenses of the retirement system and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially the board of trustees shall estimate the amount of money which shall be deemed necessary to be paid into the expense fund during the ensuing biennium to provide for the expenses of operation of the retirement system, and such amount shall be paid by the state to the expense fund for this purpose. Any unexpended balance shall not lapse but shall constitute a continuous carrying account.

**V. State contributions.** The board of trustees shall submit budget estimates to the state budget officer in accordance with the provisions of section 8 of chapter 15-A. These estimates shall show the total requirements for the retirement allowance fund, the survivors' benefit fund and 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 retirement allowance fund and for the expense fund shall be made in quarterly installments on the 1st day of July, October, January and April. (1957, c. 340, § 5. 1961, c. 45, § 8.)

**VI. Survivors' benefit fund.**

**A.** The survivors' benefit fund shall be the fund in which shall be accumulated all reserves required for the payment of survivors' benefits as set forth in subsection I of section 9.

**B.** Each member shall contribute at the rate of  $\frac{1}{4}$  of 1% of his salary to the survivors' benefit fund and such contribution shall be reported and held separately from contributions made to the members' contribution fund. Anything to the contrary notwithstanding, contributions to the survivors' benefit fund shall not be refunded to the member. To facilitate the making of deductions, the board of trustees may adjust the deduction of any member to the next higher nickel.

**C.** On account of each member there shall be paid annually into the survivors' benefit fund by the state an amount equal to a certain percentage of the annual earnable compensation of such member to be known as the "survivors' contribution." The rate per cent of such contributions shall be fixed on the basis of the liabilities established by subsection I of section 9 as shown by actuarial valuation.

**D.** All benefits payable under subsection I of section 9 shall be paid from the survivors' benefit fund except as may be otherwise specifically provided. [1957, c. 367, § 11; c. 429, § 61]. (1955, c. 417, § 1. 1957, c. 340, § 5; c. 367, §§ 6-11; c. 429, § 61; c. 440, § 1. 1961, c. 45, § 8.)

**Effect of amendments.**—The first 1957 amendment substituted "section 8 of chapter 15-A" for "section 10 of chapter 16" in the first sentence of subsection V. Section 12 of such amendatory act provided that it should be retroactive to July 1, 1957. The second 1957 amendment substituted "4 funds" for "3 funds" and added "and the survivors' benefit fund" at the end of subsection I, added the last sentence of paragraph D of subsection II, added "and the survivors' benefit fund"

in paragraphs A and F of subsection III, added the last sentence of paragraph G of subsection III, and added subsection VI. The third 1957 amendment, which became effective on its approval, October 31, 1957, substituted " $\frac{1}{4}$  of 1%" for " $\frac{1}{4}\%$ " in paragraph B of subsection VI of this section. The fourth 1957 amendment added paragraph H to subsection III.

The 1961 amendment added "the survivors' benefit fund" in the second sentence of subsection V.

**Sec. 16. Benefits to employees retired prior to date of establishment.**—All benefits 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 retirement allowance fund at the full amounts stipulated under said sections prior to such effective date. Any additional amounts required to continue such benefits shall be provided by an increase in the accrued liability contribution otherwise payable to the retirement allowance fund. (1955, c. 417, § 1.)

**Sec. 17 Employees of counties, cities and towns entitled to membership.**—

**I. Participating local districts.** The employees of any county, city, town, water district, public library corporation or any other quasi-municipal corporation of the state, the civilian employees of the Maine national guard, or of Maine municipal association, may participate in the retirement system, to the full extent of any and all benefits provided for in this chapter provided the county commissioners, or the city council or corresponding body of a city, or the voters of a town at a duly constituted town meeting, or the trustees of a water district, public library corporation or other quasi-municipal corporation, the adjutant general, or the active member municipalities of Maine municipal association through its executive committee, approve such participation and file with the board of trustees a duly certified copy of the resolution of the county commissioners or of the city council or such corresponding body approving such participation and the extent of the benefits which shall apply, or a record of the vote of the town voters certified by the clerk of the town meeting. Such county, city, town, water district, public library corporation or other quasi-municipal corporation, Maine national guard, or Maine

municipal association, approving the participation of its employees in the retirement system shall thereafter be known for the purposes of this chapter as "a participating local district." Such county, city, town, water district, public library corporation or other quasi-municipal corporation, Maine national guard, or Maine municipal association, shall designate in their approval any class of employees, otherwise provided for by local pension provisions, who may be exempted from this chapter. The date when the participation of the employees of a participating local district may begin shall be set by the board of trustees not more than 6 months following the date the local district approved the participation of its employees. This date shall be considered as the date of establishment for participating local districts as defined in section 2. (1961, c. 42, § 1.)

**I-A.** Any participating local district, by filing with the board of trustees a duly certified copy of its action, may provide, in lieu of the retirement allowance provided for elsewhere in this chapter, a retirement allowance equal to  $\frac{1}{2}$  average final compensation for members attaining age 60 and having at least 30 years of creditable service. Such retirement allowance may be converted into a retirement allowance of equivalent actuarial value as provided in section 12. (1957, c. 292, § 2; c. 429, § 62)

**I-B. Retirement benefit for policemen and firemen.** Any participating local district, by filing with the board of trustees a duly certified copy of its action, may provide a retirement benefit for policemen and firemen, in lieu of the retirement benefits otherwise provided in this chapter for these employees, of  $\frac{1}{2}$  salary after having completed 20 to 25 years of service, which benefit shall be based on the annual rate of salary being paid such individuals at point of retirement. If and when such base annual salary of active policemen and firemen is increased, the retirement benefits of those officers already retired shall be adjusted accordingly effective as of the date such increases are granted active officers.

**I-C. Retirement benefit on the straight life plan.** Any participating local district, by filing with the board of trustees a duly certified copy of its action, may provide, in lieu of the retirement benefits provided elsewhere in this chapter, a retirement benefit on the straight life plan to be paid to the retirant during his lifetime, and  $\frac{1}{2}$  of such benefit shall be paid to his designated beneficiary upon his death and shall continue during the lifetime of such beneficiary if said beneficiary is a spouse or until attainment of age 18 if said beneficiary is a child. The beneficiary shall be limited to a spouse or child. The cost to the district may be paid into the state retirement system on a funded basis or on a pay-as-you-go basis, whichever plan shall be elected by the governing body of the participating local district involved.

**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 thereafter shall be entitled to prior service credits 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 makes accrued liability contributions and all membership service credits for which contributions are paid into the retirement system by such member. Membership shall be compulsory for all employees entering the service of such participating local districts thereafter, except those who are exempted under the provisions of subsection I.

**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 payroll of the employees, and the cost of each annual valuation shall be certified by the board of trustees to the chief fiscal officer of the participating local district, and the amounts so certified shall be a charge against the participating local district. The chief fiscal officer of each such participating local district shall pay to the treasurer of state the amount certified by the board of trustees as payable under the provisions of this section, and the treasurer of state shall credit such amounts to the appropriate funds of the retirement system. Separate accounts shall be kept of the amounts so credited. Upon the retirement of any member of a participating local district the required reserves shall be transferred, as soon as accumulated, to the appropriate fund of the retirement system and become the property of the state 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 benefits on account of the employees or pensioners of any participating local district for which reserves have not been previously created from funds contributed by such participating local district, or its employees for such benefits. If, when the contributions of a participating local district are determined for any fiscal year in accordance with subsection IV of this section, any of the reserve funds of the participating local district are less than the liabilities of such reserve fund then the amount of such contributions to be paid shall be increased either by the total amount of all such deficits or, at the option of the participating local district, by the total amount of benefits payable during the fiscal year from such reserve funds that have a deficit. The retirement system shall be liable for payment of survivor benefits to beneficiaries of members of participating local districts if such participating local districts have elected survivor benefits. (1957, c. 440, § 2)

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

**VIII.** Any member of the retirement system whose service is terminated as an employee, either as defined in section 1 or as an employee of a participating

local district, shall, upon subsequent re-employment as such an employee but with a new employer, provided he shall not have previously withdrawn his accumulated contributions, thereupon have his membership transferred to his account with his new employer, and shall be entitled to all creditable service resulting from his previous employment. The new employer shall make such contributions, from time to time, as may be necessary to provide the benefits under the retirement system for the member as have accrued to him by reason of his previous employment and may accrue to him by reason of his new employment. 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 such previous employment.

**IX.** Any amendments to this chapter enacted by the legislature, the benefits of which could apply to employees of participating local districts, shall be made effective only in the event any such district elects to adopt such benefits and agrees to pay into the system the required costs as developed by the actuary. (1957, c. 429, § 63. 1959, c. 363, § 38)

**X.** Before electing survivor benefits as provided by section 9, subsections I and III, the chief fiscal officer of a participating local district shall submit to the board of trustees such information as shall be prescribed by the board of trustees in order to determine, on such actuarial basis as may be adopted by the board of trustees, the cost of the initial survivor's contribution of such participating local district. The expense of making such initial determination shall be assessed against and paid by the participating local district on whose account it is made.

The survivor's contribution of a participating local district which has elected such survivor benefits shall be actuarially determined annually by the board of trustees on the basis of such information which it may prescribe.

The board of trustees may increase by not more than 25% in any year the survivor's contribution of a participating local district so determined if, in the opinion of the board of trustees, the actual experience as to benefits paid on behalf of beneficiaries of members of the participating local district is greater than the experience expected on the actuarial basis.

The contributions so computed, together with a pro rata share of the cost of the administration of the survivor's benefit program, based upon the gross payroll of employees and the expense of determining the annual survivor's contribution 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 participating local district may require each of its members to make a contribution, not to exceed  $\frac{1}{4}$  of 1% of earnable compensation, to the survivor's benefit fund as long as he is employed.

All contributions for survivor benefits by members of all participating local districts which have elected survivor benefits and all survivor contributions by such participating local districts shall be paid into the survivor's benefit fund. [1957, c. 440, § 3]. (1955, c. 417, § 1. 1957, c. 292, § 2; c. 429, §§ 62, 63; c. 440, §§ 2, 3. 1959, c. 363, § 38. 1961, c. 42, § 1. 1963, cc. 26, 199.)

**Effect of amendments.**—The first 1957 amendment inserted subsection I-A. The second 1957 amendment, which became effective on its approval, October 31, 1957, struck out the second paragraph of subsection I-A, and amended subsection IX by striking out the words "in the years 1953-1954", formerly appearing after the word "enacted" and before the word "by" and added the words "and 98th legis-

latures" after "96th". The third 1957 amendment added the last sentence to subsection VI, and added subsection X.

The 1959 amendment substituted the word "legislature" for the words "96th and 98th legislature" in subsection IX.

The 1961 amendment added in subsection I the references to the national guard and the adjutant general.

The first 1963 amendment added subsec-

tion I-B. The second 1963 amendment added subsection I-C.

**Adoption of amendments to chapter.**—A city employee, who was discharged for cause in 1952, cannot qualify for retirement benefits under the 1953 amendment to former subsection I, paragraph A of § 6 of chapter 64, which amendment deleted the words “in service” from such paragraph, where the city qualified its adoption of the amendments under former subsection VIII of § 17 of chapter 64 in

such a way as to limit their effect to “all city employees currently employed \* \* \*”. The employee, being neither “in service” as required by the former statute at the time of his application nor “currently employed” when city took its adoptive action on the amendments, did not qualify for retirement benefits and his application was properly refused. *Parent v. Maine State Retirement System*, 152 Me. 71, 123 A. (2d) 781.

**Sec. 18. Exemption from taxation and execution.**—The right of a person to a retirement allowance, such retirement allowance itself, to the return of contributions, 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. (1955, c. 417, § 1.)

**Sec. 19. Protection against fraud.**—Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system, as a result of such act shall be guilty of a misdemeanor and shall be punishable therefor under the laws of the state. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the board of trustees shall have the power to correct such error, and to adjust as far as practicable the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. (1955, c. 417, § 1.)

**Sec. 20. Limitation on membership.**—No other provision of law in any other statute, which provides wholly or partly at the expense of the state or of any subdivision thereof for 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. (1955, c. 417, § 1.)

**Sec. 21. Appeal.**—Any person aggrieved by any decision or ruling of the board of trustees shall have the right of appeal from such decisions or ruling to the superior court in the county of Kennebec, within 30 days after notice of such decision or ruling. Any decision or ruling of the board of trustees issued under the provisions of this section shall be delivered to the litigant within 3 months after the establishment of such a decision or ruling by the board. The appellant shall also file a written notice of his appeal from said decision or ruling with the board of trustees and with the clerk of the said superior court. Certified copies of the ruling or decision, together with a copy of the appeal, shall be forwarded to the clerk of the said superior court. The attorney general or the assistant designated by him shall appear for and in behalf of the board of trustees. The procedure in the said court shall be the same as that in appeal from decisions of the district court. (1955, c. 417, § 1. 1959, c. 317, § 33. 1963, c. 402, § 102.)

**Effect of amendments.** — The 1959 amendment rewrote the first sentence of this section.

The 1963 amendment substituted “dis-

trict court” for “municipal courts” at the end of the last sentence.

**Effective date and applicability of Public Laws 1959, c. 317.**—Section 420, chap-

ter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the

opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

**Sec. 22. Special intent.**—It is the intent and meaning of this chapter that all rights, credits and privileges enumerated herein shall be available to and shared in by all members of the system whether employees of the state or local participating districts and it is expressly provided that the board of trustees shall in all cases make the final and determining decision in all matters affecting the rights, credits and privileges of all members of the system, whether in participating local districts or in the state service.

If and when any special resolve is enacted by the legislature granting credits toward retirement not provided for under this chapter, the entire actuarial costs of such special resolve shall be funded by act of the same legislature which enacts any such special resolve. (1955, c. 417, § 1.)

**Sec. 23. Limitations.**—

**I.** Any participating local district which on July 1, 1955 is included under the retirement system shall be subject to all the provisions of this chapter unless it files with the board of trustees on or before July 1, 1956 a duly certified copy of the vote of the county commissioners or of the city council or such corresponding body or a record of the vote of the town voters certified by the clerk of the town meeting, setting forth in such action those provisions of this chapter which are not to be accepted by the district in question, except that any local participating district may elect to retain any or all of those provisions of the retirement law said district accepted at the time of the original agreement and including any changes subsequently accepted or selected by the district.

**II.** The executive secretary of the retirement system shall, immediately following the effective date of this chapter, cause to be mailed by registered mail a written notice to each participating local district which was in the system as of July 1, 1955 setting forth the provisions of the preceding subsection. Any participating local district shall be entitled to a revaluation in order to determine the cost of any new provisions of the chapter which may be adopted; the expense of making such revaluation shall be assessed to and paid by the participating local district involved. (1955, c. 417, § 1.)

**Sec. 24. Group life insurance for state employees and teachers.**—Group life insurance shall be made available to state employees and teachers, subject to the following provisions:

**I.** Except as provided herein, each appointive officer or employee of the state of Maine, or teacher, who is eligible for membership in the Maine state retirement system, or each member of the state police who is a member of the state police retirement system, including those members of that system who have retired since September 5, 1955 and are living on March 18, 1957, shall at such time and under the conditions of eligibility as the board of trustees may by regulation prescribe, come within the purview of this section. Notwithstanding anything to the contrary the amount of group life insurance for said retired members of the state police retirement system shall be as set forth in Table A and shall be based upon the gross salary of each member at date of his retirement and shall reduce at the rate of 15% per year from date of retirement as provided in paragraph A of subsection IX.

**II.** Each eligible state employee or teacher to whom this section applies shall be eligible to be insured for an amount of group life insurance approximating





**III.** 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 therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the employee may have designated by a writing received in the employing office prior to death;

Second, if there be no such beneficiary, to the widow or widower of such employee;

Third, if none of the above, to the child or children of such employee and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such employee or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such employee;

Sixth, if none of the above, to other next of kin of such employee entitled under the laws of domicile of such employee at the time of his death.

**IV.** All employees eligible under the terms of this section will be automatically insured for the maximum amounts applicable thereunder, commencing on the date they first become so eligible; provided that any employee desiring not to be insured shall, on appropriate form, give written notice to his employing officer that he desires not to be insured. If such notice is received before the employee shall have become insured under such policy, he shall not be so insured; if it is received after he shall have become insured, his insurance under the policy will cease, effective with the end of the pay period during which the notice is received by the employing office. Any person who desires not to be insured may subsequently apply for insurance, but may be required to produce evidence of insurability at his own expense and in accordance with the requirements of the board of trustees.

**V.** An employee insured under this policy shall be automatically covered for any change in such maximum due to a change in annual compensation. Such change in coverage shall coincide with the effective date of the change in annual compensation rate.

**VI.** During any period in which an employee or teacher is insured under a policy of insurance in conformity with the provisions of this section, there shall be withheld by payroll deduction or deductions as his share of the cost of his group life and accidental death and dismemberment insurance, an amount determined by the board of trustees, but not to exceed 65¢ per month for each \$1,000 of such insurance; provided that any employee who is paid on other than a 52 week a year basis shall have such amounts withheld as may be determined by the board of trustees and the participating insurance underwriters to be proper to guarantee insured status for a full year, but in no instance shall such deduction exceed \$7.80 per year for each \$1,000 of coverage. Anything to the contrary notwithstanding, the deduction for any additional insurance specified in section 24, subsection II, shall be on a basis determined by the board of trustees, from time to time, to be actuarially sufficient to meet the increased liability.

**VII.** The state controller shall open on the books of the state an account to be known as the "Group Life Insurance Fund." For each period in which an employee is insured under a policy of insurance purchased by the board, there shall be contributed from such fund a sum computed at a rate determined by the board to be sufficient to pay the balance of the premiums of such policy or policies purchased in conformity with the provisions of this section. The income from any dividends or premium rate adjustments shall constitute a part of said fund.

There is hereby appropriated from the unappropriated surplus of the general fund the sum of \$50,000 to be a revolving fund for the use of the board in

carrying out the purposes stipulated herein. Not later than 90 days after the close of each fiscal year there shall be transferred from unappropriated surplus an amount sufficient to restore the "Group Life Insurance Fund" to \$50,000, provided: that if and when the board determines that such fund has attained an amount estimated by it to be more than sufficient for the purposes for which established, any excess may be returned to the unappropriated surplus of the general fund.

**VIII.** The board of trustees is authorized to purchase from one or more life insurance companies a policy or policies of group life and accidental death and dismemberment insurance to provide the benefits specified by this section, provided, that such company or companies must be licensed under the laws of the state of Maine. The initial premium rate shall be the minimum rate permitted an insurance company authorized to do business in all states. The policy provisions shall be subject to and as provided for by the insurance laws of this state except as modified by this section.

**IX.** Each policy purchased under sections 24 to 26, inclusive, shall contain a provision to the effect that any insurance thereunder on any employee shall cease upon his separation from the service subject to provisions which shall be contained in the policy for waiver of premiums in the event of total and permanent disability, and temporary extension of coverage and conversion to an individual policy of life insurance, except that if upon such date as the insurance would otherwise cease, the employee retires in accordance with the provisions of this chapter, his life insurance only shall be continued without cost to him and in the amounts provided in paragraphs A and B below:

**A.** On retirement for reasons other than occupational disability, the average amount of insurance in force for the last 5 years prior to retirement shall be continued in force at no cost to the state employee or teacher. Said average amount shall be reduced at the rate of 15% per year to a minimum of 25% of said average amount, and provided further that the maximum amount of insurance in force on a retired member after attaining age 70 shall be 25% of the average amount of insurance in force for the last 5 years prior to retirement.

In determining benefits under this section the 15% 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.

The average amount of insurance for any employee who retires before he was eligible for 5 years of such coverage shall be determined by adding the amount of coverage he had in each year prior to retirement and dividing by the number of years he was eligible, provided further that if he was eligible for coverage less than one year prior to retirement the amount of coverage shall be equal to the amount in force at the first day he became insured.

**B.** On retirement for occupational disability, the amount of insurance in force at the time of retirement shall be continued in force at no cost to the state employee or teacher until attainment of the age of 60, after which said amount shall be reduced at the rate of 15% per year to a minimum of 25% of said amount and provided further that the maximum amount of insurance in force after attaining age 70 shall be 25% of the amount in force at time of retirement.

**X.** The insurance company shall furnish the usual master policy and certificates and shall arrange to have each employee insured under such policy or policies receive a certificate setting forth the benefits to which the employee is entitled thereunder, to whom such benefits shall be payable, to whom claims shall be submitted, and summarizing the provisions of the policy principally affecting the employee. (1955, c. 451. 1957, c. 38; c. 429, § 64. 1961, c. 373, §§ 1, 2.)

**Effect of amendments.**—The first 1957 amendment, which became effective on its approval, March 18, 1957, made subsection I applicable to state police who are members of the state police retirement system. The second 1957 amendment, which became effective on its approval, October 31, 1957, rewrote the first two sentences of subsection I of this section.

The 1961 amendment rewrote the second sentence of the first paragraph of subsection II, which formerly provided for certain classifications, but not more than 3% of all persons covered by the policy, purchasing additional insurance, added the third sentence of that paragraph and added the second sentence of subsection VI.

**Sec. 25. Administration.**—

**I.** The board of trustees shall administer this group life insurance program and except as otherwise provided herein is hereby authorized to promulgate and publish such regulations as may be necessary and proper to give effect to the intent, purposes and provisions of this section.

**II.** There is hereby established an advisory council on group insurance, consisting of 6 members, being the state insurance commissioner, the deputy insurance commissioner and the commissioner of finance and administration ex officio and the Maine teachers association, the Maine municipal association and the Maine state employees association shall each elect for a 2-year term one representative to serve on such advisory council. All members of the advisory council shall serve without compensation, but any expenses incurred in performance of their duties shall be reimbursed. The council shall meet once a year, or oftener, and shall review the operations of sections 24 to 26, inclusive, and advise the board of trustees on matters of policy relating to the activities thereunder.

**III.** The board of trustees, with the approval of the advisory council on group insurance, shall select an insurance company as the result of competitive bidding. The board and the advisory council shall employ an independent actuary at a total cost not to exceed \$2,500 on a consulting basis who shall review the bids for the purpose of selecting the insurance carrier or insurance carriers.

**IV.** The insurance provided by these sections and the withholding and contributions for that purpose, shall become effective when directed by the board. (1955, c. 451.)

**Sec. 26. Participating local districts.**—The employees of any county, city, town, water district, public library corporation or any other quasi-municipal corporation of the state, the civilian employees of the Maine national guard or of Maine municipal association may participate in this group life insurance program, to the full extent of any and all benefits provided for in this chapter, provided the county commissioners, or the city council or corresponding body of a city, or the voters of a town at a duly constituted town meeting, or the trustees of water districts or public library corporations or other quasi-municipal corporation, the adjutant general, or the active member municipalities of Maine municipal association through its executive committee, 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 or a record of the vote of the town voters certified by the clerk of the town meeting approving such participation and the extent of the benefits which shall apply. Such county, city, town, water district, public library corporation or other quasi-municipal corporation, Maine national guard or Maine municipal association approving the participation of its employees in this group life insurance program shall thereafter be known for the purposes of this chapter as a "participating local district." Such county, city, town, water districts or public library corporations or other quasi-municipal corporations, Maine national guard or Maine municipal association shall designate in their approval any class of

employees who may be exempted from this chapter. Seventy-five per cent of the eligible employees of each participating district shall be the minimum number permissible as a coverage group. 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.

Employees of a participating local district who are covered under the basic group life insurance plan shall also be eligible for the additional group life insurance coverage as provided for in section 24 if the local district involved elects to adopt such benefits.

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 this chapter, and shall pay such pro rata cost of premiums and expenses as may be levied by the board of trustees. (1955, c. 451. 1961, c. 42, § 2. 1963, c. 76, § 4.)

**Effect of amendments.** — The 1961 amendment added in the first paragraph the adjutant general. The 1963 amendment inserted the present references to the national guard and the second paragraph.

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## Chapter 64.

### Maine State Retirement System.

**Secs. 1-22.** Repealed by Public Laws 1955, c. 417, § 2.

**Cross reference.**—For present provisions re state retirement system, see c. 63-A.

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## Chapter 65.

### Federal Social Security.

**Sec. 1. 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. The provisions of this chapter shall also apply to employees of Maine Maritime Academy who are members of an existing retirement or pension system. This chapter shall not apply to teachers and firemen 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. (1951, c. 395, § 1. 1953, c. 128. 1957, c. 150, § 1; cc. 288, 338; c. 429, § 65. 1961, c. 38. 1963, c. 322.)

**Effect of amendments.**—The first 1957 amendment, which became effective on its approval, April 16, 1957, inserted the clause making the section applicable to certain civilian employees of the Maine national guard, inserted the word "such"

preceding the word "employees" and deleted a former phrase following such word which read "of the political subdivisions of the state", in the first sentence. The second 1957 amendment made the second sentence applicable also to