

**Firemen's Annuity And Benefit Fund (Table)**

**CHAPTER 34  
FIREMEN'S ANNUITY AND BENEFIT FUND**

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#### 34-01. Firemen's Annuity and Benefit Fund. 1.

COUNCIL APPROVAL. In all cities of the first class in this state whether organized under general or special charter, annuity and benefit funds shall be created, established, maintained and administered for firemen employed by such cities and for the widows and children of such firemen and for all contributors to, participants in, and beneficiaries of any firemen's pension fund in operation, by authority of law, in any such city at the time this section shall come into effect; provided that before this act shall be in effect in any city to which it applies, it must have been approved by a majority vote of the members elect of the common council of such city. (S. 1, Sub. 1, Ch. 423, L. 1923.)

2. FUND ESTABLISHED. In each such city one such annuity and benefit fund shall be created, established, maintained and administered as hereinafter stated. (S. 1, Sub. 2, Ch. 423, L. 1923.)

3. BOARD OF TRUSTEES. a. Administration. In each such city a board composed of 7 members shall constitute a board of trustees authorized to carry out the provisions of this section and charged with the duty of administering the annuity and benefit fund herein provided for. Said board of trustees shall be known as the "Retirement Board of the Firemen's Annuity and Benefit Fund of ....." which board is hereinafter referred to as the "Retirement Board." (S. 1, Sub. 3-a, Ch. 440, L. 1947.)

b. Members. The said retirement board shall consist of the following: One member who shall be a person appointed by

the mayor of such city; 3 members who shall be firemen employed in such city; 2 members who shall be annuitants or pensioners of the said fund and elected at least 30 days prior to December 1 of each election year by the vote of the annuitants and pensioners of said fund who shall be over the age of 21; and the city treasurer of such city whose alternate shall be his deputy. (S. 1, Sub. 3-b, Ch. 440, L. 1947.)

c. Appointments. Within 30 days from and after the date upon which this section shall come into effect in such city, and also at a time not less than 30 days prior to the end of each succeeding 4-year term thereafter, the mayor of such city shall appoint a person to serve as a member of said retirement board for a period of 4 years and until his successor shall have been appointed and shall have qualified. (S. 1, Sub. 3-c, Ch. 440, L. 1947.)

d. Election. Within 30 days from and after the date upon which this section shall come into effect in such city, the mayor of such city shall arrange for and hold an election, at which all firemen employed by such city at the time such election shall be held (including those on vacation and those on leave of absence) and all annuitants of any firemen's pension fund in operation, by authority of law, in such city at the time this section shall come into effect in such city, shall have a right to vote, and at which the ballot shall be of secret character, for the election of 3 members of said retirement board who shall be firemen employed by such city. At such election one such fireman shall be elected for a term which shall end on December 1 of the 3rd year after the year in which this section shall come into effect in such city; one for a term which shall end on December 1 of the second year after the year in which this section shall come into effect in such city; and one for a term which shall end on December 1 of the first year after the year in which this section shall come into effect in such city. Thereafter, the retirement board shall conduct regular elections annually, under rules to be adopted by it, at least 30 days prior to the date of expiration of the terms of the elective member whose term shall next expire, for the election of a successor member, which successor shall be a fireman employed by such city or a person in receipt of duty disability benefits or ordinary disability benefits from the annuity and benefit fund herein provided for. Each such successor shall be

chosen for a term of 3 years. Each member elected as aforesaid shall continue in office until his successor shall have been elected and shall have qualified. At all such elections all firemen employed by such city at the time any such election shall be held (including those on vacation and those on leave of absence) and all persons in receipt of duty disability or ordinary disability benefits from the annuity and benefit fund herein provided for, by authority of law, in such city at the time such election shall be held, shall have a right to vote, and the ballot shall be of secret character. (S. 1, Sub. 3-d, Ch. 440, L. 1947.)

e. Successors. The annuitant or pensioner members elected by authority of law prior to January 1, 1948, whose terms of office shall not have expired on said day, shall be members of the retirement board for the terms for which they were elected. At least 30 days prior to December 1, 1948, and at least 30 days prior to December 1 of each year thereafter, the retirement board shall arrange for and hold an election for the election of a successor to the member whose terms shall next expire, which successor shall be an annuitant or pensioner of the annuity and benefit fund herein provided for, to be elected by annuitants and pensioners of said fund who are over the age of 21 years. Any person so elected shall hold office for a term of 2 years and until his successor shall be elected and shall have qualified. (S. 1, Sub. 3-e, Ch. 440, L. 1947.)

f. Oath of office. Any person appointed or elected as aforesaid shall qualify for the office of member of said retirement board by taking an oath of office. Said oath shall be administered by the city clerk of such city and a copy thereof shall be kept in the office of said city clerk. The said appointive member may be removed from office by the mayor of such city. Any member of said retirement board, elected as aforesaid from among the firemen employed by such city or persons in receipt of duty disability or ordinary disability benefits, who shall leave the fire service of such city, shall automatically cease to be a member of said retirement board. (S. 1, Sub. 3-f, Ch. 440, L. 1947.)

g. Vacancies. If a vacancy shall occur in the membership of said retirement board owing to the death, resignation or any other cause, said vacancy shall be filled as

follows: In case the vacant membership be that of the appointee of the mayor of such city, the said mayor shall appoint a person to serve during the remainder of the unexpired term. In case the vacant membership be of elective character, a successor of the member whose position shall have become vacant shall be elected to serve during the remainder of the term for which such former member was elected, at a special election which shall be held by the retirement board within 60 days from the date when such vacancy shall occur, and shall be conducted in the same manner with the same classes of voters and the same eligibility for membership on the retirement board as apply in cases of regular annual elections. Any person so appointed and any person so elected shall qualify for office by taking an oath of office, as aforesaid. (S. 1, Sub. 3-g, Ch. 440, L. 1947.)

h. Board members, etc., after January 1, 1981. (See s. 34-05)

4. BOARD SALARIES. No member of said retirement board shall receive or have any right to receive any money or moneys from the annuity and benefit fund herein provided for as salary for service performed as a member of said board, but any fireman member shall have a right to and shall be reimbursed for any amount of salary which shall be withheld from such member by the city comptroller of such city, or by any officer or employee of such city, because of attendance at any meeting of said retirement board or the performance of any other duty in connection with the annuity and benefit fund herein provided for. (S. 1, Sub. 4, Ch. 423, L. 1923.)

5. MEETINGS. The said retirement board shall hold regular meetings in the months of March, June, September and December of each year and shall hold such other meetings as may be deemed necessary by such board. A majority of the members of said retirement board shall constitute a quorum for the transaction of business at any such meeting, provided, that no annuity, or benefit shall be allowed or granted and no money shall be paid out of the annuity and benefit fund herein provided for unless the same shall be ordered by a vote of the majority of the members of said retirement board. (S. 1, Sub. 5, Ch. 423, L. 1923.)

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6. OFFICERS. At the regular meeting in December of the year in which this section shall come into effect in such city, and at the regular meeting in December of each year thereafter, the said retirement board shall elect, by a majority vote of the members who vote upon the question, a president, and a recording secretary from among its own members. Such recording secretary shall make a complete record of the proceedings of all meetings of said retirement board. (*S. 1, Sub. 6, Ch. 423, L. 1923.*)

7. BOARD POWERS. The retirement board shall have the power and it shall be the duty of said retirement board to:

a. Funding. See that all amounts specified in this section to be applied to the annuity and benefit fund herein provided for, from any source, are collected and applied to such fund. It shall see that the various sums to be deducted from the salaries of the various firemen concerned are deducted and that such sums are paid into said fund, and that the various sums to be contributed by the city are so contributed and are received into said fund, and that any revenue in the form of interest upon moneys invested or upon moneys due to said fund is received and placed in said fund, and that all other moneys which should accrue to said fund are collected and paid into it. (*S. 1, Sub. 7, intro. par. and a, Ch. 423, L. 1923.*)

b. Deductions. Notify on or before the first day in the month of December of the year in which this section shall come into effect in such city, the city comptroller of such city of the amounts or percentages of salary which shall be deducted from the salaries of all firemen employed by such city and paid into the annuity and benefit fund herein provided for, from and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city. (*S. 1, Sub. 7-b, Ch. 423, L. 1923.*)

c. Comptroller. Notify such city comptroller concerning any such amount or percentage of salary to be deducted whenever said retirement board shall deem notice concerning such matter necessary. (*S. 1, Sub. 7-c, Ch. 423, L. 1923.*)

d. Gifts. Accept by gift, grant, bequest or otherwise any money or property of any kind and to use the same for the purposes of the annuity and benefit fund herein provided for. (*S. 1, Sub. 7-d, Ch. 423, L. 1923.*)

e. Investments. Invest the moneys of said annuity and benefit fund in interest bearing bonds or notes of the United States, or of the state of Wisconsin, or of any county of the state of Wisconsin, or of any city, village, town or municipal corporation in said state and in tax sale certificates of any city of the first class, in which case the board shall be vested with the same rights as other purchasers. Any bond purchased by said retirement board shall be registered in the name of the annuity and benefit fund herein provided for. Whenever investment shall be made in tax sale certificates of the city of Milwaukee, the city treasurer shall repurchase all certificates which the board may desire to sell upon proper assignment being made. The board may also invest its funds in any short term notes issued by any city of the first class and further has the authority to organize as a redevelopment corporation under ss. 66.1301 and 66.1303, Wis. Stats., and invest therein not more than 10% of its admitted assets. The retirement board shall also have the power to make any investment permitted under the provisions of s. 62.63(3), Wis. Stats., so that in addition to all other authority for the investment of funds granted to such retirement board such retirement board may invest its funds in accordance with ss. 620.22 and 620.23, Wis. Stats. The board may also invest up to 15% of its admitted assets in common and preferred stock of United States corporations. The authority herein provided shall be dependent upon the retaining of an investment counsel by the board, who shall be approved by the finance and personnel committee of the common council, such investment counsel shall be compensated for by the board and shall recommend investments to the board. No investment shall be made which has not received approval of the investment counsel in writing prior to the time that such investment is made. (*Ch. Ord. 406, Nov. 13, 1973.*)

f. Audit. Have an audit of the accounts of the annuity and benefit fund herein provided for made at least once each year, by a person or persons competent to perform such work. (*S. 1, Sub. 7-f, Ch. 423, L. 1923.*)

g. Payments. Consider and pass upon all applications for annuities and benefits, authorize the payment of any annuity or benefit, and suspend any such payment or payments in accord with the provisions of this section. (*S. 1, Sub. 7-g, Ch. 423, L. 1923.*)

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h. Service. Require each fireman employed by such city, including those on vacation and those on leave of absence, to file a statement or statements in such form as the said retirement board shall direct, concerning all service (as defined in this section) rendered by such fireman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city; examine such statements and determine the various periods of such service rendered by such fireman, which determination shall be conclusive as to any period of such service unless said retirement board shall reconsider any case within one year from the date of such determination and shall change the determination in such case. (S. 1, Sub. 7-h, Ch. 423, L. 1923.)

i. Verification. Determine from such information as shall be available to said retirement board, the period of service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by any such fireman who shall fail to file such a statement, or whose statement such retirement board shall be unable to verify. Any such determination shall be conclusive as to any such period of service unless said retirement board shall reconsider any such case within one year from the date of such determination and shall change the determination in such case. (S. 1, Sub. 7-i, Ch. 423, L. 1923.)

j. Statements. Issue to each present employee (as hereinafter defined) as soon as possible and practicable after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, a certificate which shall show the entire period of service rendered by such present employee prior to such date and the amounts to the credit of such employee as of such date, for prior service annuity and widow's prior service annuity purposes. (S. 1, Sub. 7-j, Ch. 423, L. 1923.)

k. Report to council. Submit a report in the month of March of each year to the common council of such city. Said report shall be made as of the close of business on the thirty-first day of December of the preceding year and shall contain a detailed statement of the affairs of the annuity and benefit fund under the control of said retirement board.

Such report shall show the income and disbursements of, and the assets and liabilities of each fund established and maintained, as hereinafter provided, within the annuity and benefit fund herein provided for, during the preceding year. (S. 1, Sub. 7-k, Ch. 423, L. 1923.)

l. Witnesses. Compel witnesses to attend and testify before it upon any matter concerning such annuity and benefit fund and allow fees not in excess of three dollars to any such witness for such attendance upon any one day. The president and other members of the said retirement board are empowered to administer oaths to such witnesses. (S. 1, Sub. 7-l, Ch. 423, L. 1923.)

m. Staff. All clerical employees shall be appointed under civil service laws and rules of procedure related to and promulgated by the city service commission. All employees in this department at the time of the effective date of this charter ordinance shall be provided civil service status in the manner determined by the city service commission. The appointment of any physician or surgeon shall not be subject to or affected by civil service laws or rules. The board shall annually prepare and submit to the board of estimates a detailed statement of all of the sums and for the several purposes it deems reasonably necessary to perform its functions for the ensuing calendar year. Such report shall be submitted not later than August 1 of each year and shall contain an itemized statement of the principal sources of anticipated revenues and shall in detail allocate the proposed expenditures among such several purposes. The board of estimates shall as it does with respect to other appropriations under ch. 65 of the Wis. Stats., report to the common council its recommendations with respect to proposed expenditures set forth in the board's report. The common council may make changes in the proposed budget submitted by the board as to purposes or amounts for which money may be expended. The board shall have no power to make any expenditure which has not been approved by the common council in the budget. Transfers of funds within the budget approved for such board may be made upon application to the board of estimates as is provided for in the case of other city departments. The board shall be governed by the same rules and procedures

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with respect to employment as are other city departments. Any provision of this act in conflict with the provisions of this charter ordinance is hereby repealed. (*Par. m am. Ch. Ord. 305, File #64-23-5-a, June 16, 1964.*)

n. To make rules. Make rules and regulations necessary for the proper conduct of the affairs of such annuity and benefit fund. (*S. 1, Sub. 7-n, Ch. 423, L. 1923.*)

o. Investment Manager. o-1. Notwithstanding the provisions of this or any other subsection of this section, the retirement board may contract for investment management services. No one shall be selected as an investment manager who does not have 10 years of continuous experience acting as an investment manager or investment advisor in recognized fields of investments for retirement systems of comparable stature. The retirement board shall exercise prudence in selecting the investment manager, but the exercise of prudence by the retirement board shall not relieve the board from all liability and responsibility with respect to investment of the funds of the system. The board shall reserve the right to terminate any contract for investment management services upon reasonable notice.

o-2. The retirement board shall establish written objectives and guidelines which shall govern the investment manager selected by the board. The investment manager shall have authority to purchase legal investments and to sell or exchange legal investments in accordance with the written objectives and guidelines established by the retirement board for this purpose. The retirement board shall evaluate the performance of the investment manager on a systematic and regular basis. The retirement board shall have full power at its sole discretion to contract for an independent evaluation of the investment manager.

o-3. Nothing contained herein shall prohibit the board from retaining 2 or more investment managers to perform the duties and responsibilities herein provided for, and the retirement board may determine the amount of the whole fund to be allocated for investment purposes among such investment managers where more than one investment manager has been selected. However, any investment manager selected shall be required as a

condition of his selection, to satisfy all the requirements and qualifications specified herein and provided for the investment manager. (*Par. o cr. Ch. Ord. 515, File #82-967, Sept. 28, 1982.*)

p. Board has power to invest. Notwithstanding the provisions of this or any other subsection of this section, the retirement board shall have the power to make any investments permitted under s. 62.63(3), Wis. Stats. (*Par p. cr. Ch. Ord. 515, File #82-967, Sept. 28, 1982.*)

**8. BONDING OF BOARD MEMBERS.** The city treasurer of such city shall be the custodian of the annuity and benefit fund herein provided for and shall furnish to the said retirement board a bond of such amount as the said board may designate, which bond shall indemnify the said board against any loss which may result from any action or failure to act on the part of such custodian or any of his agents. All fees and charges incidental to the procuring and giving of such bond shall be paid by said retirement board. (*S. 1, Sub. 8, Ch. 423, L. 1923.*)

**9. LEGAL ADVISORS.** The city attorney of such city, shall be the legal advisor of and attorney for the said retirement board. (*S. 1, Sub. 9, Ch. 423, L. 1923.*)

**10. NO FINANCIAL INTEREST.** No member of the retirement board, nor any person officially connected with said board, either as an employee of said board, or as legal advisor thereof, or as custodian of the annuity and benefit fund herein provided for, shall have any financial interest in the gains or profits of any investment made by said board, nor shall any such person act as the agent of any other person or persons who may have such interest concerning any such investment. (*S. 1, Sub. 10, Ch. 423, L. 1923.*)

**11. DEPARTMENTAL COOPERATION.** It shall be the duty of the proper officers of such city to:

a. Deduct all sums which this section provides shall be deducted from the salaries of firemen and pay such sums to the retirement board of the annuity and benefit fund herein provided for in such manner as said retirement board shall specify. (*S.1, Sub. 11, intro. par. and a, Ch. 423, L. 1923.*)

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b. On the first day of each month, notify the retirement board of the employment of any new firemen and of all discharges, resignations, and suspensions, from the service, deaths, and changes in salary of firemen which shall have occurred during the preceding month, and state the dates upon which any such events shall have occurred. (*S. 1, Sub. 11-b, Ch. 423, L. 1923.*)

c. Procure for and transmit to the retirement board, in such form and at such time or times as shall be specified by said retirement board, all information requested by said retirement board concerning the service, age, salary, residence, marital condition, wife or widow, children, physical condition, mental condition, and death of any firemen employed by such city in particular, information concerning service rendered by any such fireman of such city prior to the first day in the month of January of the first year after the year in which this section shall have come into effect in such city. (*S. 1, Sub. 11-c, Ch. 423, L. 1923.*)

d. Convey to the retirement board all information required by said retirement board concerning each newly appointed fireman immediately after the appointment of such fireman. (*S. 1, Sub. 11-d, Ch. 423, L. 1923.*)

e. Certify to the retirement board, as of some day in each year to be fixed by said retirement board, the name of each fireman to whom this section applies. (*S. 1, Sub. 11-e, Ch. 423, L. 1923.*)

f. Keep such records concerning firemen as the retirement board may reasonably require and shall specify. (*S. 1, Sub. 11-f, Ch. 423, L. 1923.*)

g. All such duties shall be performed by said officers of such city, without any cost to the annuity and benefit fund herein provided for. (*S. 1, Sub. 11-g, Ch. 423, L. 1923.*)

**12. TAX LEVY.** The common council of any city of the 1st class in which there exists a firemen's annuity and benefit fund, or an annuity and benefit fund which covers persons who contribute to such fund or whose fund is contributed to by such city of the first class, shall be required to levy an annual tax for the purpose of making contributions to such benefit and annuity fund not to exceed 3/4 of a mill on the dollar of the assessed valuation of all taxable property in such city. The said

annual tax shall be levied and collected at the same time and in the same manner as the other city taxes of such city are levied and collected according to law. The amount which shall be levied for such purpose shall be determined within the limitations herein set forth by the common council on the basis of actuarial information. If actuarial information received by such common council requires a levy in excess of 3/4 of a mill on the dollar in order to liquidate prior obligations, the common council may direct that there may be an additional levy but not to exceed one mill in the aggregate. The payment by such city into the annuity and benefit fund as herein provided for shall be in lieu of any other payments by such city into such fund, and shall also be in lieu of any past payments into such fund, required of such city by any other provision of state law. All laws hereinbefore enacted which are in conflict with this section are as to such conflict hereby specifically repealed. (*Ch. Ord. 300, File # 63-1409, Sept. 17, 1963, incorporated the provisions of Ch. 309, L. 1963, as cr. sub. 12.*)

a. The amount of the tax to be levied in one year shall be certified to the common council of such city on or before the first day in the month of August of such year, in accordance with chapter 327 of the laws of 1915, by the retirement board of the annuity and benefit fund herein provided for. (*S. 1, Sub. 12-a, Ch. 423, L. 1923.*)

b. As soon as any revenue derived from the same tax shall be collected, the same shall be paid into the annuity and benefit fund herein provided for. (*S. 1, Sub. 12-b, Ch. 423, L. 1923.*)

c. The various sums, hereinafter stated, to be contributed by such city for the purposes of this section, shall be taken from the revenue derived from said tax. (*S. 1, Sub. 12-c, Ch. 423, L. 1923.*)

**13. DEFINITIONS.** The following words and terms as used in ch. 423 of the laws of Wisconsin for 1923 shall mean as follows, respectively:

a. "Accumulated sum" or sum accumulated shall mean the total amount credited to a fireman from deductions made from his salary or from sums contributed or to be contributed by the city together with regular interest and held for his benefit to produce annuities in accordance with this act. (*S. 5, Ch. 440, L. 1947.*)

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b. "Age": shall mean age at latest birthday. (*Par. b am. Ch. Ord. 12, File #31170, Feb. 1, 1926.*)

c. "Annuity": shall mean annual payments for life. All annuities shall be paid in equal monthly installments. When the annuity begins after the first day of the month or ends before the last day of the month the pro rata amount shall be paid for that month. (*S. 5, Ch. 440, L. 1947.*)

d. "Assets": The total value of cash and other property held. Bonds shall be held at their book values. (*Par. d am. Ch. Ord. 12, File #31170, Feb. 1, 1926.*)

e. "Disability": A condition of physical or mental incapacity on the part of a fireman to perform the duties of his position in the service. (*Par. e am. File #31170, Feb. 1, 1926.*)

f. "Discharge": Complete separation from the service. (*Par. f am. File #31170, Feb. 1, 1926.*)

g. "Fireman": Any person who is or shall be employed by the fire department of such city, even though such person does not perform the duties of a fireman and even though the duties of such person are not hazardous. The term "fireman" shall include the terms "member" and "employee" of the fire department. Emergency employees shall not be included. Any person who has been a contributor, participant, member, annuitant or beneficiary in said fund no matter what such person's duties in the fire department heretofore have been, shall be considered a fireman within this definition. (*S. 4, Ch. 440, L. 1947.*)

h. "Future entrant": Any fireman who shall be employed for the first time on or after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, as a fireman of such city, or as an employee in any other branch of the service of such city whose service is recognized as service for the purposes of this section as provided in sub. 44. (*Par. h am. File #31170, Feb. 1, 1926.*)

i. "Pensioner": Any person receiving monthly payments in accordance with the provisions of sub. 55 of this chapter. (*S. 5, Ch. 440, L. 1947.*)

j. "Present employee": Any fireman who shall be employed on the 31st day in the month of December of the year in which this section shall come into effect in such city, as a

fireman in the service of such city, or as an employee, in any other branch of the service of such city, whose service is recognized as service for the purposes of this section, as provided in sub. including all such persons who may be absent from duty, for any cause, on said date. (*Par. j Ch. Ord. 12, File #31170, Feb. 1, 1926.*)

14. ADMINISTRATION COSTS. To provide the money necessary to defray the cost of administration of the annuity and benefit fund herein provided for, contributions to said annuity and benefit fund shall be made by the firemen employed in such city and by the city as follows:

a. The city shall contribute each year, beginning in the first year after the year in which this section shall come into effect in such city, an amount equal to one-eighth of one per cent of the aggregate amount of the annual salaries of the firemen employed by such city on the first day in the month of January of such year from whose salaries, deductions are made for age and service annuity purposes, as stated hereinafter, and any additional amount required to defray the cost of such administration shall be contributed by such firemen during each such year as follows:

b. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, equal percentages of each payment of the salaries of all such firemen shall be deducted for such purpose. The percentages of such salaries to be deducted shall be such as to provide an amount each year, which when added to the amount contributed by the city each such year will be sufficient to defray the cost of administration of the annuity and benefit fund herein provided for during such year. (*S. 1, Intro. Par, & a and b of Sub. 14, Ch. 423, L. 1923.*)

c. At the end of each year the board may, upon advice of the actuary, transfer amounts accumulated in the various funds provided by this act to the annuity payment fund described in subsection 59-e to be used for the purposes described in said subsection. (*S. 6, Ch. 440, L. 1947.*)

d. From and after the first day of the month of January, of the first year after the year in which this section shall come into effect in such city, the city shall pay the full amount required to defray the costs of administration.



Any amounts accumulated in the expense fund described in sub. 59-b from and after the first day in the month of January of the 1st year after the year in which this section shall come into effect in such city shall be transferred to the annuity payment fund described in sub. 59-e. (*Par. d cr. Ch. Ord. 469, File #78-1127, Nov. 14, 1978.*)

**15. ANNUAL SALARY.** For all purposes of this section it shall be assumed that the annual salary of any present employee has been of the same amount throughout the entire period of service rendered by such employee prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, that such salary shall be at five o'clock P.M. on the first day in the month of January of the year following the year in which this section shall come into effect in such city. (*S. 1, Sub. 15, Ch. 423, L. 1923.*)

**16. ANNUITY, FUTURE AND PRESENT EMPLOYEES.** Annuity to be known as "Age and Service Annuity," shall be provided for future entrants and for present employees. Except as provided in subsection 61, any such annuity shall consist of payments for life. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. (*S. 7, Ch. 440, L. 1947.*)

**17. FUTURE ENTRANT CONTRIBUTIONS.** To provide age and service annuities for future entrants, contributions to the annuity and benefit fund herein provided for shall be made by each future entrant and by the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, three per cent of each payment of the salary of each future entrant shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deduction shall be made at the times such payments of salary are payable and shall be continued while such future entrant shall be in the service until he shall attain an age of fifty-seven years unless such future entrant shall not then have completed fifteen years of service, in which case the said deductions shall be continued until the end of the fifteenth year of his service.

b. Concurrently with each such deduction from the salary of any future entrant, the city shall contribute a sum equal to nine per cent of each payment of the salary of such future entrant. In case it shall not be possible or practicable for the city to make any such contribution at the same time that any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution shall equal exactly three times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each such deduction from salary and corresponding contribution by the city shall be allocated to the account of and credited to the future entrant for whose benefit it is made for age and service annuity purposes. Each amount so credited to a future entrant shall be improved to the credit of such future entrant by interest at the rate of four per cent per annum during all time thereafter that such future entrant shall be in the service, until such future entrant shall attain an age of fifty-seven years, if he shall then have completed fifteen or more years of service. If such future entrant shall not have completed fifteen years of service at the time he shall attain an age of fifty-seven years, the amount to his credit shall be improved by interest at the said rate while such future entrant shall be in the service until the end of the fifteenth year of his service. Any interest or other accretion upon the accumulated sum to the credit of any such future entrant at the time such future entrant shall have attained an age of fifty-seven years, or at the time subsequent to attainment of such age when such future entrant shall have completed fifteen years of service, as aforesaid, which may accrue thereafter, shall not be credited to any such future entrant for the purpose of increasing the amount of annuity to which such future entrant shall have a right. The sum accumulated to either such time as stated, shall be the amount that shall be used as the sum to the credit of any such future entrant for age and service annuity for such future entrant. (*S. 1, Sub. 17, Ch. 423, L. 1923.*)

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**18. DEDUCTIONS, PRESENT EMPLOYEES.** To provide age and service annuities for present employees, contributions to the annuity and benefit fund herein provided for shall be made by each present employee and the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, three per cent of each payment of the salary of each present employee shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the times such payments of salary are payable and shall be continued while such present employee shall be in the service until the amount so deducted from the salary of such present employee together with the amount deducted from his salary or otherwise paid by him according to law and applied to any firemen's pension fund or policemen's pension fund, or public school teachers' annuity and retirement fund, in operation, by authority of law, in such city at the time this section shall come into effect in such city, with interest on both such amounts at the rate of four per cent per annum, shall be equal to the sum which would have accumulated to the credit of such present employee for age and service annuity purposes from sums deducted from his salary if deductions from his salary for such purposes at the rate herein stated had been made during the entire period of his service until his attainment of an age of fifty-seven years if he shall then have completed fifteen or more years of service; or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, together with interest upon such sum at the rate of four per cent per annum for the period of time subsequent to his attainment of an age of fifty-seven years, or the completion of the fifteenth year of his service, as aforesaid, as the case may be.

b. Concurrently with each such deduction from the salary of any present employee, the city shall contribute a sum equal to nine per cent of each payment of the salary of such present employee until such present employee shall have attained an age of fifty-seven years, if he shall then have completed

fifteen or more years of service; or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years. In case it shall not be possible or practicable for the city to make any such contribution at the time any such deduction shall be made the city shall make such contribution as soon as possible and practicable thereafter, with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution shall equal exactly three times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each deduction from the salary of any present employee for age and service annuity purposes, made prior to the date when the amount of age and service annuity to which such present employee shall have a right shall be fixed as stated in subsection 28 of this section and each corresponding contribution by the city for such annuity purposes shall be allocated to the account of and credited to the present employee for whose benefit it is made, and shall be improved to the credit of such present employee by interest at the rate of four per cent per annum during the time such present employee shall be in the service until the amount of such age and service annuity shall be fixed. The sum thus accumulated shall be the amount which shall be used to provide age and service annuity for such present employee. Any accretion, by way of interest or otherwise, upon such sum or any deduction from the salary of such present employee made after the amount of such annuity shall be fixed shall not be credited to such present employee for the purpose of increasing the amount of annuity to which such present employee shall have a right. (*S. 1, Sub. 18, Ch. 423, L. 1923.*)

**19. PRIOR SERVICE ANNUITY, PRESENT EMPLOYEES.** Annuity to be known as "Prior Service Annuity" shall be provided for present employees in addition to age and service annuity. Except as provided in subsection 61, any such annuity shall consist of payments for life. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. (*S. 8, Ch. 440, L. 1947.*)

**20. PRIOR SERVICE, ACCOUNTS CREDITED.** Prior service annuity shall be provided for present employees from amounts to be ascertained by the retirement board and credited to such present employees as follows:

a. As soon as possible, the retirement board shall ascertain the amounts which have been deducted from the salary of each present employee and applied to any firemen's pension fund, or any policemen's pension fund, or any public-school teacher's annuity and retirement fund, each and all of them in operation, by authority of law, in such city at the time when this section shall have come into effect in such city, and also all other amounts paid into such fund according to law by any such present employee before the first day in the month of January of the first year after the year in which this section shall come into effect in such city. Each such present employee shall be credited in his account in the annuity and benefit fund herein provided for with an amount equal to the aggregate of all such amounts deducted from his salary and otherwise paid by him, with interest on such amounts at the rate of four per cent per annum from the dates when such amounts shall have been deducted or paid, to the first day in the month of January of the first year after the year in which this section shall come into effect in such city.

b. As soon as possible, the retirement board shall ascertain the term of service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by each present employee, and each such present employee shall be credited in his account with an amount equal to nine per cent of his annual salary as it shall be on the first day in the month of January of the first year in which this section shall come into effect in such city, for a period of time equal to that of such service rendered before the first day in the month of January in the first year after the year in which this section shall come into effect in such city, with interest thereon at the rate of four per cent per annum to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, upon the assumption that one-twelfth of such nine per cent of such annual salary was due at the end of each month of such service.

c. Each amount to the credit of any present employee for prior service annuity purposes under the foregoing provisions of this subsection shall be improved to the credit of such present employee by interest at the rate of four per cent per annum during the time thereafter that such present employee shall be in the service until the age and service annuity and the prior service annuity of such employee shall be fixed as stated in subsection 28 of this section. (*S. 1, Sub. 20, Ch. 423, L. 1923.*)

**21. WIDOW'S ANNUITY, FUTURE AND PRESENT EMPLOYEES.** Annuity to be known as "Widow's Annuity" shall be provided for widows of future entrants and of present employees. Subject to the provisions of subsections 41 and 61, any such annuity shall be a life annuity, and payments thereof shall be made throughout the life of the annuitant from and after the date when the event upon which payment of such annuity shall depend shall occur. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. (*S. 9, Ch. 440, L. 1947.*)

**22. WIDOW'S ANNUITY, FUTURE ENTRANTS.** To provide widow's annuities for widows of future entrants, contributions to the annuity and benefit fund herein provided for shall be made by each future entrant and by the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, one per cent of each payment of the salary of each future entrant shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the same time such payments of salary are payable and shall be continued during the service of such future entrant until he shall attain an age of fifty-seven years, if he shall then have completed fifteen or more years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years; provided, that no such deduction shall be made from the salary of any future entrant after he shall have attained an age of fifty-seven years, if such future entrant shall not be married when he shall attain such age.

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b. Concurrently with each such deduction from the salary of any future entrant, the city shall contribute a sum equal to two and one-half per cent of each payment of the salary of such future entrant. In case it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution when made shall equal exactly two and one-half times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each such deduction from salary and corresponding contribution by the city shall be allocated to the account of and credited to the future entrant for whose benefit it is made, for widow's annuity purposes. Each amount so credited shall be improved to the credit of such future entrant by interest at the rate of four per cent per annum during all time thereafter that such future entrant shall be in the service, until he shall attain an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years and shall be married. Any interest or other accretion upon the accumulated sum to the credit of any future entrant at the time he shall have attained an age of fifty-seven years, or at the time subsequent to attainment of such age when he shall have completed fifteen years of service, as aforesaid, which shall accrue thereafter, shall not be credited to such future entrant for the purpose of increasing the amount of annuity for the widow of such future entrant. (*S. 1, Sub. 22, Ch. 423, L. 1923.*)

**23. WIDOW'S ANNUITY, PRESENT EMPLOYEES.** To provide widow's annuities for widows of present employees, contributions to the annuity and benefit fund herein provided for shall be made by each present employee and by the city as follows:

a. From and after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, one per cent of each payment of the salary of each present employee shall be

deducted and contributed to the annuity and benefit fund herein provided for. Such deductions shall be made at the times such payments of salary are payable and shall be continued during the service of each such present employee until he shall have attained an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years provided, that no such deduction shall be made from the salary of any present employee after he shall have attained an age of fifty-seven years, if such present employee shall not be married when he shall attain such age.

b. Concurrently with each such deduction from the salary of a present employee the city shall contribute a sum equal to two and one-half per cent of each such payment of the salary of such present employee. In case it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter, with interest thereon at the rate of four per cent per annum to the time it shall be made, so that each such contribution when made shall equal exactly two and one-half times the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

c. Each such deduction from salary and corresponding contribution by the city shall be allocated to the account of and credited to the present employee for whose benefit it is made, for widow's annuity purposes. Each amount so credited shall be improved to the credit of such present employee by interest at the rate of four per cent per annum during all time thereafter, that such present employee shall be in the service until he shall have attained an age of fifty-seven years if he shall then have completed fifteen years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years and shall be married. Any interest or other accretion upon the accumulated sum to the credit of any present employee at the time he shall have attained an

age of fifty-seven years, or at the time subsequent to attainment of such age when he shall have completed fifteen years of service, as aforesaid, which shall accrue thereafter, shall not be credited to such present employee for the purpose of increasing the amount of annuity for the widow of such present employee. (S. 1, Sub. 23, Ch. 423, L. 1923.)

**24. WIDOW'S ANNUITY, PRIOR SERVICE EMPLOYEES.** Annuity, to be known as "Widow's Prior Service Annuity" shall be provided for the widow of each present employee in addition to widow's annuity. Subject to the provisions of subsections 41 and 61, any such annuity shall be a life annuity, and payments thereof shall be made throughout the life of the annuitant from and after the date when the event upon which payment of such annuity shall depend shall occur. Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13. (S. 10, Ch. 440, L. 1947.)

**25. WIDOW'S ANNUITY, PRIOR SERVICE PROVISIONS.** Widow's prior service annuity shall be provided for the widow of each present employee from amounts to be ascertained by the retirement board and credited to such present employee as follows:

a. Each married present employee who shall have attained an age of fifty-seven or more years and who shall have completed fifteen or more years of service prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall be credited in his account for widow's prior service annuity purposes with an amount equal to three and one-half per cent of his annual salary, as such salary shall be on the first day in the month of January of such year, for a period of time equal to the term of service rendered by such present employee before such present employee attained an age of fifty-seven years if he shall have completed fifteen or more years of service before attainment of such age, or before the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, with interest thereon at the rate of four per cent per annum to the time he shall have attained an age of fifty-seven years, if he shall then have completed

fifteen or more years of service, or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, upon the assumption that one-twelfth of such three and one-half per cent of annual salary was due at the end of each month of such term of service.

b. Each present employee who shall not have attained an age of fifty-seven years before the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and each married present employee who shall have attained an age of fifty-seven years but who shall not have completed fifteen years of service before such first day in the month of January of such year, shall be credited in his account for widow's prior service annuity purposes with an amount equal to three and one-half per cent of his annual salary, as such salary shall be on the first day in the month of January of such year for a period of time equal to the term of service rendered by such present employee before such first day in the month of January of such year with interest thereon at the rate of four per cent per annum to such first day in the month of January of such year, upon the assumption that one-twelfth of such three and one-half per cent of annual salary was due at the end of each month of such service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city. Such amount, so credited shall be improved by interest at the rate of four per cent per annum during the subsequent service of each such present employee until he shall have attained an age of fifty-seven years if he shall then have completed fifteen or more years of service, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years. (S. 1, Sub. 25, Ch. 423, L. 1923.)

**26. WIDOW'S ANNUITY, PRIOR SERVICE CONTRIBUTIONS.** For the purpose of providing prior service annuities, widow's prior service annuities and the annuities pension and benefits described in subsection 56 of this section, the city shall make contributions as provided in subsection 56 of this section. (S. 1, Sub. 26, Ch. 423, L. 1923.)

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#### 27. FUTURE ENTRANT, AFTER AGE

57. a. When any future entrant who shall have served fifteen or more years shall attain an age of fifty-seven years while in the service, the amount of age and service annuity to which such future entrant shall have a right at any time thereafter when he shall resign or be discharged from the service, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death, shall be fixed as of their respective ages at the time; provided, in case the wife of any such future entrant shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

b. When any future entrant who shall have attained an age of fifty-seven years while in service and who shall not then have served fifteen years shall have completed fifteen years of service, the amount of age and service annuity to which such future entrant shall have a right at any time thereafter when he shall resign or be discharged from the service, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death, shall be fixed at that time upon the assumption that the age of such future entrant is fifty-seven years, and that of his wife, if she shall be of the same age or older than he, also fifty-seven years, and if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years.

c. When any future entrant who shall have entered the service before he became fifty-seven years of age shall resign or be discharged from the service after he shall have attained such age and before he shall have completed fifteen years of service the amount of age and service annuity to which such future entrant shall have a right from and after the date of such resignation or discharge from the service, and the amount of widow's annuity to which the wife of such future entrant shall have a right from and after the date of his death, shall be fixed at the time of such resignation or discharge from the service on the assumption that the age of such future entrant is exactly fifty-seven years, and that of his wife, if she shall be of the same age as or older than he, also fifty-seven years, and if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years.

d. No deduction from salary or contribution by the city, for any annuity purposes for or on account of any future entrant described in pars. a to c shall be made after the time when the amounts of the annuities to which such future entrant and the wife of such future entrant shall have a right shall have been fixed, and no amount of annuity in excess of that fixed in accordance with the provisions of this subsection shall be granted to any such future entrant or the widow of such future entrant, and no service of such future entrant rendered after such time shall be considered for annuity purposes.

e. When any future entrant who shall have attained an age of fifty or more but less than fifty-seven years while in the service and who shall have served ten or more years shall resign or be discharged from the service, the amount of age and service annuity to which he shall have a right from and after the date of such resignation or discharge and the amount of widow's annuity to which his wife shall have a right from and after the date of his death shall be fixed, as of their respective ages at that time; provided, that if such wife shall be older than such future entrant, her age for annuity purposes shall be assumed to be the same as his.

f. When any future entrant who shall have resigned or been discharged from the service after such future entrant shall have been in the service for a period of ten or more years and before he shall have attained an age of fifty years shall attain an age of fifty years while not in the service, the amount of age and service annuity to which he shall have a right from and after the time when he shall have attained such age of fifty years and shall have applied for annuity, and the amount of widow's annuity to which his wife shall have a right from and after the date of his death shall be fixed as of their respective ages at that time; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be fifty years.

g. No amount of annuity other than that fixed in accordance with the provisions of this subsection shall be granted to any such future entrant described in pars. e and f, or to the widow of such future entrant, unless such future entrant shall reenter the service before he shall attain an age of fifty-seven years in which case the amounts of annuities to which

any future entrant and his wife shall have a right shall again be fixed when such future entrant shall attain an age of fifty-seven years, if he shall have completed fifteen years of service at such time, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service; or at any time before either such time when he shall again resign or be discharged from the service. (S. 1, Sub. 27, Ch. 423, L. 1923.)

**28. PRIOR SERVICE, 15 YEARS.** a. If any present employee shall have to his credit on the first day in the month of January of the year after the year in which this section shall come into effect in such city, for prior service annuity purposes, an amount at least sufficient to provide annuity for such present employee as of his age on such first day in the month of January of such year, equal in amount to that to which such present employee would have a right if deductions from his salary and contributions by the city had been made in accordance with the provisions of subsection 18 of this section during the entire period of the service of such present employee until his attainment of an age of fifty-seven years if he shall have completed at least fifteen years of service at the time he shall have attained such age, or until the end of the fifteenth year of his service, if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, the amount of prior service annuity to which such present employee shall have a right from and after the date when he shall resign or be discharged from the service shall be fixed on the first day in the month of January of the year after the year in which this section shall come into effect in such city as of his age at such time, and any such present employee shall not have any right to receive any age and service annuity.

b. When any present employee who shall have attained an age of fifty-seven or more years while in the service shall have to his credit for age and service annuity and prior service annuity purposes an amount sufficient to provide annuity for such present employee as of his age at such time equal in amount to that to which such present employee would have had a right if deductions from his salary and contributions by the city had been made in accordance with the provisions of subsection

18 of this section during the entire period of the service of such present employee until his attainment of an age of fifty-seven years if he shall have completed at least fifteen years of service at the time he shall have attained such age, or until the end of the fifteenth year of his service if he shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years, the amount of age and service annuity and the amount of prior service annuity to which any such employee shall have a right at any time thereafter when he shall resign or be discharged from the service shall be fixed as of his age at such time.

c. When any present employee who shall have attained an age of fifty-seven or more years while in the service and who shall not have to his credit for age and service annuity and prior service annuity purposes the amount described in par. b shall resign or be discharged from the service, the amount of age and service annuity and the amount of prior service annuity to which such present employee shall have a right from and after the date of such resignation or discharge shall be fixed as of his age at the time of such resignation or discharge.

d. The amount of annuity to which the wife of any present employee who shall have attained the age of fifty-seven or more years and who shall have completed fifteen or more years of service prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall have a right from and after the date of the death of such present employee, shall be fixed on the first day in the month of January of the first year after the year in which the section shall come into effect in such city, as of the age of such wife at the time such present employee became fifty-seven years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

e. When any present employee who shall have attained an age of fifty-seven years on or before the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and who shall not have completed fifteen years of service on the first day in the month of

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January of the first year after the year in which this section shall come into effect in such city, shall complete such a term of service, the amount of annuity to which the wife of such present employee shall have a right from and after the date of his death shall be fixed as of the age of such wife on the date when such present employee became fifty-seven years of age. If any such present employee shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall have completed fifteen years of service, the amount of annuity to which his wife shall have a right shall be fixed at the time of such resignation or discharge as of her age on the date when such present employee became fifty-seven years of age. Provided, that if any wife described in this paragraph shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

f. The amount of annuity to which the wife of any present employee who shall attain and age of fifty-seven years while in the service subsequent to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall have a right from and after the date of the death of such present employee, shall be fixed when such present employee shall attain such age of fifty-seven years if he shall then have completed fifteen or more years of service; or at the end of the fifteenth year of his service if he shall not have completed such a term of service at the time he shall attain an age of fifty-seven years; or at any time prior to the completion of fifteen years of service when such present employee shall resign or be discharged from the service. Any such annuity shall be computed as of the age of such wife on the date when such present employee shall become fifty-seven years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

g. No amount of annuity in excess of that fixed in accordance with the provisions of this subsection shall be granted to any present employee described in pars. a to f, or to the widow of any such present employee.

h. When any present employee who shall have attained an age of fifty or more but less than fifty-seven years while in the service and who shall have served ten or more years shall resign or be discharged from the service, the amount of age and service annuity and the amount of prior service annuity to which any such present employee shall have a right from and after the date of such resignation or discharge from the service, and the amount of widow's annuity and of widow's prior service annuity to which the wife of such present employee shall have a right from and after the date of his death shall be fixed as of their respective ages at the time of such resignation or discharge; provided, that if the wife of any such present employee shall be older than her husband her age for annuity purposes shall be assumed the same as his.

i. When any present employee who shall resign or be discharged from the service after such present employee shall have served for a period of ten or more years but before he shall have attained an age of fifty years shall attain such age while out of the service, the amount of age and service annuity and the amount of prior service annuity to which he shall have a right from and after the time when he shall have attained such age of fifty years and shall have applied for annuity, and the amount of widow's annuity and widow's prior service annuity to which his wife shall have a right from and after the date of his death, shall be fixed as of the respective ages of such present employee and his wife at the time such present employee shall become fifty years of age; provided, that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

j. No amount of annuity in excess of that fixed in accordance with the provisions of this subsection shall be granted to any present employee described in pars. h and i or to the widow of any such present employee, unless such present employee shall reenter the service before he shall have attained an age of fifty-seven years, in which case the amount of annuity to which such present employee shall have a right shall be fixed when he shall again resign or be discharged from the service, whichever event shall first occur, as of his age at the time the amount of such annuity shall be



fixed, and the amount of annuity to which the wife of any such present employee shall have a right shall be fixed when he shall have attained an age of fifty-seven years, if he shall then have completed fifteen or more years of service, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service if he shall not have completed such a term of service at the time he shall have attained such age or when he shall again resign or be discharged from the service, whichever event shall first occur, as of her age at the time such present employee shall become fifty-seven years of age, provided that if any such wife shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his. (*S. 1, Sub. 28, Ch. 423, L. 1923.*)

**29. FUTURE ENTRANTS OR PRESENT EMPLOYEES.** a. After age 50. Any annuity fixed for or granted to any future entrant or present employee who shall resign or be discharged from the service after he shall have attained an age of fifty years, or the widow of any such future entrant or present employee or the widow of any future entrant or present employee who shall die while in the service, shall be computed according to the American experience table of mortality and interest at the rate of four per cent per annum.

b. Service credits. b-1. All sums to the credit of any future entrant or present employee for annuity purposes at the time he shall resign or be discharged from the service before he shall have attained an age of fifty years shall be improved to the credit of such future entrant or present employee by interest at the rate of three and one-half per cent per annum thereafter while such future entrant or present employee shall be out of the service and shall not have entered upon annuity until he shall attain an age of fifty-seven years.

b-2. Any annuity fixed for or granted to any such future entrant or present employee who shall not have reentered the service prior to the time such annuity shall be fixed or granted, or any annuity fixed for or granted to the widow of any such future entrant or present employee who shall die, shall be computed according to the American experience table of mortality and interest at the rate of three and one-half per cent per annum.

b-3. The amount of widow's annuity or of widow's prior service annuity which shall be fixed for the wife of any employee while such employee shall be alive, shall be that which can be provided by dividing the sum to the credit of such employee for such annuity purposes on the date when the amount of such annuity shall be fixed by the number representing the difference between the following amounts: The amount required to provide an annuity of one dollar a year for life for such wife beginning on the date when the annuity is fixed, and the amount required to provide an annuity of one dollar a year for such wife beginning on such date and payable throughout the life of her husband. (*S. 1, Sub. 29, Ch. 423, L. 1923.*)

**30. FUTURE ENTRANT.** a. After age 57. Any future entrant who shall resign or be discharged from the service after he shall attain an age of fifty-seven or more years while in the service shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the entire sum accumulated to his credit for age and service annuity purposes on the date when he shall have become fifty-seven years of age if he shall then have completed fifty or more years of service; or on the date subsequent to his attainment of such age when he shall have completed fifteen years of service; or on the date of his resignation or discharge from the service if he shall not have completed fifteen years of service. Regardless of the age of any such future entrant concerned, any such annuity shall be computed as though such future entrant were fifty-seven years of age at the time of his resignation or discharge from the service.

b. After age 50. b-1. Any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be fifty or more but less than fifty-seven years of age shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date of such resignation or discharge.

b-2. In the case of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes from deductions from his salary and contributions by the city.

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b-3. In the case of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service.

b-4. Any such annuity shall be computed as of the age of the future entrant concerned on the date of his resignation or discharge from the service.

c. Before age 50. c-1. Any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be less than fifty years of age shall have a right to receive annuity, from and after the date when he shall attain an age of fifty or more years while out of the service and shall apply for such annuity; provided, such future entrant shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity purposes and widow's annuity purposes prior to his attainment of such age. Any such annuity shall be of such amount as can be provided from the total amount of the following sums to credit of the future entrant concerned, on the date when he shall have become fifty years of age.

c-2. In the case of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes.

c-3. In the case of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city, for each year of service rendered by him after the first ten years of his service.

c-4. Any such annuity shall be computed as though such future entrant were exactly fifty years of age at the time such annuity shall be granted regardless of his real age at the time application for such annuity shall be made, and no such future entrant shall

have any right to any annuity for or on account of any time which may intervene between the time when he shall attain an age of fifty years and the time when he shall make application for annuity. (S. 1, Sub. 30, Ch. 423, L. 1923.)

#### 31. WIDOW OF FUTURE ENTRANT.

a. Resign or discharge after age 57. The widow of any future entrant who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years and who shall enter upon annuity shall have a right to receive annuity, from and after the date of the death of such future entrant, according to the provisions of subsection 27 of this section, concerning age, of such amount as can be provided from the entire sum accumulated to the credit of such future entrant for widow's annuity purposes at the time the amount of such annuity shall have been fixed as provided in subsection 27 of this section.

b. Death after age 57. The widow of any future entrant who shall die while in the service after he shall have attained an age of fifty-seven or more years and after the amounts of age and service annuity for him and of widow's annuity for his wife shall have been fixed as provided in subsection 27 of this section shall have a right to receive annuity, from and after the date of the death of such future entrant, according to the provisions of subsection 27 concerning age, of such amount as can be provided from the entire sum accumulated to the credit of such future entrant for widow's annuity purposes on the date the amounts of such annuity shall have been fixed.

c. Death while in service. The widow of any future entrant who shall die while in the service after he shall have attained an age of fifty-seven or more years but before he shall have completed fifteen years of service shall have a right to receive annuity, from and after the date of the death of such future entrant, of such amount as can be provided from the entire sum accumulated to his credit on the date of his death for age and service annuity and widow's annuity purposes, provided, that no part of any such accumulated sum resulting from contributions by the city shall be used to provide an annuity which shall exceed in amount that which such widow would have had a right to receive if such future

entrant had lived and continued in service upon salary at the rate of his final salary until the time when the amounts of age and service annuity and widow's annuity for him and his wife respectively would have been fixed as stated in subsection 27 of this section. Regardless of the age of any such widow concerned, any such annuity shall be computed as though the age of the future entrant concerned were exactly fifty-seven years on the date of his death, and that of his widow if she shall be younger than he, the age arrived at by subtracting the difference in time between their real ages from fifty-seven years; and if she shall be of the same age or older than he, her age shall be assumed to be fifty-seven years.

d. Death before age 57. The widow of any future entrant who shall die while in the service before he shall have attained an age of fifty-seven years shall have a right to receive annuity, from and after the date of the death of such future entrant of such amount as can be provided from the total amount of the sums accumulated to the credit of such future entrant on the date of his death for age and service annuity and widow's annuity purposes from deductions from his salary and from contributions by the city; provided, that no part of the sum accumulated from contributions by the city shall be used to provide annuity for such widow which shall exceed in amount that which such widow would have had a right to receive if her husband had lived and continued in service upon salary at the rate of his final salary until he would have become fifty-seven years of age if he would then have completed fifteen or more years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service, and an amount of widow's annuity were then fixed for such widow as of her age as it would be at such time, in accord with the provisions of subsection 27 of this section concerning the age of a wife. Any such annuity shall be computed as of the age of such widow on the date of the death of such future entrant; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his.

e. Resign or discharge after age 50.  
e-1. The widow of any future entrant who shall resign or be discharged from the service after

he shall have attained an age of fifty or more but less than fifty-seven years and after he shall have served ten or more years and who shall enter upon annuity and who shall die while upon such annuity shall have a right to receive annuity, from and after the date of the death of such future entrant, in accordance with the provisions of subsection 27 of this section concerning age, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date when the amounts of such annuity shall have been fixed as provided in said subsection 27.

e-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for widow's annuity purposes.

e-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for widow's annuity purposes from deductions from his salary and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

f. Resign or discharge before age 50.  
f-1. The widow of any future entrant who shall resign or be discharged from service after he shall have served ten or more years and before he shall have attained an age of fifty years and who shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity and widow's annuity purposes and who shall die while out of the service after he shall have attained an age of fifty or more years shall have a right to receive annuity, from and after the date of the death of such future entrant, in accordance with the provisions of subsection 27 of this section concerning the age of a wife, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date when the amount of such annuity shall have been fixed as provided in said subsection 27.

f-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for widow's annuity purposes.

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f-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for widow's annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

g. After 10 years' service. g-1. The widow of any future entrant who shall resign or be discharged from the service after he shall have served ten or more years and before he shall have attained an age of fifty years and who shall not have withdrawn nor applied for refund of the sum accumulated to his credit from deductions from his salary for age and service annuity fund and widow's annuity purposes and who shall die, while not in service, before he shall have attained an age of fifty years shall have a right to receive annuity, from and after the date of the death of such future entrant, of such amount as can be provided from the total amount of the following sums to the credit of such future entrant on the date of his death; provided, that no part of any such sum accumulated from contributions by the city shall be used to provide an annuity for any such widow which shall exceed in amount that which such widow would have had a right to receive if her husband had lived until he attained an age of fifty years and had not reentered the service, and an amount of widow's annuity were then fixed for such widow as of her age as it would be, in accordance with the provisions of subsection 27 of this section concerning the age of a wife, when her husband would have attained such age.

g-2. In the case of a widow of any such future entrant who shall have served twenty or more years, the entire sum accumulated for age and service and widow's annuity purposes.

g-3. In the case of a widow of any such future entrant who shall have served ten or more but less than twenty years, the sum accumulated for both age and service annuity and widow's annuity purposes from deductions from his salary and the sum obtained by applying one-tenth of the sums accumulated for both such annuity purposes from contributions by the city for each year of service rendered by such future entrant after the first ten years of his service.

g-4. Any such annuity shall be computed as of the age of such widow at the time of the death of such future entrant; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his. (*S. 1, Sub. 31, Ch. 423, Laws of 1923.*)

**32. PRESENT EMPLOYEE, PRIOR SERVICE.** a. Service credits. Any present employee who shall resign or be discharged from the service, whose annuity shall have been fixed, in accordance with the provisions of par. a of subsection 28 on the first day in the month of January of the first year after the year in which this section shall come into effect shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the sum to his credit for prior service annuity purposes on the date when the amount of such annuity was fixed.

b. After age 57. Any present employee who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years while in the service and after the amounts of age and service annuity and of prior service annuity for such present employee shall have been fixed in accordance with the provisions of subsection 28 of this section shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to his credit on the date when the amount of such annuity was fixed; the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

c. Before fixed annuity. Any present employee who shall resign or be discharged from the service after he shall have attained an age of fifty-seven or more years while in the service and before the amount of age and service annuity and of prior service annuity for such present employee shall have been fixed shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to his credit on the date of such resignation or discharge; the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

d. After age 50. d-1. Any present employee who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be fifty or more but less than fifty-seven years of age shall have a right to receive annuity, from and after the date of such resignation or discharge, of such amount as can be provided from the total amount of the following sums to the credit of such present employee on the date of such resignation or discharge.

d-2. In the case of any such present employee who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes and the entire sum credited for prior service annuity purposes.

d-3. In the case of any such present employee who shall have served ten or more but less than twenty years, the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service, and the sum credited for prior service annuity purposes on account of amounts deducted from his salary or otherwise paid by him and applied to any firemen's pension fund, or any policemen's pension fund, or any public school teachers' annuity and retirement fund in operation, by authority of law, in such city at the time this section shall have come into effect in such city, and the sum obtained by applying one-tenth of the sum credited for prior service annuity purposes, in accordance with the provisions of sub. 20-b, for each year of service rendered by him after the first ten years of his service.

e. Before age 50. e-1. Any present employee who shall resign or be discharged from the service after he shall have served ten or more years and who at the time of such resignation or discharge shall be less than fifty years of age shall have a right to receive annuity, from and after the date when he shall attain an age of fifty or more years while out of service and shall apply for such annuity; provided, such present employee shall not have withdrawn nor applied for refund of that part of the sum to his credit from deductions from his salary for age and service annuity, a widow's

annuity and prior service annuity purposes to which he shall have a right of refund prior to his attainment of an age of fifty years. Any such annuity shall be of such amount as can be provided from the total amount of the following sums to the credit of such present employee concerned, on the date when he shall have become fifty years of age.

e-2. In the case of any such present employee who shall have served twenty or more years, the entire sum accumulated for age and service annuity purposes, and the entire sum credited for prior service annuity purposes.

e-3. In the case of any such present employee who shall have served ten or more but less than twenty years the sum accumulated for age and service annuity purposes from deductions from his salary, and the sum obtained by applying one-tenth of the sum accumulated for such annuity purposes from contributions by the city for each year of service rendered by him after the first ten years of his service and the sum credited for prior service annuity purposes on account of amounts deducted from his salary or otherwise paid by him and applied to any firemen's pension fund, or any public school teachers' annuity and retirement fund, or any policemen's pension fund in operation, by authority of law, in such city at the time this section shall come into effect and the sum obtained by applying one-tenth of the sum credited for prior service annuity purposes in accordance with the provisions of sub. 20-b, for each year of service rendered by him after the first ten years of his service.

e-4. Any such annuity shall be computed as though such present employee were exactly fifty years of age at the time such annuity shall be granted, regardless of his real age at the time application for such annuity shall be made, and no such present employee shall have any right to any annuity for or on account of any time which may intervene between the time when he shall attain an age of fifty years and the time when he shall make application for such annuity. (*S. 1, Sub. 32, Ch. 423, L. 1923.*)

**33. WIDOW OF PRESENT EMPLOYEE.** a. The widow of any present employee (the amount of whose annuity shall be fixed as provided in subsection 28 of this section, on the first day in the month of January of the

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first year after the year in which this section shall come into effect in such city) shall have a right to receive annuity, from and after the date of the death of such present employee, according to the provisions of said subsection 28 concerning age, of such amount as can be provided from the sum to the credit of such present employee for widow's prior service annuity purposes on the first day in the month of January of the first year after the year in which this section shall come into effect in such city.

b. The widow of any present employee who shall resign or be discharged from the service after he shall have become fifty-seven or more years of age and who shall enter upon annuity shall have a right to receive annuity from and after the date of the death of such present employee, of such amount as can be provided from the total amount of the sums to the credit of such present employee for widow's annuity and widow's prior service annuity purposes at the time the amount of such annuity for such widow shall have been fixed according to the provisions of subsection 28 of this section.

c. The widow of any present employee who shall die while in the service after he shall have attained an age of fifty-seven years and after the amounts of widow's annuity and widow's prior service annuity for his wife shall have been fixed as provided in subsection 28 of this section shall have a right to receive annuity, from and after the date of death of such present employee, according to the provisions of said subsection 28 concerning age, of such amount as can be provided from the total amount of the sums to the credit of such present employee for widow's annuity and widow's prior service annuity purposes at the time that the amount of such annuity for such widow shall have been fixed.

d. The widow of any present employee who shall die while in the service, after he shall have become fifty-seven or more years of age and before the amounts of widow's annuity and widow's prior service annuity for his wife shall have been fixed, as provided in subsection 28 of this section, shall have a right to receive annuity, from and after the date of the death of such present employee, of such amount as can be provided from the total amount of the several sums to the credit

of such present employee on the date of his death for age and service annuity, widow's annuity, prior service annuity and widow's service annuity purposes; provided, that no part of such sums credited to such present employee which represent money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employee had lived and remained in the service upon salary at the rate of his final salary until he would have completed fifteen years of service and the amount of annuity for his wife were then fixed as provided in subsection 28 of this section. Any such annuity shall be computed as of the age of such widow on the date when such present employee shall have become fifty-seven years of age; provided, that if she shall be older than her husband, her age for annuity purposes shall be assumed to be the same as his.

e. The widow of any present employee who shall die while in the service before he shall have become fifty-seven years of age shall have a right to receive annuity, from and after the date of the death of such present employee of such amount as can be provided from the total amount of the several sums to the credit of such present employee on the date of his death for age and service annuity, widow's annuity, prior service annuity, and widow's prior service annuity purposes; but no part of such sums credited to such present employee which represent money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employee had lived and remained in the service upon salary at the rate of his final salary until he become fifty-seven years of age if he would then have completed fifteen or more years of service, or until the time subsequent to attainment of such age when he would have completed fifteen years of service, and the amount of annuity for his wife were then fixed as provided in subsection 28 of this section. Any such annuity shall be computed as of the age of such widow on the date of the death of such present employee; provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his.

f. Resign or discharged after age 50.  
f-1. The widow of any present employee who shall resign or be discharged from the service, after he shall have attained an age of fifty years or more but less than fifty-seven years and after he shall have served ten or more years and who shall enter upon annuity and who shall die while upon such annuity shall have a right to receive annuity, from and after the date of the death of such present employee, in accordance with the provisions of subsection 28 of this section concerning age, of such amount as can be provided from the total amount of the following sums to the credit of such present employee on the date when the amount of such annuity shall have been fixed as provided in said subsection 28.

f-2. In the case of a widow of any such present employee who shall have served twenty or more years, the entire sum credited for widow's annuity and widow's prior service annuity purposes.

f-3. In the case of a widow of any such present employee who shall have served ten or more but less than twenty years, the entire sum credited for widow's annuity purposes on account of deductions from his salary, and the sum obtained by applying one-tenth of the entire sum credited for widow's annuity and widow's service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employee after the first ten years of his service.

g. Resigned, etc., before age 50. g-1. The widow of any present employee who shall have served ten or more years and who shall resign or be discharged from the service before he shall have become fifty years of age and who shall not have withdrawn nor applied for refund of the sums to his credit from deductions from his salary for annuity purposes to which he shall have had a right of refund and who shall die while out of the service after he shall have become fifty or more years of age shall have a right to receive annuity, from and after the date of the death of such present employee, in accordance with the provisions of subsection 28 of this section concerning the age of a wife, of such amount as can be provided from the total amount of the following sums to the credit of such present employee on the date when the amount of such annuity shall have been fixed as provided in said subsection 28.

g-2. In the case of a widow of any such present employee who shall have served twenty or more years, the entire sum credited for widow's annuity and widow's prior service annuity purposes.

g-3. In the case of a widow of any such present employee who shall have served ten or more but less than twenty years, the entire sum credited for widow's annuity purposes on account of deductions from the salary of such present employee and the sum obtained by applying one-tenth of the entire sum credited for widow's annuity and widow's prior service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employee after the first ten years of his service.

h. Death before age 50. h-1. The widow of any present employee who shall have served ten or more years and who shall resign or be discharged from the service before he shall have become fifty years of age and who shall not have withdrawn nor applied for refund of the sums to his credit for annuity purposes from deductions from his salary to which he shall have had a right of refund and who shall die while out of the service before he shall become fifty years of age shall have a right to receive annuity, from and after the date of the death of such present employee, of such amount as can be provided from the total amount of the following sums to the credit of such present employee on the date of his death; provided, that no part of any such sum which represents money contributed or to be contributed by the city shall be used to provide annuity for such widow in excess of that which she would have had a right to receive if such present employee had lived until he attained an age of fifty years and had not reentered the service and an amount of annuity were then fixed for such widow in accordance with the provisions of subsection 28 of this section concerning the age of a wife, as of her age as it would be when her husband would have attained an age of fifty years.

h-2. In the case of a widow of any such present employee who shall have served twenty or more years, the entire sum credited for age and service annuity, widow's annuity, prior service annuity and widow's prior service annuity purposes.

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h-3. In the case of a widow of any such present employee who shall have served ten or more years but less than twenty years, the entire sum credited for age and service annuity, widow's annuity and prior service annuity purposes on account of deductions from his salary, and the sum obtained by applying one-tenth of the entire sum credited for age and service annuity, widow's annuity, prior service annuity, and widow's prior service annuity purposes on account of contributions made or to be made by the city for each year of service rendered by such present employee after the first ten years of his service.

h-4. Any such annuity shall be computed as of the age of such widow at the time of the death of such present employee, provided, that if she shall be older than he, her age for annuity purposes shall be assumed to be the same as his. (*S. 1, Sub. 33, Ch. 423, L. 1923.*)

**34.** DEATH WHILE ON DUTY. a. In any case in which annuity provided in accordance with the foregoing subsections of this section for the widow of a fireman whose death shall occur while on duty or shall result from injury incurred in the direct performance of one or more specific acts of duty shall not be equal in amount to the annuity to which such widow would have had a right if such fireman had lived and continued in the service upon salary at the rate of his final salary until he would have attained an age of fifty-seven years if he would then have completed at least fifteen years of service, or until the time subsequent to his attainment of such age when he would have completed fifteen years of service if he would not have completed such a term of service upon attainment of an age of fifty-seven years, as of her age as it would be on the date when such fireman would have attained an age of fifty-seven years in accordance with the provisions of subsection 27 or subsection 28 of this section, whichever shall apply to the case of the widow concerned, additional annuity to be known as "compensation annuity" equal in amount to the difference between the amounts of such annuities shall be provided for and paid to such widow until the time when such fireman, if alive, would have attained an age of fifty-seven years, if he would then have completed fifteen years of service, or until the time subsequent

to his attainment of such age when he would have completed fifteen years of service if he would not then have completed such a term of service upon attainment of an age of fifty-seven years. As used in this paragraph "while on duty" means and includes:

a-1. The entire period of time commencing when a member of the department reports at his assigned place of duty for regularly scheduled duty and ending when he is dismissed from such duty.

a-2. Any other period of time while in the actual performance of department business pursuant to any lawful order of a superior officer; and

a-3. The period of time commencing when a member then off duty receives an order to respond to an emergency and ending when he is dismissed from such emergency duty; all upon the condition that during such periods of duty as hereinabove set forth said member shall be conducting himself according to all the rules of the department and all lawful orders of his superior officers. This amendment shall apply to and govern any pending application or compensation and supplemental annuity, by a widow of a deceased fireman, whose death comes within the purview of this subsection, as amended, provided said application shall not have been finally heard and determined by the supreme court of the state of Wisconsin, at the time that this amendment becomes effective. This amendment, 1949, shall supersede any provision of this chapter, as amended, in conflict therewith. (*Ch. 371, L. 1949.*)

b. "Supplemental Annuity," equal in amount to such compensation annuity, shall be provided for and paid to such widow from and after the time payment of such compensation annuity shall cease as aforesaid. To provide such supplemental annuity the city shall contribute to the annuity and benefit fund herein provided for such equal sums annually, from and after the date of the death of such fireman, that when improved by interest at the rate of four per cent per annum the accumulated amount resulting from such sums will be sufficient at the time payment of compensation annuity to such widow shall cease to provide supplemental annuity as stated for such widow throughout her life thereafter.



c. If any widow described in this subsection shall marry before the time when payment of compensation annuity to such widow shall have ceased, as hereinbefore stated, such widow shall not have any right to receive any compensation annuity or any supplemental annuity thereafter, and no such compensation annuity or supplemental annuity shall be paid to such widow from and after the date of her marriage. (*S. 1, Sub. 34 b and c, Ch. 423, L. 1923.*)

**35. REENTRANCE INTO SERVICE.**

a. When any fireman who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall reenter the service before he shall have attained an age of fifty-seven years, any annuity previously granted to such fireman and any annuity fixed for the wife of such fireman shall be canceled. Such fireman shall be credited in his account for annuity purposes with sums sufficient to provide annuities equal in amounts to those canceled for such fireman and the wife, for whom such annuity shall have been fixed, of such fireman as of their respective ages on the date of such fireman's reentrance into the service; provided, that the age of any such wife who shall be older than her husband shall be assumed to be the same as his. Such sums shall be credited to such fireman to provide for annuities to be fixed and granted in the future. Deductions from the salary of any such fireman and contributions by the city for all purposes of this section shall be made, as hereinbefore provided, from the time of such reentrance into the service, and when the proper time, as provided in foregoing subsections of this section, shall have arrived, new annuities based upon the amount then to the credit of such fireman for annuity purposes and the entire term of such fireman's service shall be fixed for such fireman and for such wife of such fireman.

b. When any such fireman shall reenter the service after he shall have attained an age of fifty-seven or more years, payments on account of any annuity previously granted to such fireman shall be suspended during the time thereafter that he shall be in the service, and when he shall again resign or be discharged therefrom, payments upon the annuity previously granted shall be resumed. If any such fireman shall die while in the service, his widow shall receive the amount of any annuity previously fixed for her.

c. In the case of any fireman described in par. a of this subsection, whose

wife, for whom annuity shall have been fixed prior to his re-entrance into the service, shall have died before he shall have reentered the service, no part of any sum or sums to the credit of such fireman for widow's prior service annuity purposes at the time annuity for such wife shall have been fixed shall be credited to such fireman at the time when he shall reenter the service, and no part of any such sum or sums shall be used to provide annuity for any wife of such fireman who shall be such wife during all or any part of the period of time during which such fireman shall be in the service after he shall have reentered same. (*S. 1, Sub. 35, Ch. 423, L. 1923.*)

**36. WHEN PENSION SUSPENDED.**

If any fireman who shall be a pensioner or an annuitant of any firemen's pension fund, or any policemen's pension fund, or any public school teachers' annuity and retirement fund in operation, by authority of law, in such city at the time this section shall come into effect shall reenter the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, payment of the annuity or pension granted to such fireman from such annuity and retirement fund, or such pension fund shall be suspended while such fireman shall be in the service and shall be resumed when such fireman shall resign or be discharged from the service. (*S. 1, Sub. 36, Ch. 423, L. 1923.*)

**37. PRIOR SERVICE AND RE-ENTRY.**

a. Any fireman who shall not be in any branch of the service on the first day in the month of January of the first year after the year in which this section shall come into effect in such city employment in which is recognized as service for the purposes of this section, and who was in the service prior to that date and who shall reenter the service after that date and before attainment of an age of fifty-seven years shall not have any right to be credited with any sum or sums for prior service annuity and widow's prior service annuity purposes on account of any service rendered prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and such fireman shall not have any right to prior service annuity and the wife or widow of such fireman shall not have any right to widow's prior service annuity.

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However, the period of service rendered by any such fireman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in every such city, shall be included in computing the term of service of such fireman for age and service annuity and widow's annuity purpose.

b. Deductions from the salary of any fireman to whom this subsection shall apply and contributions by the city for the purpose of providing age and service annuity for such fireman and widow's annuity for the wife of such fireman and accumulation of the sums deducted from the salary of such fireman and contributed by the city for such annuity purposes shall be as hereinbefore provided concerning future entrants and present employees until such fireman shall attain an age of fifty-seven years; provided, that in the case of any such fireman who shall reenter the service after he shall have become forty-two or more years of age deductions from the salary of such fireman for age and service annuity and widow's annuity purposes and contributions by the city and accumulation to the credit of such fireman of the sums so deducted and contributed for such annuity purposes shall be made while such fireman shall be in the service for a period of fifteen years from and after the date of such fireman's re-entrance into the service, notwithstanding any other provisions of this section which provide that deductions, contributions and accumulations for annuity purposes shall cease when a fireman shall have attained an age of fifty-seven years if he shall then have completed fifteen or more years of service, or at the time subsequent to his attainment of such age when he shall have completed fifteen years of service if he shall not have completed fifteen years of service when he shall have attained an age of fifty-seven years.

c. Any fireman to whom this subsection shall apply shall have a right to receive age and service annuity, from and after the date of his resignation or discharge from the service, as of his age on such date, of such amount as can be provided from the total sum to his credit for such annuity purposes on such date; provided, however, that in case of any such fireman who shall be an annuitant or pensioner of any fireman's pension fund, or any policemen's pension fund or any public school teachers' annuity and retirement fund, in

operation, by authority of law, in such city at the time this section shall have come into effect in such city, no part of the sum to the credit of such fireman for age and service annuity purposes which shall have resulted from contributions by the city shall be used to provide any amount of such annuity in excess of the difference between the amount of annuity to which such fireman would have had a right if deductions from his salary (which shall be assumed to have been the same throughout the entire period of service rendered by him prior to his re-entrance into the service as it shall be at the time he shall reenter the service) and contributions by the city for such annuity purposes at the rate stated in subsection 18 of this section, concerning present employees, had been made during the entire term of service rendered by such fireman prior to his attainment of an age of fifty-seven years if he would then have completed fifteen or more years of service, or prior to the end of the fifteenth year of his service if he would not have completed fifteen years of service upon attainment of an age of fifty-seven years and the amount of the pension or annuity granted to such fireman from any such pension fund or annuity and retirement fund.

d. The amount of annuity to which the widow of any fireman to whom this subsection shall apply who shall die, while in the service, before he shall have attained an age of fifty-seven years shall have a right, from and after the date of the death of such fireman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

e. The amount of annuity to which the wife of any fireman to whom this subsection shall apply who shall resign or be discharged from the service before he shall have attained an age of fifty-seven years shall have a right from and after the date of the death of such fireman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

f. The amount of annuity to which the wife of any fireman to whom this subsection shall apply who shall attain an age of fifty-seven years, while in the service, and who shall then have completed fifteen or more years of service from and after the date of his re-entrance into the service shall have a right,

from and after the date of the death of such fireman, shall be fixed and granted in accordance with the provisions of this section relating to annuities for widows of future entrants.

g. The amount of annuity to which the wife of any fireman, to whom this subsection shall apply, who shall attain an age of fifty-seven years, while in the service, and who shall not then have completed fifteen years of service from and after the date of his re-entrance into the service shall have a right from and after the date of the death of such fireman, shall be fixed on the date when such fireman shall complete the fifteenth year of such service, as of the age of such wife on the date when such fireman shall have attained an age of fifty-seven years; provided, that the age of any such wife who shall be older than her husband, shall be assumed to be the same as his. Any such annuity shall be of such amount as can be provided from the amount to the credit of the fireman concerned for widow's annuity purposes on the date when the amount of such annuity shall be fixed.

h. The amount of annuity to which the wife of any fireman to whom this subsection shall apply who shall attain an age of fifty-seven years, while in the service and who shall die before he shall have completed fifteen years of service from and after the date of his reentrance into the service shall have a right from and after the date of the death of such fireman as of the age of such wife on the date when such fireman attained an age of fifty-seven years; provided that the age of any such wife who shall be older than her husband shall be assumed to be the same as that of such husband. Any such annuity shall be of such amount as can be provided from the amount to the credit of such fireman on the date of his death, for age and service annuity and widow's annuity purposes; provided, that no part of the said amount to the credit of such fireman shall be used to provide any amount of annuity for such widow in excess of the amount to which such widow would have had a right if such fireman had lived and continued in the service upon salary at the rate of his final salary until he had completed fifteen years of service from and after the date of his reentrance into the

service and the amount of the widow's annuity for such widow were then fixed as stated in this subsection. (S. 1, Sub. 37, Ch. 423, L. 1923.)

**38. MAXIMUM ANNUITY GRANTED.**

a. Notwithstanding any other provision of this section concerning the amount of annuity which any fireman or widow of any fireman shall have a right to receive no amount of annuity in excess of any amount equal to seventy-five per cent of the highest salary which shall have been received by any future entrant during his term of service shall be granted or paid to such future entrant, nor to the widow of such future entrant; and no amount of annuity in excess of an amount equal to seventy-five per cent of the highest salary considered for annuity purposes in accordance with the provisions of this section which shall have been received by a present employee shall be granted or paid to any present employee or the widow of such present employee.

b. If at the time the amount of annuity for any fireman shall be fixed, there shall be to the credit of such fireman, for the purpose of providing such annuity, an amount in excess of that necessary to provide an annuity equal to seventy-five per cent of the highest salary (as hereinbefore stated in this section) of such fireman, one-third of such excess amount shall be refunded and paid at that time to any such fireman who shall be a future entrant, and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such present employee, for such annuity purposes, which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded and paid at that time to any such fireman who shall be a present employee.

c. If at the time the amount of annuity for the wife of any fireman shall be fixed there shall be to the credit of such fireman for the purpose of providing annuity for such wife when she shall become a widow, an amount in excess of that necessary to provide an annuity equal to seventy-five per cent of the highest salary (as hereinbefore stated in this section) of such fireman, one-third of such

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excess amount shall be refunded and paid at that time to such fireman who shall be a future entrant; and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such fireman for such annuity purposes which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded and paid at that time to any such fireman who shall be a present employee.

d. If at the time of the death of a fireman there shall be to the credit of such fireman, for the purpose of providing annuity for the widow of such fireman, an amount in excess of that necessary to provide an annuity equal to seventy-five per cent of the highest salary (as hereinbefore stated in this section) of such fireman, one-third of such excess amount shall be refunded and paid at that time to the widow of such fireman who shall have been a future entrant; and a part of such excess amount proportionately equal to that part of the entire amount to the credit of such fireman for such annuity purposes which the sum that shall have resulted from deductions from his salary required by this section bears to such entire amount shall be refunded and paid at that time to the widow of such fireman who shall have been a present employee. (S. 1, Sub. 38, Ch. 423, L. 1923.)

**39. WHEN WIFE NOT ELIGIBLE.** Except as stated in subsection 60 of this section, the following described wives or widows of firemen shall not have any right to annuity from the annuity and benefit fund herein provided for:

a. The wife or widow, married subsequent to the date upon which this section shall come into effect in such city, of any fireman who shall die while in the service if such widow shall not have been married to such fireman before he shall have attained an age of fifty-seven years.

b. The wife or widow, married subsequent to the date upon which this section shall come into effect in such city, of any fireman who shall have resigned or been discharged from the service and who shall or shall not have entered upon annuity and who shall die while out of the service, if such widow shall not have been the wife of such fireman while he was in the service and before he attained an age of fifty-seven years.

c. The wife or widow of any fireman who shall have served ten or more years and who shall die while out of the service after he shall have resigned or been discharged from the service, who shall have withdrawn or applied for refund of the sums to his credit for annuity purposes to which he shall have had a right of refund as provided in subsection 42 of this section.

d. The wife or widow of any fireman who shall die while out of the service after he shall have resigned or been discharged from the service before he shall have attained an age of fifty-seven years and who shall not have served at least ten years. (S. 1, Ch. 423, L. 1923.)

**40. ALL FIREMEN ELIGIBLE.** Annuity shall be granted or paid to any fireman from the annuity and benefit fund herein provided for while such fireman shall be employed upon salary or wages in any branch of the service of such city except as provided in subs. 35-a and b and 36. (S. 1, Sub. 40, Ch. 423, L. 1923.)

**41. WHEN WIDOW'S ANNUITY SUSPENDED.** If any widow who shall be in receipt of any annuity or pension from the annuity and benefit fund herein provided for shall marry a fireman or other person employed in any branch of the service of such city, and if such person shall die, and an annuity or pension -- payable in whole or in part from moneys contributed or to be contributed by such city -- shall be provided for the widow of such person under any laws hereafter enacted, and such widow shall receive such annuity or pension, payment of the annuity herein provided for; such widow shall be suspended during the time she shall be in receipt of such annuity or pension, if it be other than a life annuity or pension; and if it be a life annuity, the annuity herein provided for, such widow shall be cancelled at the time she shall accept any payment of such annuity. (S. 1, Sub. 41, Ch. 423, L. 1923.)

**42. FUTURE OF PRESENT EMPLOYEE PROVISIONS.** a. Withdrawal of funds. a-1. Less than ten years' service. Any future entrant or present employee, without regard to the period of time he shall have served, who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall become fifty years of age, and any future

entrant or present employee, who shall have served less than ten years, who shall resign or be discharged from the service after the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and before he shall have become fifty-seven years of age, shall have a right to have refunded to him the entire amount which shall have accumulated to his credit for age and service annuity and widow's annuity purposes on the date of such resignation or discharge from the service from amounts deducted from his salary in accordance with the provisions of this section.

a-2. Fixed annuity. Any such future entrant or present employee shall retain such right to refund of such amounts when he shall apply for same, until the amount of annuity to which he shall have a right shall have been fixed as provided in subsection 27 or subsection 28 of this section as the case may be. Thereafter, no such right shall exist in the case of any such future entrant, or present employee. (S. 1, Sub. 42-a-1 and 2, Ch. 423, L. 1923.)

a-3. Reentry into service. a-3-a. Any such future entrant or present employee who shall avail himself of such right and withdraw such amount so credited to him shall ipso facto surrender and forfeit all rights to any annuity or other benefit from the annuity and benefit fund herein provided for, and to any annuity or benefit from any firemen's pension fund in operation by authority of law, in such city, at the time this section shall have come into effect in such city, for himself and for any other person or persons who might benefit through him because of service rendered by him prior to that time he shall make application for refund of the amounts hereinbefore stated. However, such future entrant or present employee shall retain the right to have any such period of service counted as service for the purpose of computing the term of his service in the event that such future entrant or present employee shall subsequently reenter the service before he shall attain an age of fifty-seven years and become a beneficiary of the annuity and benefit fund provided for in this section, subject to the following provisions:

a-3-b. Upon such reentry to active service in the fire department the total amount

of the refund previously granted and received from the firemen's annuity and benefit fund, plus accumulated interest due to the date of return to service, shall be paid immediately upon re-entry as an active member of the fire department.

a-3-c. No annuity or benefit shall be paid by the annuity and benefit fund provided for in this section while there remains an unpaid balance due the fund from the refund previously granted and received from the fund, plus accumulated interest to date of eligibility for such annuity or benefit. (*Par. a-3 am. Ch. Ord. 198, File #54-212, June 1, 1954.*)

a-4. More than ten years . Any such future entrant or present employee who shall have served ten or more years and who shall not withdraw the amounts aforesaid to which he shall have a right of refund shall have a right to annuity as hereinbefore stated in this section.

a-5. Less than ten years. Any such future entrant or present employee who shall have served less than ten years and who shall not withdraw the amounts to which he shall have a right to refund, shall have a right to have all such amounts and all other amounts to his credit for annuity purposes on the date of his resignation or discharge from the service retained to his credit and improved by interest while he shall be out of the service at the rate of three and one-half per cent per annum and used for annuity purposes for his benefit and the benefit of any person who may have any right to annuity through him because of his service, according to the provisions of this section, in the event that he shall subsequently reenter the service and complete the number of years of service necessary to attain a right to annuity; but such sums shall be improved by interest to his credit while he shall be out of the service only until he shall have become fifty-seven years of age.

b. When fireman not married. When any fireman shall become fifty-seven years of age while in the service and shall not then be married, any sum accumulated from deductions from his salary for widow's annuity purposes shall then be refunded to him. Thereafter, in his case, no sums shall be deducted from his salary or contributed by the city for widow's annuity purposes.

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c. When widow's annuity refunded. When any fireman shall resign or be discharged from the service before he shall have become fifty-seven years of age and shall enter upon annuity and shall not then be married, any sum accumulated from deductions from his salary for widow's annuity purposes shall then be refunded to him.

d. Funds transferred. Whenever any amounts shall be refunded, as stated in pars. a to c, to any fireman or other person or persons described therein, the amounts to the credit of the fireman concerned in each such transaction for annuity purposes at the time any such refund shall be made, which shall have been accumulated from contributions by the city, shall be transferred to the prior service annuity fund described in sub. 59-f, for the purposes stated in sub. 56-a, until such time as the assets of such fund become equal to the liabilities thereof as stated in par. b of said subsection 56. Thereafter, any such amounts shall become a credit to the city and, with interest thereon at the rate of four per cent per annum, shall be used to reduce the amount which the city would otherwise pay during a succeeding year to the annuity and benefit fund herein provided for.

e. Heirs. In any case in which an amount equal to the total amount accumulated and credited to the amount of a deceased fireman from sums deducted after the first day in the month of January of the first year after the year in which this section shall come into effect from the salary of such fireman for annuity purposes, shall not have been paid to such fireman and, in the case of a married fireman, to such fireman and the widow of such fireman both together, in form of annuity before the death of the last of such persons who shall die, an amount equal to the difference between such total amount resulting from sums deducted from his salary and the entire amount paid in form of annuity or annuities, without interest upon either such amount, shall be refunded and paid to the children of such fireman, in equal parts to each; unless such fireman shall direct in writing, sworn to before an officer authorized to administer oaths in this state, and filed with the retirement board before the death of such fireman, that any such amount shall be refunded and paid to any one or more such children; and if there be no such children, such

amount shall be refunded and paid to the heirs of such fireman according to the law pertaining to estates of deceased persons. (S.1, Sub. 44-a-4 and 5, Ch. 423, L. 1923.)

43. OVERTIME NOT INCLUDED. No overtime or extra service shall be included in computing the term of service of any fireman, and not more than one year or part thereof of service shall be allowed for service rendered during any calendar year, or part thereof, such as a day, a week, a month, etc. (S. 1, Sub. 43, Ch. 423, L. 1923.)

44. OTHER FIRE SERVICE. Any service rendered by any fireman while not in the fire department, as a police officer employed by the board of park commissioners of such city, or as a regular member of the police department of such city, or as a regular teacher in the public schools of such city, or as an employee, other than one described in section 16.54 of the statutes [now s. 63.27, Wis. Stats.] as one who shall not be affected as to their election, selection, or appointment by rules made by the board of city civil service commissioners of such city -- of any other department of such city, or branch of the service of such city, shall be counted, for annuity and benefit purposes under the provisions of this section, as if such service were rendered in the fire service of such city. And any salary received by any fireman for such service shall be treated, for the purposes of this section, in the same manner as though such salary were received for the performance of regular duty as a fireman. (S. 1, Sub. 44, Ch. 423, L. 1923.)

45. ANNEXED AREAS. a. Whenever any territory shall be annexed to such city, any fireman then employed as a fireman in such annexed territory who shall be employed by such city as a fireman of such city shall automatically come under the provisions of this section, and any term of service rendered in such territory by such fireman shall be considered for the purposes of this section as such a term of service rendered in such city.

b. Any such fireman shall be treated in every respect, as of the date such annexation shall come into effect, in the manner specified in this section concerning present employees of such city on the first day in the month of January of the first year after the year in which this section shall come into effect in such city. (S. 1, Sub. 45, Ch. 423, L. 1923.)

**46. OTHER ANNUITY FUNDS.** a. When any fireman shall resign or be discharged from the fire service and become employed in any other department or branch of the service of such city in a position, the incumbent of which shall be included under the provisions of any law or laws heretofore or hereafter enacted which provide for the creation, establishment, maintenance and administration of any "policemen's annuity and benefit fund," or any "public-school teachers' annuity and benefit fund," or any "municipal employes' annuity and benefit fund," in such city (which fund shall be designated to provide annuities and benefits in substantially the same manner that annuities and benefits are provided for in this section) all sums to the credit of such fireman for annuity purposes in the annuity and benefit fund herein provided for, and any moneys accumulated in said fund for such purposes for the benefit of such fireman shall be transferred from said fund to the annuity and benefit fund in which such fireman shall be included by reason of his employment in such other service of such city and used in such fund, according to the law or laws under which such fund shall be maintained, for annuity purposes for the benefit of such fireman, and of his wife if he shall have a wife.

b. No other disposition shall be made of any sum to the credit of any such fireman for annuity purposes and such fireman shall not have any right to refund of any such sum under any provisions of this section but shall have such right to refund of such sum as shall be provided by the law or laws under which the annuity and benefit fund to which such sum shall be transferred shall be maintained. (*S. 1, Sub. 46, Ch. 423, L. 1923.*)

**47. TRANSFER OF FUNDS.** When any person who shall be employed in any other department or branch of the service of such city in a position the incumbent of which shall be included under the provisions of any law or laws heretofore or hereafter enacted which provide for the creation, establishment, maintenance and administration of any "policemen's annuity and benefit fund," or any "public school teachers' annuity and benefit fund," or any "municipal employes' annuity and benefit fund," in such city (which fund shall be designated to provide annuities and benefits in substantially the same manner that annuities

and benefits are provided for in this section) and shall resign or be discharged from such position and shall enter the fire service of such city, and any sums of money to the credit of such person or any such fund for annuity purposes shall be transferred, in accordance with law, from such fund to the annuity and benefit fund herein provided for, such sums shall be placed in said annuity and benefit fund, and used therein for annuity purposes for the benefit of such person and of his wife if such person shall have a wife, as provided in this section. (*S. 1, Sub. 47, Ch. 423, L. 1923.*)

**48. CHILD'S ANNUITY.** Annuity to be known as "child's annuity" shall be provided for children of firemen. Any such annuity shall be payable from and after the date of the death of the fireman parent of any such child until the annuitant shall attain an age of 18 years. Any such annuity shall be computed and paid in accordance with the provisions relating to "annuity" in subsection 13. (*S. 11, Ch. 440, L. 1947.*)

**49. CHILD'S ANNUITY PROVISIONS.** a. Child's annuity, as hereinafter provided, shall be granted and paid for the benefit of any child less than eighteen years of age, the issue of any fireman whose death shall result from injury incurred in the performance of one or more specific acts of duty; provided, such child shall have been born before such fireman attained an age of fifty-seven years if such fireman shall then have completed fifteen or more years of service, or before the end of the fifteenth year of such fireman's service if such fireman shall not have completed fifteen years of service at the time he shall have attained an age of fifty-seven years.

b. Child's annuity, as hereinafter provided, shall also be granted and paid for the benefit of any child under 18 years of age, the issue of any fireman who shall die while in the service; provided that no annuity shall be granted or paid to any child of any such fireman who shall have resigned or been discharged from the service before he shall have attained an age of fifty years and who shall have reentered the service unless such fireman shall have served at least two years from and after the date of his latest reentrance into the service of such city; and provided further, that no annuity shall be granted or paid for the benefit of any child of any fireman who

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shall have entered or reentered the service of such city after the attainment of an age of forty-two years unless such child shall be the issue of a wife who married such fireman before such fireman attained an age of forty-two years; nor to any child of any fireman born after such fireman shall have attained an age of fifty-seven years.

c. Annuity, as hereinafter provided, shall also be granted and paid for the benefit of any child under eighteen years of age of any fireman who shall die after such fireman shall have resigned or been discharged from the service subsequent to this attainment of an age of fifty years who shall have entered upon annuity or who shall be eligible for annuity; provided, that only such child of such fireman as shall have been born before such fireman shall have attained an age of fifty-seven years and prior to the date of such fireman's latest resignation or discharge from the service shall be eligible for annuity; and provided further, that any such child of any such fireman who shall have entered or reentered the service after attainment of an age of forty-two years shall be the issue of a wife who married such fireman before such fireman attained an age of forty-two years. (*S. 1, Sub. 49-a to c, Ch. 423, L. 1923.*)

d. Any such annuity shall consist of amounts of \$40 per month for each such child while a widow or widower of the deceased fireman parent of such child shall survive and of \$50 per month for each such child while no such widow or widower shall exist; provided, if annuities for the widow and children of any fireman whose death shall have been the result of injury incurred in the performance of one or more specific acts of duty or for the children of such fireman in any such case wherein a widow shall not exist, computed as hereinbefore stated, would exceed an amount equal to 75% of the final salary of such fireman the annuity for each child of such fireman shall be reduced pro rata so that the combined annuities for the family of such fireman shall not exceed an amount equal to 75% of such salary; and in case of the family of any fireman whose death shall have been the result of any cause or causes other than injury incurred in the performance of one or more specific acts of duty in which annuities for such family computed as hereinbefore stated, would

exceed an amount equal to 50% of the final salary of such fireman, the annuity of each child of such fireman shall be reduced pro rata so that the combined annuities for such family shall not exceed an amount equal to 50% of such salary; but if in any such latter case the annuity provided as hereinbefore stated in this section for the widow of any such fireman shall exceed an amount equal to 50% of such salary, such annuity for such widow shall not be reduced. (*Par. d am. Ch. Ord. 227, File #55-4100-a, Oct. 16, 1956.*)

e. Any annuity which shall be granted for the benefit of any child shall be paid to the parent of such child who shall be providing for such child, unless another person shall have been or shall be appointed by a court of law as the guardian of such child.

f. On or before the first day in the month of August of each year, the retirement board shall submit an estimate to the common council of such city, of the amount which will be required to pay annuities to children during the succeeding year, and the said common council shall include such amount in the tax which shall be levied for such year for the purposes of the annuity and benefit fund herein provided for. (*S. 1, Sub. 49-e and f, Ch. 423, L. 1923.*)

**50. DUTY DISABILITY BENEFITS.** a. Benefit to be known as "duty disability benefit" shall be provided for firemen who shall become disabled as the direct result of injury incurred in the performance of one or more specific acts of duty.

b. Benefit to be known as "child's disability benefit" shall be provided for firemen disabled as stated in the preceding paragraph who shall be the parents of any child or children less than eighteen years of age. (*S. 1, Sub. 50-a and b, Ch. 423, L. 1923.*)

c. Incurred in performance of duty. c-1. Any fireman less than 65 years of age, and any fireman 65 or more years who shall not have completed 25 years of service, who shall become disabled as the direct result of injury incurred in the performance of one or more specific acts of duty, shall have a right to receive duty disability benefit during the period of such disability of an amount equal to 75% of the current annual salary for such position which he held at the time of such injury. (*Par. c-1 am. Ch. Ord. 383, File #70-2147-a, Apr. 11, 1972.*)



c-2. The widow of such member after his death shall receive during her widowhood, until her remarriage, 70% of the amount of duty disability which the member received at the time of his death and such percentage shall thereafter be based upon the salary of the position of such member at the time of his death. The amount payable to the widow herein shall be reduced by any amount payable concurrently to the widow under subs. 31-b to d and 34. In the event however that a fireman who is eligible to receive duty disability has a disability involving the loss of use of both eyes or the full loss of use of one eye and one limb or the full loss of the use of 2 limbs or an equivalent disability that would impair the member's (retiree's) ability to earn a livelihood, and such disability is determined by majority action of a panel consisting of 3 physicians, one physician to be designated by the Milwaukee professional firefighters association, one physician to be designated by the city labor negotiator, and the third physician to be selected by agreement of the other 2 physicians; then in such event such fireman shall receive a duty disability pension of 90% of his current salary. If such panel reaches a determination unfavorable to the fireman on duty disability he may after 6 months but not later than one year request the convening of a second 3-physician panel to be constituted in the same manner and for the same purpose of the initial panel but such request shall be in writing. If an unfavorable result is reached, the fireman may seek further review but not sooner than 12 months from the last determination. Recomputation of the amount of disability benefit shall occur whenever there is a salary adjustment for such position. Such adjustment shall thereupon become effective at once. If the position from which the member retired under a duty disability is eliminated, then the city service commission shall determine in what manner the current annual salary shall be established for such position for purposes of determining disability payment under this section. The widow of such member after his death shall receive but only during her widowhood 75% of the amount of duty disability which the member received at the time of his death and such percentage shall thereafter be based upon the salary of the position of such member at the time of his

death. The amount payable to the widow herein shall be reduced by any amount payable concurrently to the widow under subs. 31-b, c, d and 34 of this section. The period of time during which duty disability benefits shall be paid shall in no event be less than the time provided for under similar circumstances in this act prior to this amendment. Any such fireman shall also have a right to receive child's disability benefits of amounts of \$40 a month on account of each child, the issue of such fireman, less than 18 years of age; provided, the total amount of child's disability benefit which shall be granted or paid to any such fireman shall not exceed 20% of the salary, as aforesaid to such fireman. Such benefit or benefits shall be paid to such disabled fireman periodically according to rules concerning such benefits to be adopted by the retirement board. (*Par. c-2 am. Ch. Ord. 516, File #80-1511-a, Oct. 19, 1982.*)

d. The first payment of any duty disability benefit or child's disability benefit which any fireman shall have a right to receive shall be made not later than one month after such benefit shall be granted by the retirement board of such city, and each subsequent payment of such benefit shall be made at a time not later than one month from and after the time when the latest payment of such benefit shall have been made. (*S. 1, Sub. 50-d, Ch. 423, L. 1923.*)

e-1. Proof of disability shall be furnished to the retirement board, by at least one licensed and practicing physician, and said retirement board may require other evidence of disability. The retirement board shall be the sole and final judge in determining whether a person covered under this subsection shall be entitled to a duty disability benefit. A person feeling himself aggrieved by the board's determination shall have the right to appeal to the circuit court for review on the law and the facts with respect to the determination of the retirement board pertaining to a duty disability benefit. Such review may be in the form of certiorari or otherwise, and the parties shall have the right to present additional testimony concerning the matters in issue, and the court may rule upon the facts and the law. Each disabled fireman who shall receive any duty disability benefit under the provisions of this subsection shall be examined at least once a year by one or more

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licensed and practicing physician or physicians selected by said retirement board. Such physician or physicians shall advise said retirement board whether the disability of such fireman shall be continued or not. When the disability of any such fireman shall cease, the said board shall discontinue payment of duty disability benefit and of child's disability benefit to such fireman and such fireman shall be returned to active service as a fireman at the same salary he received before disability occurred. (*Par. e-1 am. Ch. Ord. 237, File # 57-2012, Dec. 23, 1957.*)

**(Note: Common Council File #001564, passed March 20, 2001, effective June 5, 2001, provides: notwithstanding the provisions of this subdivision, no fireman who became disabled between April 6, 1975 and October 1, 1997 who is eligible to receive a lifetime duty disability retirement benefit shall be required after June 5, 2001 to submit to an examination at least once a year by one or more licensed and practicing physician or physicians.®)**

e-2. A claim for duty disability benefit heretofore filed with the retirement board by a person covered under this chapter and on which the retirement board has made a determination granting a duty disability benefit shall be governed by this subsection and the duty disability which has been approved shall be deemed in effect as of the time of the retirement board's determination. (*Par. e-2 am. Ch. Ord. 237, File #57-2012, Dec. 23, 1957.*)

f. Duty disability benefit shall be paid to any fireman, disabled as aforesaid, during any period of such disability until such disabled fireman shall have become 65 years of age if such fireman shall have completed 25 years of service at that time, or until the end of the 25th year of such fireman's service if such fireman shall not have completed 25 years of service at the time he shall have attained an age of 65 years, and child's disability benefit shall be paid to any such fireman, who shall be the parent of any child or children, the issue of such fireman, less than 18 years of age, during all or any part of any such period of time until such child or children of such fireman shall attain an age of 18 years. (*Par. f am. Ch. Ord. 227, File #55-4100-a, Oct. 16, 1956.*)

g. When any fireman so disabled and found eligible to receive a duty disability benefit on or after October 1, 1977, shall become 65 years of age, or shall complete 25 years of service subsequent to attainment of such age, as aforesaid, such disability benefit or benefits

shall cease on the first of the month next following and such disabled fireman shall thereafter receive such annuity or annuities as are provided for him in accordance with other provisions of this section. When any fireman so disabled and found eligible to receive a duty disability benefit on or after March 1, 1984 shall attain the age of 57 years, such disability benefits shall cease from the first of the month next following and such disabled fireman shall thereafter receive such annuity or annuities as provided for him in accordance with other provisions of this section. (*Par. g am. Ch. Ord. 529, File #82-2109-a, Jan. 24, 1984.*)

h. No fireman who shall have become 65 or more years of age who shall have been in the service 25 or more years shall have right to receive child's disability benefit. (*Par. h am. Ch. Ord. 442, File # 76-987-d, Feb. 8, 1977.*)

i. In lieu of all amounts ordinarily deducted, for annuity purposes from the salary of any fireman, disabled as aforesaid, the city shall contribute sums equal to such amounts for any period of disability to such fireman during which he shall receive duty disability benefit. Such sums so contributed shall be credited to such disabled fireman as though they were deducted from his salary and shall be regarded for annuity and refund purposes as sums deducted from such salary.

j. The city shall also contribute all amounts ordinarily contributed by it for annuity purposes for such fireman as though he were in active discharge of his duties during any such period of disability.

k. The retirement board shall submit an estimate on or before the first day in the month of August of such year to the common council of such city, of the amount necessary to provide duty disability benefits during the succeeding calendar year and such amount shall be paid into the annuity and benefit fund herein provided for from taxes levied and collected as hereinbefore stated in subsection 12 of this section. (*S. 1, Sub. 50-i to k, Ch. 423, L. 1923.*)

**51. ORDINARY DISABILITY BENEFITS.** a. Benefit to be known as "ordinary disability benefit" shall be provided for firemen who shall become disabled as the result of any cause other than injury incurred in the performance of one or more specific acts of duty. (*S. 1, Sub. 51-a, Ch. 423, L. 1923.*)

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b. Any fireman less than 57 years of age, and any fireman 57 years or more of age who shall not have completed 25 years of service, who shall become disabled, subsequent to the 1st day in the month of January of the 1st year after the year in which this section shall come into effect in such city, as the result of any cause other than injury incurred in the performance of one or more specific acts of duty, shall have a right to receive ordinary disability benefit during any period or periods of any such disability which shall not extend beyond the date when such fireman shall have completed at least 25 years of service upon attainment of such age or beyond the 25th year of service of such fireman if such fireman shall have completed 25 years of service after attainment of the age of 57 years and which shall not exceed, in the aggregate, throughout the entire period of such fireman's service a period of time equal to one-fourth of the entire period of service rendered by such fireman in the service of such city prior to the time he shall have become so disabled, and which shall not exceed 5 years in any case. In computing any such entire period of service, any period of time during which such fireman shall have received ordinary disability benefit under the provisions of this section shall not be included for the purposes of this section. (*S. 12, Ch. 440, L. 1947.*)

c. The first payment of any ordinary disability benefit which any fireman shall have a right to receive shall be made not later than one month after such benefit shall be granted by the retirement board and each subsequent payment of such benefit shall be made at a time not later than one month from and after the time when the latest payment of such benefit shall have been made.

d. Proof of disability shall be furnished to the retirement board by at least one licensed and practicing physician and said retirement board may require other evidence of disability. Each disabled fireman who shall receive any ordinary disability benefit under the provisions of this section shall be examined at least once a year by one or more licensed and practicing physician or physicians selected by said retirement board. Such physician or physicians shall advise said retirement board whether the disability of such fireman continues or not. When the disability of any such fireman shall cease the said retirement board shall discontinue payment of ordinary disability benefit to such fireman and such fireman shall be returned to active service as a fireman at the

same salary he received before disability occurred.

e. Ordinary disability benefit shall consist of an amount equal to fifty per cent of the salary of such disabled fireman as such salary shall be at the time such disability shall occur for a period of time equal to any period of time for which any payment of such disability payment shall become due and payable. Before any payment thereof shall be made to any fireman an amount equal to the sum or sums ordinarily deducted from the salary of such fireman for all annuity purposes during a period of time equal to that for which such payment of ordinary disability benefit is to be made shall be deducted from such payment and credited to such fireman as a deduction from his salary for such period. Such sums so deducted and credited shall be regarded, for annuity and refund purposes, as sums deducted from the salary of such fireman.

f. The city shall contribute all amounts ordinarily contributed by it for annuity purposes for such disabled fireman as though he were in active discharge of his duties during any such period of disability.

g. The retirement board shall submit an estimate, on or before the first day in the month of August of each year, to the common council of such city, of the sum necessary to provide ordinary disability benefits during the succeeding calendar year. Such estimates shall show the amounts to be provided during such calendar year by the firemen included under the provisions of this section, and by the city. (*S. 1, Sub. 51-c to g, Ch. 423, L. 1923.*)

h. Disability contributions. To provide ordinary disability benefit, contributions shall be made by all firemen less than 57 years of age and all firemen 57 or more years of age who shall not have completed 25 years of service, and by the city as follows: (*Intro., S. 12, Ch. 440, L. 1947.*)

h-1. During the first year after the year in which this section shall come into effect in such city, one-half of one per cent of each payment of the salary of each such fireman, except those firemen who are in receipt of duty disability benefits or ordinary disability benefits, shall be deducted and contributed to the annuity and benefit fund herein provided for. Such deduction shall be made at the times such payments of salary are payable.

h-2. Concurrently with each such deduction from the salary of any such fireman, the city shall contribute a sum equal to one-half

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of one per cent of each such payment of the salary of such fireman. If it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four per cent per annum to the date such contribution shall be made so that each such contribution shall exactly equal the value of each such corresponding deduction as such value shall be at the time such contribution shall be made.

h-3. Beginning on the first day in the month of January of the second year after the year in which this section shall come into effect in such city and during each year thereafter, one-half of the total sum which shall be estimated annually by the retirement board as necessary to provide ordinary disability benefits during such year shall be contributed by the firemen included under the provisions of this section as follows:

h-4. Such amount (1/2 of said total sum) shall be prorated among all such firemen in proportion to the salary of each such fireman, the percentage of each such salary which the sum related thereto shall constitute shall be ascertained, and a sum equal to a like percentage of each such payment of such salary shall be deducted from each such payment of such salary.

h-5. Concurrently with each such deduction from the salary of each such fireman the city shall contribute a sum equal to the amount of such deduction. If it shall not be possible or practicable for the city to make any such contribution at the same time any such deduction shall be made, the city shall make such contribution as soon as possible and practicable thereafter with interest thereon at the rate of four per cent per annum to the date such contribution shall be made so that each such contribution shall exactly equal the value of each such corresponding deduction as such value shall be at the time such contribution shall be made. (*S. 1, Sub. 51-h, Ch. 423, L. 1923.*)

**52. DISABILITY BENEFIT PROVISIONS.** a. Notwithstanding the provisions of subsections 50 and 51 of this section if any fireman who shall apply for or who shall have been granted any disability benefit under the

provisions of said subsections 50 and 51 shall refuse to submit to examination by any physician or surgeon selected as aforesaid, such fireman shall not have any right to receive such disability benefit and any such benefit which shall have been granted shall be cancelled immediately upon such refusal.

b. No disability benefit shall be paid on account of any form of disability for any period of time for which a disabled fireman shall receive any part of his salary, and no such benefit shall be paid for any period of disability for which a disabled fireman shall have any right to receive any part of his salary under any law or ordinance in effect in such city.

c. If any fireman who shall be disabled shall receive any compensation or allowance from such city on account of such disability under and by virtue of sections 2394--1 to 2394--32, both inclusive, of the statutes [1921] and acts amendatory thereof and supplemental thereto, except that provided for in subsection 1 of section 2394--9 [Wis. Stats., 1921] the disability benefit herein provided for such fireman shall be reduced by any amount so received if such amount shall be less than the amount of such benefit; and if the amount or amounts received as compensation or allowance exceed the amount of the disability benefit herein provided for such fireman, such fireman shall not receive any such disability benefit until a period of time during which such benefit payable at the rate herein stated would equal the amount of such compensation shall have expired. In calculating any such period of time, interest upon the amounts of money involved shall not be considered. (*S. 1, Sub. 52, Ch. 423, L. 1923.*)

**53. ORDINARY DISABILITY.** a. Notwithstanding any other provisions of this section, whenever any fireman who shall have served less than 20 years, exclusive of any period of disability during which such fireman shall have received ordinary disability benefit under the provisions of this section shall be disabled, as the result of any cause other than injury incurred in the performance of one or more specific acts of duty, for a period or periods of time aggregating in excess of one-fourth of the entire term of such service rendered by such fireman and whenever any fireman who shall have served 20 or more

exclusive of any period of disability during which such fireman shall have received ordinary disability benefit under the provisions of this section, shall be so disabled for a period or periods of time aggregating in excess of 5 years and such fireman shall resign or be discharged from the service while still so disabled and before he shall have served for a period or periods of time aggregating 20 years exclusive of any period of disability, such fireman shall have the right to receive annuity from and after the date of such resignation or discharge from the service of such amount as can be provided from the sum to the credit of such fireman on the date of such resignation or discharge, for age and service annuity purposes if such fireman shall be a future entrant, or for age and service annuity and prior service annuity purposes if he shall be a present employee. Any such annuity shall be computed as of the age of the fireman concerned on the date of his resignation or discharge from the service. (S. 13, Ch. 440, L. 1947.)

b. The amount of annuity to which the wife of any such fireman shall have a right from and after the date of the death of such fireman shall be fixed on the date of the resignation or discharge of such fireman. It shall be of such amount as can be provided from the amount to the credit of such fireman on the date of his resignation or discharge from the service, for widow's annuity purposes if such fireman shall be a future entrant, or for widow's annuity and widow's prior service annuity purposes if such fireman shall be a present employee. Any such annuity shall be computed as of the age of such wife on the date of such resignation or discharge; provided that if such wife shall be older than her husband her age shall be assumed to be the same as his.

c. In the case of the death of any such fireman after he shall have entered upon annuity, any child, under the age of eighteen years, who shall be the issue of such fireman shall have a right to receive annuity of the same amount as is specified in subsection 49 of this section for a child of a fireman who shall retire after he shall have attained an age of fifty years, and the limitation stated in said subsection 49 concerning the amount of annuity to be paid to the family of a fireman shall apply in any case provided for in this subsection. (S. 1, Sub. 53-b and c, Ch. 423, L. 1923.)

**54. PERIODS OF SERVICE.** a. In computing the term of service rendered by any fireman prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, the following periods of time shall be counted as periods of service for annuity purposes only: All periods of time during which such fireman shall have performed the duties of his position; all periods of vacation; all periods of leave of absence with whole or part pay; all periods of leave of absence without pay which were necessary on account of disability.

b. In computing the term of service rendered by any fireman subsequent to the thirty-first day in the month of December of the year in which this section shall come into effect in such city, the following periods of time shall be counted as periods of service for annuity purposes only: All periods of time during which such fireman shall have performed the duties of his position; all periods of vacation; all periods of leave of absence with whole or part pay; all periods of disability for which such fireman shall receive any disability benefit; and all periods of disability not the result of injury incurred in the performance of one or more specified acts of duty for which the fireman shall not receive any disability benefit any one of which periods shall not exceed fifteen consecutive days.

c. In computing the term of service rendered by any fireman subsequent to the thirty-first day in the month of December of the year in which this section shall come into effect in such city, for ordinary disability benefit purposes, all periods of time described in the preceding paragraph, except any such period of time for which such fireman shall receive or shall have received ordinary disability benefit, shall be counted as periods of service. (S. 1, Sub. 54, Ch. 423, L. 1923.)

**55. ANNUITY AND BENEFIT FUND.** a. It is the intention of this section that the annuity and benefit fund herein provided for shall on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, and thereafter supersede and take the place of any firemen's pension fund which shall be in operation, under and by virtue of chapter 165, laws of 1903, as amended, in such city at the

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time this section shall come into effect in such city. Therefore, if any firemen's pension fund, created and maintained under and by virtue of said chapter 165, laws of 1903, as amended, shall be in operation in any such city at the time this section shall come into effect in such city all moneys, securities and other assets of such fund shall be transferred, on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by the board of trustees of such fund to the retirement board of the annuity and benefit fund, herein provided for, which retirement board is hereby empowered to receive them, and shall be placed in the annuity and benefit fund herein provided for and such firemen's pension fund shall then cease to exist. If it shall not be possible or practicable for the board of trustees of any such firemen's pension fund to transfer all moneys, securities and other assets of such fund to the said retirement board on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, all such moneys, securities and other assets shall be transferred to said retirement board as soon as possible and practicable after such day, and any such transfer shall be made as of such day.

b. All annuities, pensions and other benefits allowed prior to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, by the board of trustees of such firemen's pension fund shall thereafter be paid by the said retirement board from the annuity and benefit fund herein provided for, according to the law or laws under which such annuities, pensions or other benefits were allowed.

c. All claims for any annuity, pension or other benefits from such firemen's pension fund which are pending or ungranted on the first day in the month of January of the first year after the year in which this section shall come into effect in such city, shall be allowed or disallowed by said retirement board, according to the provisions of said chapter 165, laws of 1903, as amended, and those which shall be allowed shall be paid from the annuity and benefit fund herein provided for.

d. Widows, children less than eighteen years of age, dependent daughters,

fathers or mothers of firemen who are or who shall become pensioners under and by virtue of chapter 165, laws of 1903, as amended, and who shall die shall have a right to receive pensions in accord with the provisions of said chapter 165, laws of 1903, as amended, and the retirement board shall allow all such pensions in accordance with the provisions of said chapter 165, laws of 1903, as amended, and shall pay all such pensions from the annuity and benefit fund herein provided for. (*S. 1, Sub. 55, Ch. 423, L. 1923.*)

**56. TRANSFERENCE OF FUNDS.** a. For the purpose of paying prior service annuities and widow's prior service annuities provided for in this section, and all annuities, pensions and benefits which have been or which shall be allowed or granted under and by virtue of chapter 165, laws of 1903, as amended, or under and by virtue of subsections 55 and 60 of this section, also for the purpose of providing a sufficient amount of money in the investment and interest fund, described in sub. 59-b to make possible the transfer of moneys from said fund to other funds of the annuity and benefit fund herein provided for as stated in sub. 59-b, the city shall contribute the sum of one hundred and twenty thousand dollars each year to the annuity and benefit fund herein provided for, beginning in the first year after the year in which this section shall come into effect in such city.

b. All such amounts contributed by the city shall be placed in the prior service annuity fund described in sub. 59-f. When the assets of the said prior service annuity fund shall equal the liabilities thereof (including in addition to all other liabilities of such fund, the present values, according to the American experience table of mortality and interest at the rate of four per cent per annum of all annuities present or prospective, to be paid from said fund) the city shall cease to contribute the sum stated in par. a or any part thereof; provided, however, if at any time the assets of the said investment and interest fund shall not be sufficient to permit of a transfer of moneys from said fund to any other fund of the annuity and benefit fund herein provided for in accordance with the provisions of sub. 59-e, the city shall, as soon as possible and practicable thereafter, contribute a sum or

sums sufficient to make possible such transfer of the amount or amounts of money required, and provided further, if by reason of annexation of territory and the employment by such city of any fireman employed in any such territory at the time of such annexation, after the city shall have ceased to contribute as provided in par. a contributions of moneys to provide prior service annuity and widow's prior service annuity (either or both) for or on account of such fireman shall become necessary for such annuity purposes, the city shall as soon as possible and practicable thereafter, contribute sum or sums sufficient to provide such annuities. However, the city shall not, in any event contribute any amount in excess of one hundred and fifty thousand dollars in any one year for any and all purposes stated in this subsection. (S. 1, Sub. 56, Ch. 423, L. 1923.)

**57. FUNDS ON HAND.** For the purpose of paying annuities, the retirement board may at all times keep and hold uninvested a sum not in excess of the amount required to make all annuity payments which shall become due and payable within the following ninety days. Such sum or any part thereof shall be kept on deposit in any bank in the state of Wisconsin, organized under the laws of said state as a state bank, or organized under the laws of the United States as a national bank, provided, such bank shall furnish to said retirement board adequate security for any sum deposited therein by said retirement board; and provided further, that the amount which said retirement board may deposit in any such bank shall not in any case exceed twenty-five per cent of the paid up capital and surplus of such bank. (S. 1, Sub. 57, Ch. 423, L. 1923.)

**58. EFFECTIVE DATE OF ORDINANCE.** No annuity shall be fixed, granted or paid, and no disability benefit shall be granted or paid under or by virtue of this section before the first day in the month of January of the first year after the year in which this section shall come into effect in such city. (S. 1, Sub. 58, Ch. 423, L. 1923.)

**59. RETIREMENT BOARD.** a. Established. All money and property which shall be received by the retirement board for the annuity and benefit fund herein provided for shall be placed in some one or more of the following described funds which shall be established and maintained by said retirement board within the said annuity and benefit fund.

b. Expense fund. All amounts of money which shall be contributed by the city and all amounts of money which shall be deducted

from the salaries of firemen to defray the cost of administration of the annuity and benefit fund herein provided for, as stated in subsection 14 of this section, shall be paid into a fund to be known as the expense fund. All expenses of administration shall be paid from this fund.

c. City contribution fund. c-1. All amounts of money which the city shall contribute for age and service annuity, widow's annuity and supplemental annuity purposes, except those contributed as provided in subsection 51 of this section, in lieu of deductions from the salary of any fireman who shall receive duty disability benefit, also all amounts which shall be transferred to this fund from the investment and interest fund shall be placed in this fund.

c-2. An individual account shall be kept in this fund concerning each fireman for whose benefit the city shall contribute for age and service annuity or for widow's annuity purposes (the former or both) and with each widow for whose benefit the city shall contribute for supplemental annuity purposes. As such contributions are received they shall be credited to the accounts of the various persons for whom they shall be made.

c-3. At least once each year, and always before any money shall be transferred from this fund to any other fund described in this subsection, the sums thus credited shall be improved by the proper interest accretions.

c-4. When the amount of annuity to be paid to any fireman, or the widow of any fireman shall be fixed, and when supplemental annuity for the widow of any fireman shall first become payable, the total amount in this fund for the purpose of providing such annuity, and required for such purposes shall be taken therefrom and placed in the annuity payment fund.

c-5. In any case in which there shall be in this fund to the credit of any fireman who shall resign or be discharged from the service before such fireman shall have attained an age of fifty-seven years an amount in excess of that required to provide age and service annuity for such fireman, or an amount in excess of that required to provide widow's annuity for the wife of such fireman (either or both) such amount shall be retained in this fund and improved by interest at the rate of four percent

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per annum until such fireman shall become fifty-seven years of age or shall die, whichever event shall occur first. Such accumulated amount shall then be used in accordance with the provisions of sub. 42-d.

d. Salary deduction fund. d-1. All amounts of money which shall be deducted from the salaries of firemen for age and service annuity and widow's annuity purposes, also all amounts of money which shall be contributed by the city for any such annuity purposes for the benefit of any fireman who shall receive duty disability benefit under the provisions of subsection 50 of this section, in lieu of any such amount which would have been deducted from the salary of such fireman if such fireman were performing active duty, also all amounts which shall be transferred to this fund from the investment and interest fund shall be placed in this fund.

d-2. An individual account shall be kept concerning such fireman from whose salary any such amount shall be deducted or for whose benefit the city shall make any such contribution. As such deductions or contributions are received they shall be credited to the accounts of the various persons for whom they shall be made.

d-3. At least once each year, and always before any moneys shall be transferred from this fund to any other fund described in this subsection, the sums thus credited shall be improved by the proper interest accretions.

d-4. When the amount of annuity to be paid to any fireman or to the widow of any fireman shall be fixed or granted, the total amount in this fund for the purpose of providing such annuity and required for such purpose shall be taken therefrom and placed in the annuity payment fund.

d-5. All amounts which shall have resulted from deductions from the salary of any fireman, and all amounts which shall have resulted from contributions made by the city for the benefit of any fireman who shall receive duty disability benefit, in lieu of deduction from the salary of such fireman, in accord with the provisions of subsection 50 of this section, that are to be refunded in accordance with the provisions of this section, except those referred to in par. e, shall be paid from this fund. (S. 1, Sub. 59-a to d, Ch. 423, L. 1923.)

e. Annuity payment fund. e-1. All amounts of money which shall be taken from the city contribution fund and from the salary deduction fund for the purpose of paying annuities which shall have been fixed, also all amounts which shall be deducted from the salary of any fireman after the amount of age and service annuity for such fireman shall have been fixed, also all amounts which shall be transferred to this fund from the expense fund, the ordinary disability fund, the investment and interest fund, and under the provisions of subsection 66, shall be placed in this fund.

e-2. All age and service annuities and all widow's annuities shall be paid from this fund. (S. 14, Ch. 440, L. 1947.)

e-3. If any fireman who shall have resigned or been discharged from the service and whose annuity shall have been fixed or granted shall reenter the service before he shall have attained an age of fifty-seven years, an amount which shall be determined in accordance with the provisions of sub. 35-a shall be transferred from this fund and placed to the credit of such fireman for age and service annuity purposes in the city contribution fund and the salary deduction funds, respectively. Such amount shall be divided and placed in said funds in the ratio which the respective amounts transferred from such funds to this fund for age and service annuity purposes for such fireman bore to each other at the time the annuity for such fireman shall have been fixed. If the woman who shall be the wife of such fireman when he shall reenter the service shall be the one who was the wife of such fireman where annuity for the wife of such fireman shall have been fixed, an amount to be determined in accordance with sub. 35-a shall be transferred from this fund and placed to the credit of such fireman for widow's annuity purposes in the city contribution fund and the salary deduction fund, respectively, such amount shall be divided and placed in said funds in the ratio which the respective amounts transferred from such funds to this fund for widow's annuity purposes for the wife of such fireman bore to each other at the time the annuity for the wife of such fireman shall have been fixed. (S. 1, Sub. 59-e-3, Ch. 423, L. 1923.)



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e-4. If at the end of any calendar year the assets of the annuity payment fund shall be in excess of the amount of liabilities of said fund by 15 per cent of such amount of liabilities, the amount of such excess shall be transferred to the investment and interest fund described in par. L to be used for the purposes prescribed in par. L. (S. 15, Ch. 44, L. 1947.)

f. Prior service annuity fund. f-1. All amounts of money which shall be contributed by the city for prior service annuity and for widow's prior service annuity purposes and all money which shall be contributed by the city in accordance with the provisions of subsection 60 of this section shall be placed in this fund. All assets of any firemen's pension fund which shall exist under and by virtue of chapter 165, laws of 1903, as amended, in such city at the time this section shall come into effect, in such city, which shall be turned over to the retirement board as provided in subsection 55 shall also be placed in this fund.

f-2. All prior service annuities and widow's prior service annuities payable under the provisions of this section and all annuities, benefits and pensions which shall have been granted or shall be granted to any person or persons under, or in accordance with the provisions of chapter 165, laws of 1903, as amended, and of subsection 55 shall be paid from this fund.

f-3. If at any time the assets of the investment and interest fund described in subsection 59-L shall not be sufficient to permit the transfer from said fund to the annuity payment fund of the amount specified in subsection 59-L-2, the amount necessary for such purpose shall be taken from this fund and placed in the said investment and interest fund.

g. Child's annuity fund. All amounts of money which the city shall contribute to provide child's annuity according to the provisions of this section shall be placed in this fund and all such annuities shall be paid from this fund.

h. Duty disability fund. All amounts of money which shall be contributed by the city to provide duty disability benefits and child's disability benefits, and all amounts which shall be contributed by the city to provide compensation annuity (as defined in subsection 34 of this section) for a widow of any fireman who shall die as a result of injury received in

the performance of one or more specific acts of duty shall be placed in this fund and all such benefits and annuities shall be paid from this fund.

i. Ordinary disability fund. All amounts of money which shall be contributed by the city, and all amounts which shall be deducted from the salaries of firemen for the purpose of providing ordinary disability benefits shall be placed in this fund and all such benefits shall be paid from this fund.

j. Transfer of funds. If at any time there shall not be enough money in the expense fund, the prior service annuity fund, the child's annuity fund, the duty disability fund, or the ordinary disability fund, either one of these -- to pay any expenses, annuities, or benefits which shall be due and payable from any such fund, the sums necessary to pay any such expenses, annuities, or benefits shall be taken from either one or all of the following named funds in the order stated, and transferred to the said fund or funds from which such expenses, annuities, or benefits shall be payable: city contribution fund, prior service annuity fund, salary deduction fund. When any amount in excess of that required to pay any expenses, annuities or benefits due, and payable from any of the said funds, to which any sums shall have been transferred, shall be received into such fund, such amount shall be transferred, from such fund to the fund or funds from which any such sums shall have been taken and transferred, until the full sums so taken and transferred shall be returned to any fund from which it was taken and transferred. Interest at the rate of four per cent per annum upon any sum so taken and returned shall be paid into the investment and interest fund.

k. Gift fund. All money or property of any kind which shall be received by the retirement board for any purpose or purposes of the annuity and benefit fund herein provided for, under and by virtue of any law or laws other than this section, or as gifts, grants, or bequests, or in any manner, other than as provided in any preceding subsection shall be placed in this fund, and the same shall be used for the purposes of the annuity and benefit fund herein provided for as shall be decided by said retirement board. All money in this fund shall be improved by interest at the rate of four per cent per annum.

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L. Investment and interest fund. L-1. All gains from investments and all interest earnings shall be paid into a fund to be known as the investment and interest fund. Also, all moneys which shall be transferred from the annuity payment fund, described in this subsection, and the moneys which shall be transferred under the provisions of subsection 56 shall be placed in this fund. All losses from investments shall be charged to this fund. From this fund shall be transferred all amounts due in interest upon balances existing in the city contribution fund, the salary deduction fund, the prior service annuity fund, and the gift fund. (S. 16, Ch. 440, L. 1947.)

L-2. Such amounts as shall be necessary according to the American experience table of mortality and interest at the rate of four per cent per annum, to make the assets of the annuity payment fund equal to the liabilities thereof (including among such liabilities and in addition to all other liabilities of such fund the present values of all annuities entered upon or fixed, and not entered upon to be paid from such fund) shall be taken from this fund and transferred to the annuity payment fund at least once each year. (S. 1, Sub. 59, Ch. 423, L. 1923.)

**60.** SERVICE CREDIT. a. On or before December 1, 1923, etc. Notwithstanding the provisions of any other subsection of this section, any present employee who shall have been a member of the fire department of such city on December 1, 1923, or any fireman who was not a member of the fire department of such city on December 31, 1923, but was a member of such department of such city prior to said date, and resigned or was discharged from the service prior to said date, being ineligible for annuity, who reentered such service in such city subsequent to such date and remained in such service continuously for a period of at least 15 years from his date of re-entrance into said service, who shall resign or be discharged from the service, either before or after he shall become 50 years of age, after he shall have completed 22 or more years of service and for whom the amount of annuity provided in accordance with the foregoing provisions of this section shall be less than 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge

from the service, shall receive annuity from and after the date of such retirement, resignation or discharge of an amount equal to 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge. (*Par. a am. Ch. Ord. 369, File #69-2596-a, May 24, 1971.*)

b. On or after January 1, 1924. Any employee who shall have become a member of the fire department of such city on or after January 1, 1924, who shall retire, resign or be discharged from the service after he shall have completed 25 or more years of service and for whom the amount of annuity provided in accordance with the foregoing provisions of this section shall be less than 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation or discharge from the service, shall receive annuity from and after the date of such resignation or discharge of an amount equal to 50% of his average annual earnable salary during the highest 3 years of creditable service preceding retirement, resignation, or discharge provided that nothing in this subsection shall act to reduce the amount of annuity of any member who was eligible to retire on annuity on the day before May 17, 1945, at 1/2 or more of his average annual earnable salary during his highest 3 years of creditable service as it was in effect on such day, to an amount less than his annuity would have been if he had retired as of that day; however, any increase in compensation received after the effective date of this section shall be considered for annuity purposes under the highest 3 years salary provision of this section. (*Par. b am. Ch. Ord. 369, File #69-2596a, May 24, 1971.*)

c. On or after July 28, 1974. Notwithstanding the provisions of this subsection of this section, the average annual earnable salary for firemen presently employed on or after July 28, 1974, shall be:

c-1. For employees hired on or after May 17, 1945, the average annual regular base salary computed on the year of service in which the member's regular base salary was the highest.

c-2. For employees hired prior to May 17, 1945, the highest regular base salary annualized, for the first 25 years of creditable service, and the average annual regular base

salary computed on the year of service in which the employee's regular base salary computed on the year of service in which the employee's regular base salary was the highest for each additional year of creditable service thereafter. (*Par. c cr. Ch. Ord. 415, File #73-1841, Oct. 8, 1974.*)

d. Between March 1, 1983 and February 28, 1989. Notwithstanding the provisions of this subsection, members entitled to service credit during the time period between March 1, 1983, and February 28, 1989, shall receive such service credit at the rate of 2.5% per annum of final average salary for creditable service during such period. (*Par. d am. File #872401, May 17, 1988; eff. Aug. 2, 1988.*)

**[Note: The provisions of par. d apply to sworn firemen occupying position classifications of firefighter, motor pump operator, heavy equipment operator, fire paramedic officer, fire lieutenant, fire captain, paramedic lieutenant, chief engineer, fire, first assistant chief engineer, deputy chief, fire, battalion chief, fire, assistant superintendent of construction and maintenance, chief dispatcher of fire alarm and telegraph, assistant chief dispatcher of fire alarm and telegraph and motor vehicle operator instructor. (File #872396, Sept. 20, 1988; eff. Dec. 5, 1988.)]**

60.1. WIDOW'S ANNUITY. a. Widow's Annuity. Notwithstanding the provisions of any other subsections of this section in any case in which the amount of annuity for a widow of any present employee described in this paragraph, provided in accordance with the foregoing provisions of this section, shall be less than the amount of annuity specified in this subsection for such widow, the widow of any present employee who shall have been a member of the fire department of such city on the thirty-first day in the month of December of the year before the year in which this section shall come into effect in such city and who shall resign or be discharged from the service, and who shall enter upon annuity (provided such widow married such present employee before such resignation or discharge) and the widow of any such present employee who shall die at any time after he shall have entered such fire department of injury or exposure incurred in the line of his duty, or as the result of any disease contracted by reason of performance of duty; and the widow of any such present employee who shall have been a member of such fire department ten or more years who shall die

from any cause, shall receive annuity from and after the date of the death of such employee, of an amount equal to the following sum relating to such widow, per month:

b. Other fire department employees. To the widow of the chief engineer of the department, sixty dollars; to the widows of the assistant chief engineers and assistant superintendent of fire alarm telegraph, fifty-five dollars; to the widow of the superintendent of machinery and apparatus, fifty dollars; to the widow of any captain, engineer, pilot or secretary, forty-five dollars; to the widow of any lieutenant, assistant engineer or fireman, forty dollars; to the widows of all other contributing members thirty-five dollars.

c. When widow marries. When any widow described in this subsection shall marry, any amount of annuity stated in this subsection as the amount to be paid to such widow which shall be in excess of that provided for such widow under foregoing provisions of this section shall cease.

d. When the widow dies. In case a widow shall not survive any present employee, described in this subsection, or in case the widow of any such present employee shall die or marry, any child or children less than eighteen years of age, the issue of such present employee, shall receive annuity equal in amount to that prescribed in this subsection for the widow of such pensioner or present employee, but any sum in excess of such amount shall not be paid to the children in any one family unless such sum is provided in accordance with the provisions of subsection 49 of this section.

e. Other dependents. In case no widow or children, as aforesaid, shall survive any such present employee, annuity equal in amount to that prescribed in this subsection for the widow of such present employee shall be paid to any dependent daughter, father or mother of any such present employee, in the order named but in any case to but one of them, and when any such daughter, father or mother to whom such annuity shall have been paid shall cease to be dependent, or when any such daughter shall marry, the retirement board shall cease payment of annuity to such annuitant.

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f. Existing rights. Provided, that all existing rights or benefits that have accrued or shall accrue in the future to any person or persons whomsoever under or by virtue of chapter 165, laws of 1903, and acts amendatory thereto or supplementary thereof, shall be preserved to such person or persons notwithstanding the provisions of this section. (*S. 1, Sub. 60.1, Ch. 423, L. 1923.*)

**60.2. OTHER SERVICE CREDIT PROVISIONS.** a. Entering service after age 32. Notwithstanding the provisions of any other subsection of this section, no fireman who enters the service after age 32 shall receive an annuity amounting to more than 50 per cent of his final 5 year average earnable salary. (*S. 17, Ch. 440, L. 1947.*)

b. Service credit for duty disability. Notwithstanding any other provisions of this section, the retirement board shall allow as creditable membership or prior service, as the case may be, all time during which any fireman was absent due to duty disability as determined under the provisions of this sub. 50 of this section provided such fireman was presently employed from and after July 28, 1974, or due to service in the military, air or naval forces or in any defense or compulsory military training programs of the United States of America, and absence during federal hospitalization because of injuries or sickness resulting from such service, provided that such fireman was duly excused or granted leave of absence from his service as a fireman, and provided further that the period allowed for such service shall begin with the date of such duty disability benefit was granted or the date the fireman was excused or granted leave of absence, and shall extend until a date is determined under the provisions of sub. 50 of this section that the disability has ceased or the duty disability benefit has terminated or until a date not more than 90 days after his discharge from military, air or naval service or federal hospitalization. Upon the retirement of such member under the provisions of this act, he shall be credited with the periods of his military service by city contribution with the same result as though the fireman and the city during such military service made the normal contributions. (*Par. b cr. Ch. Ord. 415, File #73-1841, Oct. 8, 1974.*)

c. Employee transfer.

Notwithstanding that a member is transferred to a new city department or is assigned new duties which he did not have at the time he became a member of this system, he may nevertheless continue as a member of this system with all the rights, benefits and allowances provided for in this act if he is able to demonstrate that he has had 25 years of continuous city service and his membership in this system has extended for at least a like period of time. (*Par. c cr. Ch. Ord. 384, File #71-2208-a, April 11, 1972.*)

**61. INSUFFICIENT FUNDS.** a. Notwithstanding the provisions of any other subsections of this section to the effect that certain annuities shall be life annuities; in any case in which the sum to the credit of a fireman for the purpose of providing annuity for such fireman shall be insufficient -- at the time the amount of such annuity shall be fixed, as hereinbefore provided -- to provide life annuity, payable at the rate of ten dollars a month, for such fireman, a term annuity payable at the rate of ten dollars a month shall be fixed for such fireman and such annuity shall be paid to him for such a period of time as such payments can be made from the aforesaid sum to the credit of such fireman; and, in any case in which the sum to the credit of a fireman for the purpose of providing annuity for the widow of such fireman shall be insufficient at the time the amount of such annuity shall be fixed, as hereinbefore provided -- to provide a life annuity, payable at the rate of ten dollars a month, for such widow, a term annuity payable at the rate of ten dollars a month shall be fixed for such widow, and such annuity shall be paid to such widow for such a period of time as such payments can be made from the aforesaid sum to the credit of such fireman.

b. Any annuity described in this subsection shall be computed according to the American experience table of mortality and interest at the rate of three and one-half per cent or four per cent per annum, whichever such rate of interest shall apply in any particular case, in accordance with foregoing provisions of this section. (*S. 1, Sub. 61, Ch. 423, L. 1923.*)

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**62. FUNDS EXEMPT FROM GARNISH-MENTS, ETC.** All moneys and other assets in and of the annuity and benefit fund herein provided for and all annuities and disability benefits granted under the provisions of this section and every portion of such annuities and benefits both before and after payment to any annuitant or other beneficiary, shall be exempt from attachment or garnishment process and shall not be seized, taken, detained or levied upon by virtue of any execution, or any process or proceeding whatsoever issued out of or by any court in this state, for the payment and satisfaction in whole or in part of any debt, claim, damage, demand or judgment against any annuitant or other beneficiary hereunder, and no such annuitant or other beneficiary shall have any right to transfer or assign his or her annuity or disability benefit or any part thereof either by way of mortgage or otherwise. (S. 1, Sub. 62, Ch. 423, L. 1923.)

**63. INCORRECT AGE.** In the case of any fireman who shall have filed an application for appointment as a member of the fire department of such city, the age stated in such application shall be conclusive evidence of the age of such fireman for the purposes of this section. Whenever it shall appear to the board that the age of any member or beneficiary has been incorrectly stated and satisfactory evidence has been submitted to the board that a correction in the age of such member or beneficiary is required the board may correct such age. (Sub. 63 am. Ch. Ord. 335, F#66-1005-b, Nov. 14, 1967.)

**64. COMPLIANCE.** It shall be the duty of all officers, officials and employees of such city to perform any and all acts, required to carry out the intent and purposes of this section, which it shall be necessary that any such officer, official or employee shall perform so that the provisions of this section may be complied with and the intent and purposes thereof fulfilled. (S. 1, Sub. 64, Ch. 423, L. 1923.)

**65. COMMISSIONER OF INSURANCE TO REPORT.** Notwithstanding any other provisions of this section, it shall be the duty of the commissioner of insurance of this state to examine into the affairs of the annuity and benefit fund hereby created at least once in every three years and to submit a report concerning the results of his examination to the

mayor of such city who shall submit such report to the common council of such city. The expense of such examination shall be paid by the annuity and benefit fund hereby created. (S. 1, Sub. 65, Ch. 423, L. 1923.)

**66. CITY CONTRIBUTIONS.** a. Notwithstanding the provisions of any other subsections of this section, the city shall contribute to the annuity and benefit fund hereby created during the first year following the year in which this section shall take effect in such city the sum of one hundred thousand dollars and during each year of the eight years succeeding the first year following the year in which this section shall take effect in such city, the city shall contribute the sum of twenty-five thousand dollars more than it shall have contributed during the year immediately preceding such year. Thereafter the city shall contribute as provided in the other subsections of this section.

b. During the period beginning with the first day of January of the year following the year in which this section shall take effect and ending with the thirty-first day of December of the ninth year following the year in which this section shall take effect, out of the sums contributed by the city as hereinbefore stated in this subsection, sums equal to the amounts that would be contributed by the city each year if this subsection did not exist shall be paid each year into the expense fund, salary deduction fund, annuity payment fund, child's annuity fund, duty disability fund and ordinary disability fund in the order named, and the remaining part of such contributions shall be paid into the prior service annuity fund, and from the prior service annuity fund there shall be transferred to the annuity payment fund such sums as would be transferred from the city contribution fund to such fund if this subsection did not exist.

c. Beginning with the first day of January of the tenth year following the year in which this section shall take effect, sums equal to the amounts that would be contributed by the city each year, if this subsection did not exist, shall be paid each year into the expense fund, salary deduction fund, annuity payment fund, child's annuity fund, duty disability fund and ordinary disability fund, in the order named. After such sums are paid into the funds as aforesaid, sums equal to the amounts required

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in contributions from the city for age and service annuity purposes and widow's annuity purposes shall be paid into the city contribution fund and the remaining part shall be paid into the prior service annuity fund. From the prior service annuity fund there shall be transferred to the annuity payment fund amounts equal to the differences between the amounts which would have been transferred from the city contribution fund to the annuity payment fund if this subsection did not exist and the actual amounts thus transferred.

d. Such distribution of the funds so contributed shall be continued until the amount in the city contribution fund shall be equal to the amount that would have been in such fund if contributions by the city and distribution of the amounts thus contributed had been made according to the provisions of the other subsections of this section from the date when this section shall take effect. When such time shall have come this subsection shall cease to be in force. (*S. 1, Sub. 66-a to d, Ch. 423, L. 1923.*)

e. From and after January 1, 1948, there shall be deducted and contributed to the annuity and benefit fund herein provided for 3% of each payment of salary of each fireman from whose salary no further age and service annuity deductions are required under the remaining subsections of this section, and 1/8th of 1% from each payment of the salary of each fireman from whose salary no further deductions for expense of administration purposes are required under the remaining subsections of this section. Such deductions shall be made at the time such payments of salary shall be made and shall be continued while such fireman shall be in the service.

(*Par. e am. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1956.*)

f. Of the amounts deducted from salaries as prescribed in sub. 66-e the 3% deductions required from and after the dates when no further deductions shall be required for age and service annuity purposes shall be placed in the annuity payment fund described in sub. 59-e to be used for the purposes described in said sub. 59-e, and 1/8th of 1% deductions required from and after the dates when no further deductions for expense of administration purposes are required shall be placed in the expense fund described in sub. 59-b to be used for the purposes described in said sub. 59-b. (*Par. f am. Ch. Ord. 228, F#55-4100-b, Oct. 16, 1956.*)

### 67. ANNUITY, DEFERRED

COMPENSATION. Firemen and other fire department employees have been attracted to and have remained in service despite ability to receive higher wages and salaries in other employment because of the deferred compensation for their services promised to them in the form of retirement annuities and death benefits in retirement systems of which they have been contributing members. The purpose of creation of this subsection is to strengthen the fire service in cities of the first class by establishing the security of annuities and all other benefits provided by the firemen's annuity and benefit funds in such cities.

a. All benefits of firemen, whether in service or retired, and of beneficiaries, including widows and children of deceased firemen, by or for whom contributions shall have been made to the firemen's annuity and benefit fund of a city of the first class, shall be assured by benefit contracts.

b. Every fireman and beneficiary shall be deemed to have accepted the provisions hereof and shall by such acceptance have a benefit contract as of the effective date of the creation of this subsection unless, within 30 days thereafter, he files with the retirement board a written notice electing to have no such contract. The annuities and all other benefits in the amounts and on the terms and conditions and in all other respects as provided in ch. 423, laws of 1923, as amended and then in effect in such city shall be obligations of such benefit contract on the part of the city and the retirement board and each fireman and beneficiary having such a benefit contract shall have a vested right to such annuities and other benefits and they shall not be diminished or impaired by subsequent legislation nor by any other means without his consent.

c. The retirement board may issue to each fireman and beneficiary who shall have such a benefit contract a written or printed contract, or may supplement any certificate, or other evidence of participation issued to him by endorsement stating that the fireman or beneficiary has a benefit contract according to the terms of this subsection, but the contract shall be in full force and effect whether or not any written or printed evidence thereof shall be so issued. (*Sub. 67 am. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1946.*)

**68. MEMBERS ONLY.** No person who had not contributed to and become a member of a fireman's annuity and benefit fund in a city of the first class established pursuant to ch. 423, laws of 1923 shall be permitted to contribute to such fund or become a member thereof on or after the passage of this act nor shall he or his widow or his child be, or become, entitled to receive any benefit from such fund. Only persons who are members of such fund created by ch. 423, laws of 1923, on the day before this act becomes effective may contribute to such fund or be members thereof after said date. (*Sub. 68 am. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1946.*)

**69. CITIES OF THE FIRST CLASS.** For the purpose of giving to cities of the first class the largest measure of self-government with respect to pension annuity and retirement systems compatible with the constitution and general law, it is hereby declared to be the legislative policy that all future amendments and alterations to this section are matters of local affair and government and shall not be construed as an enactment of state-wide concern. Cities of the first class are hereby empowered to amend or alter the provisions of this section in the manner prescribed by s. 66.01 of the Wis. Stats; provided that no such amendments or alteration shall modify the annuities, benefits or other rights of any person who is a member of the system prior to the effective date of such amendment or alteration. For the further purpose of safeguarding the stability of pension systems in cities of the first class the provisions of chapter 396, laws of 1937, section 15(2), as created by chapter 441, laws of 1947, shall apply to this chapter. (*S. 3, Ch. 279, L. 1953.*)

**70. RIGHTS PRESERVED.** Notwithstanding any other provisions of this section, all rights and benefits under or by virtue of ch. 165, laws of 1903, and acts amendatory thereto, or supplementary thereof, that have accrued or shall accrue in the future to any person or persons whomsoever, including those retired on annuity shall be preserved to such person or persons. (*Sub. 70 am. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1956.*)

**71. ANNUITY INCREASES.** a. Based on contracts. Notwithstanding any other provision contained in this chapter [514, L. 1961] and not withstanding any other statute,

and commencing on the effective date (1961) of this subsection, every city of the first class may increase the annuities and other benefits provided in chapter 423, laws of 1923, as amended, for all firemen who have retired from active service and who shall have attained the age of 65 years, and for all widows who shall have attained the age of 62 years, and for children under 18 years of age who are entitled to benefits from the fund, provided that such increase of annuities and other benefits shall be based upon amended contract between such city and such retired firemen and by or for such other beneficiaries. (*S. 1, Ch. 514, L. 1961.*)

b. Hospital premiums.

Notwithstanding any other provisions to the contrary, deductions to cover premiums for hospitalization and surgical care may be made from the annuity payroll or payments of the firemen's annuity and benefit fund with respect to payments to pensioners when authorized by them in writing, and such premiums when paid on behalf of such pensioners shall constitute a charge against amounts otherwise due them. (*Sub. 71 cr. Ch. Ord. 228, File #55-4100-b, Oct. 16, 1946.*)

**72. EMPLOYED AFTER AGE 57; WIDOW'S FUND.** a. Widow's Annuity. Notwithstanding any other provisions of law to the contrary an employee covered by this annuity and benefit fund who has attained the age of 57 years and continues his employment may elect in writing to continue his widow's annuity contributions to this fund, after having attained the age of 57 years. Such election to so contribute also may be exercised by an employee who is in the service on the effective date of the creation of this subsection who continues in his employment and who has attained the age of 57 years prior to the enactment of this section by notifying the trustees of this fund of his election to continue making the widow's annuity contributions. Such election in the case of employees who have attained the age of 57 years prior to the enactment of this section must be made within 6 months from the effective date of this section. When such election has been made, as herein provided for, such employee shall contribute to such fund at the rate of 4-5/8% of his earnable compensation until his completion of 25 years of service, thereafter such contribution shall be at the rate of 4-1/8%

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of his earnable compensation. An employee who has already attained the age of 57 years prior to the enactment of this subsection and who having elected to continue to contribute his widow's annuity contributions to such fund, as hereinbefore provided, shall be permitted to obtain and receive the benefits granted herein by paying to said fund the amount which he would have contributed after reaching the age of 57 had he been eligible to make such contributions as herein provided and he shall pay in addition to accumulated contributions the interest accrued computed upon an actuarial basis and equal to the amount that his contributions would have earned had he continued to contribute the widow's contributions to such fund upon attaining the age of 57 years. Such employee who has already attained the age of 57 years prior to the enactment of this subsection shall be required to make up all of the contributions which he would have been required to pay together with the interest hereinbefore referred to within one year from the effective date of this section, and if he fails so to do, he shall be ineligible for the benefits provided herein.

b. Account credited. Any such employee as referred to in par. a having elected to come under the provisions hereof shall be credited for widow's annuity in his account in the salary deduction fund for all of his contributions for widow's annuity purposes both before and after attainment of age 57, and shall also be credited for widow's annuity in his account in the city contribution fund for contributions by the city at the rate of 2-1/2% of each payment of salary for service rendered both before and after attainment of age 57. These amounts so credited shall be improved to his credit by interest at the rate of 4% per annum during all the time that such employee shall be in the service from the date of his contribution and corresponding city credit until the date of his separation from the service. In the event of the resignation or discharge of the employee after his attainment of age 57 the total of the foregoing amounts to his credit for widow's annuity purposes on such date shall be used to compute and fix in accordance with the provisions of subs. 29-a and b-3, 38-c, and 39, a reversionary life annuity for an eligible wife based on their attained ages on such date provided that the age of the wife cannot be

taken as greater than the attained age of the employee on the date of his resignation or discharge. An eligible widow of any such employee as referred to in par. a who shall die in the service after his attainment of age 57 and before his resignation or discharge from the service, shall be entitled to a life annuity in accordance with the provisions of subs. 29-a, 38-d, and 39 based on the amount to the employees' credit on the date of his death for widow's annuity purposes in the salary deduction fund and city contribution fund plus the sum to his credit for employees' annuity purposes in the annuity payment fund and prior service annuity fund for age and service and prior service annuity purposes and based on the widow's attained age on the date of death provided that her age cannot be taken greater than the attained age of the employee on the date of his death. In the event of the death of the wife of an employee whose death shall occur while the employee is still in the service who has elected to come under the provisions of this subsection, and in the case of an employee who attains the age of 57 in the service whose wife subsequently dies or who becomes divorced from him while he is still in the service who has not elected to come under the provisions of this section, any such employee shall be entitled to the return of his accumulated contributions for widow's annuity purposes upon proper application to the retirement board. (*Sub. 72 am. Ch. Ord. 260, File #59-1947-a, Mar. 29, 1960.*)

**73.** APPLICABILITY. This act [ch. 423, L. 1923] shall be amendatory of the charters of all cities of the first class in this state, and any provisions in any such charter which is in conflict with or inconsistent with this act is hereby repealed. All laws and parts of laws which are in conflict with or inconsistent with this act, or any provisions thereof, are hereby repealed. (*S. 2, Ch. 423, L. 1923.*)

**74.** SERVICE CREDIT. Any member of this system who has had in excess of 25 years of continuous service as a member of the fire department and as defined herein, shall receive for each full year of service after such initial 25 year period, 2% per year for each year of service or part thereof upon the basis of the average of his 3 highest years of his compensation, which 3 year period precedes



the retirement of such member; however, in no event shall such additional service credit be granted for any period of more than 10 years of service beyond the said 25 years of service. All service of a member prior to January 1, 1971, but not exceeding a period of 10 years in excess of said 25 years of service shall be computed for purpose of retirement on the basis of the average of the 3 highest years of compensation which precedes such member's retirement. (Sub. 74 cr. Ch. Ord. 369, File #69-2396-a, May 24, 1971.)

**34-02. Member of Fund Becoming County Employee; Procedure.** Notwithstanding any other provision of law, whenever any member of the firemen's annuity and benefit fund created by ch. 423, laws of 1923, as amended, or of the policemen's annuity and benefit fund created by ch. 589, laws of 1921, as amended, or of the sheriffs' annuity and benefit fund created by ch. 155, laws of 1937, as amended, whose membership in said respective funds exceeds one year, who shall hereafter become an employee of the county of Milwaukee or who is presently employed by such county and became such employee subsequent to the date of the establishment of the employes' retirement system of the county of Milwaukee and became or becomes a member of such retirement system, the governing board of said firemen's annuity and benefit fund, policemen's annuity and benefit fund or sheriffs' annuity and benefit fund, as the case may be, shall upon request of such employee cause the treasurer or custodian of such respective fund to pay to the custodian of the employes' retirement system of Milwaukee county all contributions made by such employee to said fund, together with any interest credited on the amount of said contribution at the time of transfer herein provided for, and shall further cause the secretary of said respective firemen's, policemen's or sheriffs' annuity and benefit fund to furnish to the secretary of the employes' retirement system of the county of Milwaukee a certificate showing the total period of membership in such fund credited to such member which certificate shall be acknowledged in writing as accepted by such member, and which shall become final and conclusive and not subject to correction after one year from its date. The amount of money

thus received, representing the member's contribution from his compensation to the respective fund, shall be credited by the secretary of the employes' retirement system of the county of Milwaukee to the annuity savings account set up for such member. The annuity and pension board of the employes' retirement system of the county of Milwaukee shall give such employee credit for membership and prior service in the employes' retirement system of the county of Milwaukee in conformity with the statement of service furnished by the secretary of the fund from which such employee transferred. Such transferred employee member of the employes' retirement system of the county of Milwaukee shall thereafter enjoy all the rights and benefits which would have accrued to him had he been an employee of such county for the total period of his service as a fireman, policeman, or sheriff, plus his employment with such county. All words used in this chapter shall have the meaning ascribed to them by the definition section in chapter 201, laws of 1937, as amended. Any person who shall transfer his employment and membership in the aforesaid firemen's, policemen's or sheriffs' annuity and pension funds to the employes' retirement system of the county of Milwaukee shall be deemed to have released all claims whatsoever against said firemen's, policemen's or sheriffs' annuity and benefit fund. (S. 2, Ch. 574, L. 1949.)

**34-04. Certain Payments by City Into Fund. 1.** In lieu of the contributions made by active participating members of the firemen's annuity and benefit fund, pursuant to the provisions of ch. 423, laws of 1923, as amended, the city will pay commencing with the first pay period of 1969 for eligible members of such fund a sum not to exceed 6% of the compensation paid to such participating members subject to such contribution, but in no event more than such members would have contributed except for the enactment of this section; such contributions to be made by the city on an annual basis and shall constitute a part of the city's pension contribution.

**2.** In the event any court shall determine that the home rule powers under and pursuant to which the common council of the city of Milwaukee has the authority to amend

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any provision of said firemen's annuity and benefit act and under which this section is enacted, are either invalid or illegal or impaired in any respect whatsoever, then this section shall be deemed without force and effect and cease to have any operating effect from the date of its enactment, and all moneys contributed by the city under the terms of this section shall be deemed a credit against other contributions which the city is required to make for pension purposes to said fund, and the members for whom the city has contributed such amount as above set forth shall be required to make up any deficiency occurring by virtue of the fact that this ordinance will under such circumstance become inoperative and ineffective because of the terms herein.

3. Any provisions in said firemen's annuity and benefit fund act relating to contributions to be made by the members thereof who are members of the fire department and eligible to participate in such fund, shall be superceded by the provisions hereof, but if a court shall determine that the home rule powers exercised by the common council are either illegal or invalid or impaired in any respect whatsoever, then they shall be in full operating effect. (*Section 34-04 cr. Ch. Ord. 345, File #68-2098, Dec. 6, 1968.*)

**34-05. Retirement Board, Composition and Election of Members.** Notwithstanding any other provisions of ch. 423 of the laws of 1923, as amended, whenever a term shall expire or a vacancy shall occur on or after January 1, 1981, among the 3 members of the retirement board who shall be firemen employed by the city and 2 members of the retirement board who shall be annuitants or pensioners of the annuity and benefit fund, any person who shall be a fireman employed by such city including those on vacation and those on leave of absence, any person in receipt of a duty disability or ordinary disability benefit from the firemen's annuity and benefit fund, and any person who shall be an annuitant or pensioner of the annuity and benefit fund at the time an election is held for a successor or to fill a vacancy shall be eligible to be a candidate for election and shall be eligible to vote in such election. (*Section 34-05 cr. Ch. Ord. 497, File #80-1349, Dec. 19, 1980.*)

**34-06. Annuity Contracts.** 1. CITY MAY CONTRACT. Notwithstanding any other provisions of law, the retirement board with the concurrence of the city may contract with a legal reserve life insurance company licensed to do business in the state of Wisconsin with a financial rate of "A" or "A+" as measured by Best's Insurance Reports standard for the investment of some or all of the assets at a specified rate of return, for the administration of payment of annuities and benefits authorized by the board and set forth in the law, for the purchase of annuity contracts with some or all of the assets to provide guaranteed payments anticipated to cover all or part of the annuities guaranteeing the payments of annuities and other benefits authorized by the retirement board and set forth in the law, and the expenses of administration in connection therewith. If the retirement board shall contract for investment of assets at a specified rate of return and for administration of payments, the board shall cease to be responsible for investment and administrative functions as they relate to such assets and payments, but the city shall continue to pay annually the amount of tax levy certified to the common council. If the board shall contract with all of the assets for guaranteed payments anticipated to cover all of the annuities and other payments authorized by the retirement board and set forth in the law after such time as all such annuities and benefits shall become fixed, the retirement board shall cease to exist and the city shall levy annually a tax to pay any deficiency between the guaranteed payments and the annual cost of annuities and other benefits authorized by the retirement board and set forth in the law and administration expenses in connection therewith. If at the time the retirement board shall cease to exist, pensioners shall continue to receive duty disability benefits authorized by the retirement board under s.34-01-50, widows' annuities for such pensioners shall be fixed by the annuity and pension board of the employes' retirement system in accordance with this chapter. If the retirement board shall cease to exist, the city in its sole discretion may contract with all or part of the assets for the purchase of annuities guaranteeing benefit payments to cover all or part of the annuities and other benefits authorized by the retirement board and set forth in the law, and administrative therewith.

If the city shall purchase contracts to guarantee all such benefit payments and administration in connection therewith, the fund shall cease to exist. Any premium to be paid by the city as part of any such purchase to guaranty benefit payments shall be included annually in the amount of the tax levy. Any surplus in the fund at the time it shall cease to exist shall revert to the city.

2. ADDITIONAL CONDITIONS. As part of any such contract, a reserve life insurance company may authorize supplemental payments in addition to the annuities and other benefits authorized by the retirement board, but no supplemental payments shall be contractually guaranteed by the annuity and benefit fund of the city. As part of any such contract, a reserve life insurance company may also agree to give the retirement board and the city an option to thereafter enter into additional contracts under such terms and conditions as may be mutually agreed upon. The benefits and other annuities authorized by the retirement board and set forth in the law shall at all times remain the contractual obligation of the city.

3. ACCOUNTING. The accounting for the firemen's annuity and benefit fund shall only reflect assets and liabilities which are not covered by the purchase of annuities guaranteeing benefit payments authorized by the retirement board and set forth in the law and administrative expenses in connection therewith.

4. DUTY DISABILITY PROVISIONS. The duty disability benefits authorized by the retirement board under s. 34-01-50 shall upon the effective date of this section become the administrative responsibility of the annuity and pension board of the employes' retirement system. The city shall annually levy a sum sufficient to pay such duty disability benefits.

*(HISTORY: 34-06 cr. Ch. Ord. 524, File #83-332, July 12, 1983.*

*34-06 rc. Ch. Ord. 540, File #84-512, July 27, 1984.*

*34-06-1 am. File #871526, Jan. 26, 1988; eff. April 12, 1988.)*

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