

CHAPTER 38.

MILWAUKEE SCHOOL LAWS.

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38.01 Scope of chapter. This chapter applies only to cities of the first class.

38.015 Board of school directors; members; oath. (1) The public schools in every city of the first class shall be under the management, control and supervision of a board of school directors, consisting of 15 members from the city-at-large, selected as provided in this chapter. No person holding any office in any political organization, or any lucrative city, county or state office other than a judicial office or that of notary public, shall be eligible to be a member of such board. The members of such board shall, before entering upon the duties of such office, take and subscribe to the oath of office prescribed in the constitution of this state, and shall file the same, duly certified by the officer administering the same, with the city clerk.

(2) Each member of the board shall be paid \$600 per year. The amount so payable shall be allowed and paid monthly.

38.02 Board election; date, ballots, boxes. The board members shall be qualified voters of such city, and shall be elected as hereinafter provided at a school election to be held biennially on the first Tuesday in April, the first regular election under this chapter in any city hereafter coming under this chapter to be held on the first Tuesday in April of the year following the date in which any such city comes under this chapter. The school election shall be held at the same time and place and under the charge of the same election officials as the election of judges or other officers held on the same date; but unless the voting is by voting machines, separate ballot boxes shall be provided to receive the ballots for members of the board of school directors, which ballots shall be prepared and supplied to the election officials in the same way as other ballots are provided and supplied for other elections. At such school elections the candidates receiving the greatest number of votes for the several positions shall be declared elected. Members of the board of school directors in any city of the first class heretofore elected, as provided in chapter 459 of the laws of 1907, shall continue in office for the remainder of their respective terms.

38.03 Commission to appoint board at once; elections follow; regular or special; vacancies. (1) Within 5 days after this chapter becomes effective in any city, the mayor, the city treasurer, the city comptroller, the city attorney and the president of the common council of such city, acting as a commission for such city, of which commission the secretary-business manager of the board of school directors or of such board of edu-

cation as such city may have, shall act as secretary, shall meet and appoint 15 members of the board of school directors.

(2) Five of the directors so appointed shall be appointed to serve from the first Tuesday of the month next following their appointment until the first Tuesday of July next following the first regular school election to be held in any city to which this chapter applies; 5 of the directors so appointed shall be appointed to serve from the first Tuesday of the month next following their appointment until the first Tuesday of July next following the second regular school election to be held in any city to which this chapter applies; and 5 from the first Tuesday of the month next following their appointment until the first Tuesday of July next following the third regular school election to be held in any city to which this chapter applies; and at the school elections to be held on the first Tuesday in April preceding the expiration of the terms of those members so appointed, their successors shall be elected by the qualified voters of such city to serve for the term of 6 years or until their successors are elected and qualified.

(3) Within 90 days after such appointees have entered upon the duties of their office the common council of such city may by resolution concurred in by a majority of the members-elect provide for a special school election to be held in such city to elect successors to such appointees; 5 of the directors so elected to be nominated and elected to succeed the 5 directors appointed for the term expiring on the first Tuesday of July next following the first regular school election to be held in such city; 5 of the directors so nominated and elected to succeed the 5 directors appointed for the term expiring on the first Tuesday of July next following the second regular school election in such city, and 5 of the directors so nominated and elected to succeed the 5 directors appointed for the term expiring on the first Tuesday of July next following the third regular school election in such city; the respective terms of office of such directors so elected at such special election shall terminate at the respective times when the terms of office of their predecessors would have terminated if no special school election had been held; in the event of such special school election, the terms of office of the directors-elect shall begin on the first Tuesday of the month next following such election. In the event such special school election be called as hereinbefore provided, it shall be held at the polling places, in the manner and under the charge of election officials, ballot clerks, inspectors, as the regular school elections to be held under this chapter; and nominations for such special election shall be made and had in like manner as provided for the regular school elections under this chapter; provided, however, that no such resolution for the calling of a special school election under this chapter shall be introduced except at a regular meeting of the council, and no action shall be taken thereon before the next regular meeting thereof, nor until such proposed resolution shall be published at least once in an official city paper, if there be one; and if there be none, in some newspaper to be designated by the council, together with a notice of the time said resolution will be considered.

(4) All vacancies in the said board resulting from any cause shall be filled by the board, a majority of the remaining members being necessary to a choice. Members so elected by the board shall serve until the first Tuesday in July following the next school election at which election the vacancies shall be filled for the unexpired terms in the same manner as members are elected for the full term provided that the members of boards of school directors or of such board of education as such city may have in office when this chapter becomes effective in any such city, shall hold their offices until the time for newly appointed members to assume their duties, as provided heretofore in this section, or until their successors so appointed are qualified, and during such period shall continue to exercise all of the rights and privileges and discharge the duties of members of the board of school directors.

38.04 Board; president, committees, absentees, temporary officers; ex officio members of commissions. (1) The board of school directors in any city hereafter coming under this chapter shall meet on the first Tuesday of the month following the first appointment of its members, and in the event of a special election on the first Tuesday of the month following such special election, and thereafter on the first Tuesday of July in each year, and on the first Wednesday of July in any year when the first Tuesday of July shall be a public holiday, and organize by the election of the proper officers. A president shall be elected by said board from its own number to serve for one year, or until his successor shall be chosen, and in his absence or during his disability the board shall elect a president pro tempore. After his election the president shall appoint standing committees, to serve for one year.

(2) The seat of any member shall be declared vacant by the board and the vacancy shall be filled by it by election in the manner hereinbefore provided, if the said member has been absent for 4 successive meetings of the board without satisfactory reason presented by him in writing.

(3) In case of the absence or inability, from any cause of any officer appointed by said board to perform the duties of his office, said board may appoint some suitable person to act in his place and stead during his absence or inability; and such person shall have and possess the same power or authority as the officer whose place he is appointed temporarily to fill.

(4) Whenever the law provides that the president of the board of school directors shall serve ex officio or otherwise as a member of the library board, museum board, historical museum board, board of trustees of the art commission, or any other board or commission, a member of the board of school directors, duly elected by said board for such purpose, may serve as said member ex officio or otherwise on any of said boards in place of the president of the school board.

(5) All elections or appointments of members and officers, authorized by law to be made by such board of school directors, shall be made by roll call vote. The records of such votes shall be entered by the secretary-business manager in the minutes and the printed proceedings of such board.

38.05 Members' responsibility; jury exemption; malfeasance; board's debt power, procedure, meetings. (1) The members of the board shall be subject to all restrictions, liabilities, punishments and limitations prescribed by law as to members of the common council in their city, and they shall be exempt from jury duty. A majority of the members-elect of the board shall have power to dismiss from office for malfeasance any member of the board and the board shall provide by resolution the manner of hearing and disposing of complaints against a member.

(2) The board shall not in any one year contract any debt, or incur any expense greater than the amount of the school funds subject to its order.

(3) A majority of the members of the board shall constitute a quorum for the transaction of business, but a smaller number may adjourn. A majority of the whole board shall be necessary to elect any officer authorized to be elected by said board.

(4) Regular meetings of the board shall be held at least once each month at stated times to be fixed and published by the board in its rules, and special meetings may be called and held as shall be provided by the rules of the board, at which no other business shall be transacted than that specified in the notification thereof, which shall be given personally or mailed to each member at least 24 hours before the time of such meeting. When any regular meeting provided by the rules of the board shall fall on a legal holiday, such regular meeting shall be held on the next business day.

38.06 Board a continuing body; service of process and notice on board. (1) The board of school directors is a continuing body, and any unfinished business before the board or any of its regular or special committees pending on June 30 in any year shall be considered as pending before the newly reorganized board on the first Tuesday of July in each year, and the secretary-business manager of said board shall report to the board at its annual meeting in July, after the election of the new president, items of unfinished business pending before the board as a whole, and items of business pending before committees of the board to the corresponding committees of the board newly appointed by the president after the said July annual meeting, in the absence of instructions to the contrary from the board, and matters thus reported may be acted upon by the board in the same manner and with the same effect as if the board had not been newly organized.

(2) In any action or proceeding wherein the board is a party defendant service of any summons, writ, pleading or other papers served in commencing the action or proceeding upon the president of the board and the superintendent and the secretary-business manager of the board is sufficient to constitute service upon the entire board; and it is sufficient to serve on such 3 officers any notice required by law to be served upon the board.

38.07 Buildings and equipment; competitive bids; contracts, deeds, leases; committee on sites and plans; district boundaries; janitorial employes. (1) The board shall establish and organize so many public schools, in addition to those already established in such city, as may be necessary for the accommodation of the children of the city entitled by the constitution and laws of the state to instruction therein.

(2) The board shall erect, purchase, hire or lease buildings, improve or enlarge the same, and purchase furniture and sites for the accommodations of such public schools of said city, and purchase, install and maintain heating systems in said schools, and contract for the carrying out of any of the purposes authorized in this chapter but when the board contemplates the doing of any construction work involving \$1,000 or more, the board shall advertise for proposals for doing the same after filing a plan or profile of the work to be done accompanied by specifications for doing the same, or other appro-

priate sufficient description of the work required to be done, and the kinds or quality of materials, equipment or supplies to be furnished in the office of said board for the information of bidders and others. When the board contemplates the purchase of materials, equipment and supplies not to be used for new construction projects at an estimated cost of \$2,000 or more it must advertise for bids. Such advertisements shall be published as a class 2 notice, under ch. 985, prior to the date set for the opening of the bids, and the contracts may be awarded on the day the bids are opened or thereafter. Said board, at its option, may call for competitive bids on advertised notice when the amounts of expenditures involved in any case are less than \$1,000 for any construction or less than \$2,000 for the purchase of materials, equipment and supplies not to be used for construction projects and may call for informal bids on plans and specifications without advertised notice when the amount involved is less than \$1,000 for any construction or less than \$2,000 for the purchase of materials, equipment and supplies not to be used for construction projects. A performance bond in the principal amount of the contract shall be required in such cases and on all other contracts let by the board.

(3) All proposals shall be sealed and directed to said board and accompanied by a bid bond executed by a surety corporation licensed to transact business in Wisconsin in a penal sum to be fixed by the board in dollars, but the amount thereof shall not be less than 5 per cent, nor more than 10 per cent, of the estimated cost of the construction work or the materials, equipment or supplies. In lieu of such bid bond, the bidder may accompany his bid with a certified check, a bank cashier's check or cash in the amount required by the board. In case the bidder awarded the contract shall fail or refuse to execute the contract and performance bond, the amount of the said bid bond, certified check, cashier's check or cash shall be forfeited to the city as liquidated damages. Whenever the advertisement calls for the performance of different kinds of construction work, or the furnishing of different kinds or qualities of materials, equipment or supplies, such contracts may be let in whole or in part to the lowest responsible bidder for particular parts of the proposed contract. Such board may reserve the right to reject any or all bids and to waive minor irregularities. The said board shall fix the time of completion of the contract and shall have power for good reason to extend the time for completion. The board shall fix the amount of liquidated damages for failure of the contractor to complete the contract at the specified time and the damages shall not, in any event, exceed one-half of one per cent of the estimated cost involved for each day of default. All contracts shall run in the name of the city, be executed by the president and secretary-business manager of the board and countersigned by the comptroller and shall be approved as to form and execution by the city attorney. A bidder may, by written notice to the board, withdraw his bid before the time set for opening bids and a bidder may file an additional bid or bids before the opening day, but when the bids are opened at the prescribed time, no bidder may withdraw or amend his bid for any reason, except that in case the bidder appears to have been acting in good faith and by oversight or error has made an improvident bid, the board can, in its discretion, reject such bid if it be the low bid and award the contract to the next lowest responsible bidder. Said board may demand that a prospective bidder qualify as to responsibility and competence before receiving his bid. The board may for good reason waive liquidated damages for failure to complete at the prescribed time. The board shall insert in all contracts appropriate provisions, terms and conditions as to suitable indemnity to the city against loss or expense, as to payment of prevailing wage rates, as to hours of daily work, as to payments on account to the contractor as the work progresses and delivery is made and as to other particulars for the protection of the city.

(4) The schoolhouses and the sites on which they are situated and the sites now or hereafter purchased for school purposes and the schoolhouses thereon erected shall be the property of the city; no site shall be purchased or leased, nor shall any schoolhouse be erected without resolution duly passed by the board. Deeds of conveyance and leases shall be made to the city.

(5) The board has power to establish and define from time to time the boundaries of all common and high school districts, in such manner as it deems best calculated to promote the interests of the city, and to provide for the transportation of school children to and from any school within the city.

(6) The board has power, subject to the powers and regulations of the city service commission, to employ school engineers and janitorial assistants necessary for the school buildings and grounds of its city and to fix their compensation. The principal shall be custodian of all school premises over which he presides and shall have the general supervision thereof. The duties and responsibilities of the principal as custodian of the building and those of the school engineer shall be as fixed by the board.

38.08 Uniform textbooks and instruction; changes therein; board's governing functions. (1) The board has power to adopt for use in the several public schools suitable textbooks, subject to the provisions of subsection (2).

(2) Said textbooks shall be uniform in the various elementary, high and special schools and when the board has adopted for use in the public schools any textbook or textbooks, the same shall not be changed for 5 years thereafter; and the board shall require that the system of instruction in the several schools under its control shall be as nearly uniform as possible, and may adopt and modify or repeal rules for its own government, and for the organization, discipline and management of the public schools, and generally adopt such regulations and measures as shall promote the good order and public usefulness of said schools; but such rules and such regulations shall not conflict with the constitution and laws of the state.

(3) Said school board shall establish in such schools under its control in grades 7B and higher grades such classes of instruction in such foreign languages as are petitioned for by parents of children attending such respective schools when such petition is signed by the parents of a sufficient number of children attending such school to form one or more classes or grades of instruction in any such foreign language at such respective school or schools. The petition of the parents of 30 or more children of like classification attending any such school for the establishment of such instruction in the specified foreign languages shall be prima facie evidence of the sufficiency as to the number of children being in attendance in any such class to establish and commence such instruction therein.

(4) In addition to the powers elsewhere granted by this chapter to the board, said board shall have power:

(a) To determine the qualifications of all persons in its employ who are eligible to membership in the public schools teachers' annuity and retirement fund established and maintained in said city, and to employ all such other persons as may be required in the operation and management of the schools, subject to the provisions of ss. 63.18 to 63.53 when applicable, and to determine their qualifications, duties and compensation.

(b) To determine the manner in which, the persons to whom and the places to which, the printed proceedings of the board shall be distributed.

(c) To determine on which national, state and local legal holidays and for which educational conventions the public schools shall be closed, without deductions from the annual or monthly compensation of its employes not rendering services on such days.

(d) To determine the school calendar and vacation periods for each school year for the regular day schools, summer schools, social centers and the playgrounds, provided, that for the regular day schools which open in September and close in June the period of teaching service shall not exceed 200 days, including the holidays and convention days on which the schools are closed; and provided further, that the board may close any or all schools, or dismiss any or all classes in any school or schools, in the event of any emergency, fire, or other casualty, quarantine or epidemic.

(dm) To establish rules scheduling the hours of each school day during which school shall be in session and may differentiate between the various grades of elementary and high school in setting such school hours schedule.

(e) To purchase from the county in which the city is located, furniture, furnishings and equipment, manufactured in any house of correction or other institution operated and maintained pursuant to subsection (1) of section 56.16, used in the schools, and to waive the furnishings by the county or the institution of bid bonds and performance bonds otherwise required by the statutes in connection with any such purchase.

(f) To copyright under the statutes of the United States applicable thereto any book, pamphlet, bulletin or record form edited and published by or under the direction of said board.

(g) To require that any pupil attending any public school shall be enrolled on the records of the school under the proper given name and surname of the pupil at the time of birth, or as said surname is thereafter changed by a court of competent jurisdiction in any action, adoption proceeding or other proceeding.

(h) To establish and maintain from time to time in any of the schools or playgrounds under its jurisdiction, cafeterias and stores for the sale of schoolbooks, candies, refreshments and supplies, and to charge or permit the making of a charge for admission to any school, social center, or athletic entertainments and activities, under such terms and conditions as the board may prescribe; and such sales and admission charges shall not be construed to constitute the performance by said board of a proprietary function.

(i) To make as the employer agency the contributions to the city retirement system payable under the provisions of chapter 396 of the laws of 1937, in respect to its employes who are members of said system.

(j) To exclude any nonresident pupil from any special school for the deaf, blind, crippled, or mentally or physically handicapped children, in case the tuition for such pupil is payable by the town, village or city where such pupil resides, and such local municipality is in default in the payment of tuition for a period of 90 days after such tuition becomes due.

(k) To erect around any schoolhouse or playground site, or any part thereof, a fence of materials and design approved by the board, but no such fence, or portion thereof, shall be required to exceed a height of 5 feet above the grade or level of the premises unless the board in its discretion shall determine to build such fence, or portion thereof, higher than 5 feet.

(l) To purchase automobiles, trucks and motor vehicles and motor propelled maintenance and construction equipment required for the use of any bureau, department or employe of the board without competitive bidding and without publishing notices for sealed proposals, notwithstanding the purchase price thereof may exceed \$500, when the board shall deem it to be in the best interests of the city, provided any such purchase shall be authorized by vote of at least two-thirds of the entire board.

(m) To purchase textbooks for indigent pupils whose parents, guardians or other persons having control or custody of such pupils are without means to furnish them with textbooks, provided that the indigency of such pupils shall be investigated and certified by a welfare and attendance officer; and the local governmental authority or agency administering poor relief in any such city shall reimburse any such city and board for all amounts expended by the board in the purchase of such textbooks; and such textbooks so furnished shall become and remain the property of the city and be subject to the disposal of the board.

(n) From time to time to make arrangements with the school boards or boards of education or other managing bodies of the schools in any city or school district in the United States or elsewhere for the exchange of one of its teachers and his services for a teacher of any such other city or school district and his services, for a period not to exceed one school year in any case. Such agreements, among other appropriate provisions, shall provide the manner, and by which board or managing body, the salaries of any such exchange teachers shall be paid, and that any teacher regularly employed by the board under this chapter shall receive credit for such year of outside teaching service in the computation of any benefits to which he may be entitled under the provisions of section 38.24, and the manner in which the monthly reservations payable under said section shall be paid. The board in any city under this chapter shall determine the qualifications and compensation of any such outside teacher who may render services in the schools under its jurisdiction, and such outside teacher so rendering services shall be counted as a regular teacher in such city in the computation of state and county aids payable to such city.

History: 1965 c. 149.

38.085 Gifts and grants. The board of school directors in any city coming under this chapter may receive, accept and use gifts or grants of furniture, books, equipment, supplies, moneys, securities or other property used or useful for school and educational purposes. All moneys received as gifts or grants shall be deposited in the general educational fund but shall be considered as segregated trust funds. Whenever such board shall receive gifts or grants as hereinbefore provided, they shall make such use thereof or invest the same, in the case of moneys, as the donor or grantor shall specify and in the absence of any specific directions as to the use of such gifts or grants by a donor or grantor, the board of school directors may determine the use or may invest the same in accordance with the provisions of law applicable to trust investments. In the use, control or investment of such gifts or grants, the board of school directors may exercise all of the rights and powers generally conferred upon trustees.

38.09 Superintendent; election, term, powers; committees on teachers, courses and books. (1) The board shall elect by roll call vote at a regular meeting preceding the expiration of the term of office of the superintendent of schools who is in office on April 6, 1957, or whenever that office shall become vacant for any reason, a person of suitable learning and experience in the art of instruction, and practical familiarity with the most approved methods of organizing and conducting a system of schools, for superintendent of schools, and said superintendent shall hold his office until July 1 next following his election, and for not less than 3 nor more than 5 years thereafter, as may be determined by the board, except where the incumbent superintendent is re-elected his term of office shall be for 5 years, except in case of removals as herein provided. Thereafter the said board shall elect successors in like manner, who shall serve for the term elected from July 1 next following his election or for a lesser term only in the event that a superintendent shall, during any school year in his term of office beginning July 1 and ending June 30

attain the age of 70. Any such superintendent, and any assistant superintendent, supervisor, educational department head or professional assistant to the superintendent in the employ of the board who has attained or attains the age of 70 years during his term of employment shall be retired by the board at the end of the school year as above defined in which he attains the age of 70.

(2) The superintendent shall, under the direction of the board, have a general supervision of the public schools and of the assistant superintendents, supervisors, educational department heads and professional assistants to the superintendent, principals, vice principals and teachers in the cities aforesaid and of the manner of conducting and grading of said schools. He shall appoint, subject to confirmation by the board, such assistant superintendents, supervisors, educational department heads and such other assistants and supervisors as may be authorized by the board, but the board shall not authorize the appointment of any such officer or employe except for the performance of usual, customary and ordinary school supervisory or administrative duties. Such superintendent shall be an advisory member of every committee of the board, except at times when an inquiry into his acts or investigation of his official conduct shall be under consideration by any such committee.

(3) A committee, consisting of the president and 4 other members of the board selected by the president, shall consider and make recommendations to the board on all matters pertaining to the instructional program and the instructional staff, including all employes defined as teachers in section 38.24 (19), except those appointed by the superintendent as provided in subsection (2); shall cause all applicants for employment or promotion as such teachers to be examined on a strict basis of eligibility, fitness and qualifications as provided by statute and the rules and regulations of the board; and shall act upon the nominations and recommendations of the superintendent for the employment, classification and promotion of such teachers. The superintendent is empowered to assign all such teachers, and to engage and assign substitute teachers at the per diem compensation fixed by the board. Such committee shall determine the courses of study and textbooks for the schools. Courses of study in the elementary schools shall include reading, writing, spelling, English, grammar and composition, geography, arithmetic, elements of agriculture and conservation of natural resources, history and civil government of the United States and of Wisconsin, physical education, sanitation, physiology and hygiene, the effects of stimulants and narcotics upon the human system, symptoms of disease, proper care of the body and such other subjects as the board may from time to time determine. No pupil shall be required to take instruction in physiology and hygiene, the effects of stimulants and narcotics and symptoms of disease if a parent shall file with the teacher a written objection thereto. Courses in arithmetic, the sciences, business and commerce, civics, English, languages, history, mathematics, physical training and such other subjects as the board may from time to time determine shall be taught in the high schools. The specified courses shall be offered in the several elementary and high school grades for such periods of time in any day, week or month as the superintendent shall prescribe and the committee shall approve. All instruction shall be in the English language, except that the board may cause any foreign language to be taught in either the elementary or high schools. All actions by the committee shall be subject to amendment, rejection or confirmation by the board.

(4) The board shall establish and maintain such special schools for the deaf, dumb, blind, crippled and for the mentally or physically disabled as may be required to accommodate pupils of school age desiring to attend school and prescribe the courses of study and the educational and other activities in such schools; and the board may employ teachers to give instruction in the homes or hospitals to pupils unable to attend the school; and the board may provide transportation for the pupils attending such special schools and provide school lunches for children under such terms as it shall determine, and the periods of instruction as shall be prescribed by the superintendent, approved by the committee on instruction, subject to amendment, confirmation or rejection by the board, and as directed by the state superintendent of schools and the crippled children division of the department of public instruction as provided in the statutes; and any such city shall be entitled to such state aids and grants for special equipment as are provided for in the statutes.

(5) The city attorney of each such city shall be the legal advisor of and attorney for the board.

38.10 Secretary-business manager of board; official bonds and sureties; school census. The board shall elect, as a vacancy occurs, some suitable person to act as secretary-business manager of the board, who shall receive a salary to be fixed by such board. It shall be his duty to attend the meetings of the board and its committees, to keep a record of the proceedings and a full and fair account of all receipts and expenditures of the board, and to perform such other duties as shall be required of him by said board.

The secretary-business manager of the board shall, before entering upon the duties of his office, execute a bond to the city in such form and penalty and with such conditions as the board prescribes, with sureties to be approved by said board, which bond shall be filed in the office of the city clerk of said city; and the board may require security to be given for the faithful performance of his duties by any officer or employe of said board, in such form and amount as the board deems best, and may at any time require of any officer or employe additional bonds and sureties. The secretary-business manager of the board shall cause to be taken the annual enumeration of the children of school age in the city required by law, and shall at the same time collect such further statistics and information relating to schools and to the population entitled to school privileges in said city as may be directed and required by the board; and the board shall appropriate annually a sufficient sum to defray all expenses in connection with the taking of said census of all persons between the ages of 4 and 20 residing in said city, and the secretary-business manager of the school board shall receive no additional compensation for such enumeration services and he shall submit to the board a detailed statement of the expenses in connection with the taking of the said census, and the same shall be audited by the board and paid out of funds provided for the support of the schools.

History: 1961 c. 122.

38.11 City comptroller; lists and statements for; audit and warrants. (1) The secretary-business manager of the board shall within 30 days after the appointment of teachers and other salaried employes, report to and file with the city comptroller or other auditing officer of the city, a duly certified list of teachers and employes so appointed, and a statement of the time or times fixed for the payment thereof. Whenever any action is taken by the board changing the salaries of any of the officers of the board, or of any of such teachers or employes, or making a new election or appointment to any position entitling the person appointed to receive a stated salary, he shall in like manner file with such comptroller or other auditing officer a certified list and statement of all such changes and appointments. All claims and demands against the city or board shall be audited and adjusted by the comptroller or other auditing officer of such city. The secretary-business manager of the board shall furnish such comptroller or other officer a complete list of the same, together with the proper voucher, stating the character of the material or service for which the same is rendered; and before a warrant shall be issued therefor such comptroller or other officer shall countersign the same. And said secretary-business manager shall make and file with the said comptroller or other auditing officer within 20 days after each regular or special meeting of the board when salaries and accounts are voted and allowed, statements of the condition of the respective funds for the support of schools and of the financial transactions of the board during the period next preceding any such statement.

(2) No action shall be maintained against any city upon any claim arising out of the operation, conduct and maintenance of the schools until it has been presented to the board and disallowed, in whole or in part. Failure of the board to allow the claim within 60 days after it is filed with the secretary-business manager constitutes a disallowance. The secretary-business manager shall serve on the claimant notice of disallowance by registered mail, and receipt therefor, signed by the claimant, shall be proof of service. The claimant may accept a portion of his claim without waiving his right to recover the balance. No interest shall be recovered on an allowed claim after an order of the board is available to the claimant. If the claimant recovers a greater sum than was allowed, he shall recover costs, otherwise the city shall recover costs. Disallowance by the board shall bar an action on the claim after 6 months following service of notice of disallowance.

(3) Whenever any such city has received and is enjoying any benefits, services or equipment for any of its schools or improvements to any of its buildings or grounds furnished under any contracts which shall have been or shall hereafter be declared as imposing no legal obligation upon such city or its board of school directors, and which contract was entered into in good faith, and imposes upon such city and its school board a moral obligation, and for which said city through its school board shall at the time be legally able to pay, such board of school directors in behalf of any such city may, by a vote of three-fourths of the members of the board, upon consideration of such moral obligation, by proper board action, authorize and direct payment of the fair and reasonable value of any such benefits, services, equipment or improvements.

38.12 Dismissal of superintendent or secretary-business manager. The superintendent of schools, or the secretary-business manager of the board, may be removed from office for misdemeanor in office, incompetency or inattention to the duties of his office, by a vote of two-thirds of the whole board; provided, that notice in writing of charges against him, or either of them, and of the time and place of hearing and acting upon the

same shall be served upon the accused at least 5 days before the time of hearing and before any action shall be taken by the board thereon. And the accused shall, on demand, be heard by himself or counsel, and either party may produce witnesses, who shall be sworn by the president of the board and give testimony subject to the pains and penalties of perjury.

38.13 Schools and school districts; nonresidents and tuition. (1) The board of school directors shall maintain the public schools now established in said cities, and shall establish and maintain such additional schools, elementary, high, junior high and special, as may from time to time be found necessary by it, and said board shall divide said city from time to time into elementary, high, junior high and special school districts, and said schools shall be opened to students residing within said districts, provided that any pupil residing in any such district may attend a school in another district with the written permission of the superintendent.

(2) Nonresident pupils may be admitted to any of such schools as may be within the jurisdiction and control of the said board under such regulations and upon the payment of such tuition charges as the board may reasonably establish.

(3) The board shall be obliged to admit to any of its schools nonresident pupils only when the existing accommodations and facilities, building, classroom instruction, and equipment are sufficient for additional pupils; only children who are mentally able to carry the regular academic courses shall be admitted to any school for crippled children; if any such nonresident pupil resides in a school district which does not maintain a similar special school or class, his tuition shall be chargeable to the town, city or village of which such pupil is a resident; and if such pupil is a resident of any city, village or school district which does maintain such a special school or class, his tuition shall be a charge upon the parent or guardian of such pupil; and any such tuition shall be subtracted from the state aid allotted to any such city receiving such pupils; maintenance not exceeding 80 cents a day for each day a nonresident crippled child, obliged by physical handicap to board away from home in order to attend a regular school, attends any such school shall be granted, providing a request for such maintenance shall be made to and approved by the superintendent of public instruction.

38.14 High schools; supervision. The high schools shall be public schools and as such under the same supervision and control in respect to location, building, leases, furniture, teachers, textbooks and course of study, and all other matters as is provided in this chapter in the case of common schools.

38.15 High schools; courses, diplomas. The course of study in the high schools shall be liberal, and shall embrace such studies as said board and the superintendent may deem proper, and the board shall have power to grant diplomas in testimony of graduation therefrom.

38.16 Report of board; school taxes. (1) (a) The board shall report to the common council of the city at or before the second regular meeting of the council in October in each year the amount of money required for the next fiscal year for the operation of all public schools, including all trade schools established and maintained under s. 38.28, in said city and for the repair and keeping in order of school buildings, fixtures and the repair of broken or worn-out furniture, the making of material betterments to school property and the purchase of the necessary additions to school sites, in accordance with this chapter, and said common council shall levy and collect a tax upon all the property subject to taxation in said city, at the same time and in the same manner as other taxes are levied and collected by law, which, together with the other funds provided by law and placed at the disposal of said city for the same purposes, shall constitute the school operations fund and shall be equal to the amount of money so required by the board of school directors for the purposes provided in this chapter. Whenever the board deems it necessary by resolution adopted by two-thirds of the membership elect to provide moneys for the purchase of school sites or for the erection of school buildings and additions to school buildings, or both, or for the remodeling of existing buildings, which shall be in addition to the moneys received or which may be received from the sale of bonds, the board of school directors may send a communication to the common council of such city stating the amount of funds so needed; and upon receipt of such request from the board the common council shall levy and collect a tax upon all property, real and personal, in such city subject to taxation in the same manner and at the same time as other taxes are levied and collected, which shall constitute the construction fund and shall be equal to the amount of money so required by the board, for the purposes aforementioned, and such taxes shall be in addition to all other taxes which the city is authorized to levy.

(b) The school operations fund taxes for the operation of all public schools, including trade schools, so levied upon each dollar of equalized valuation of all property in said city, subject to taxation, shall not in any one year exceed 15.0 mills on the dollar of the total equalized valuation of all such property, except for the years: 1964 when such levy shall not exceed 11.0 mills; 1965 when such levy shall not exceed 11.5 mills; 1966 when such levy shall not exceed 12.0 mills; 1967 when such levy shall not exceed 12.5 mills; 1968 when such levy shall not exceed 13.0 mills; 1969 when such levy shall not exceed 13.5 mills; 1970 when such levy shall not exceed 14.0 mills; 1971 when such levy shall not exceed 14.5 mills; and the construction fund taxes shall not in any one year exceed six-tenths of a mill upon the dollar of the total assessed valuation of all such real and personal property, and said taxes for the purposes named in this section shall be in addition to all taxes provided for by law for other city purposes. The common council shall have the option: 1. to levy and collect such tax equal to the amount of money requested by the board for the school construction fund, or 2. to levy and collect a tax to realize part of the money so requested and provide the remainder thereof from taxes levied and collected by the common council for its permanent improvement fund, or 3. to decline to levy and collect a construction fund tax and provide the entire amount of money so requested for such school construction fund from its said permanent improvement fund. Such school construction fund tax levy shall be reduced in any year only by the amount which the common council in such year provides from such permanent improvement fund. The school construction fund may be allowed to accumulate from year to year in the discretion of the board of school directors.

(c) Whenever the board proposes to erect a building or an addition to a building or to remodel a building, and any such proposed construction work shall involve an estimated expenditure of \$250,000 or more, the board shall take action designating the site upon which the proposed work is to be done, the general plan and purpose of said construction or remodeling work, and the estimated expenditure therefor. Said board shall not advertise for bids or let contracts with respect to any such proposed construction work until at least 90 days after such action has been taken. If within 90 days after such action a petition signed by the electors of such city equal in number to not less than 15 per cent of the vote cast therein for governor at the last general election shall be filed with the city clerk requesting that the board's proposal to do such work be referred to a vote of the electors therein, said board shall not advertise for bids or let contracts with respect to any such proposed construction work until said proposal has been voted upon favorably by a majority of those voting thereon at such election. The city clerk shall advise the board at once of the filing of any such petition. In the event that no such petition is filed within such 90 days the board may advertise for bids and let contracts with respect to such proposed construction work. The preparation of any such petition shall be governed as to the use of more than a single piece of paper, the dates of signatures, the places of residence of signers, and the verification thereof, by the provisions of section 5.05; within 15 days following such filing the city clerk shall determine by examination the sufficiency or insufficiency of such petition and state his finding in a signed certificate dated and attached thereto; if the petition is found insufficient, the particulars of such insufficiency shall be set forth in the certificate, and the petition may thereupon be amended within 10 days next following the date of said certificate by the addition of signatures or otherwise; if originally, or after amendment, such petition is found sufficient the clerk shall so state in his attached certificate and submit the same forthwith to the common council and the question of doing the construction work as proposed by the board shall then be submitted by such common council to the electors of the city at the next regular election, if one is held not less than 40 days after such date, otherwise at the next succeeding regular election; however, the council may, by a three-fourths vote of the members-elect, order it submitted at a special election called for that purpose at any time prior to the next succeeding regular election, but not more than one such special election shall be called in any period of 6 months; not more than 20 nor less than 5 days before the election, the city clerk shall cause the question to be voted upon to be printed in at least 2, not to exceed 4, daily newspapers published in such city; if a majority of the electors voting thereon shall vote in favor of said proposed construction work, said board shall be authorized to advertise for bids and let contracts in connection therewith.

(d) Whenever territory is annexed to any such city, any teacher employed in any public school in such territory, who, at the time of such annexation, possesses the qualifications required by the rules of the board of school directors and by law for probationary or permanent appointment to a teaching position in such city, shall have the status of a regularly appointed teacher in the schools of the city, and shall be entitled to all the rights and privileges of regularly appointed teachers in such city. Time spent in teaching in such annexed territory prior to annexation shall be credited to each such teacher as time spent in teaching in such city.

(2) All moneys received by or raised in such city for school purposes shall be paid over to the city treasurer, to be disbursed by him on the orders of the president and the secretary-business manager of said board, countersigned by the city comptroller; provided, that the president, instead of signing each order, may certify on the pay rolls furnished by the secretary-business manager to the comptroller to the fact that the amounts therein are correct as allowed by said board. The board may provide by resolution for the payment of all persons employed by said board upon monthly pay rolls, and the manner in which the same shall be certified, audited and approved, and payment made thereon, and such pay rolls shall in all cases be certified by the president and the secretary-business manager and the finance committee of said board, and countersigned by the city comptroller.

(3) The board shall annually determine and fix a schedule of salaries for all classroom teachers, not including principals and vice principals, in the common or graded schools of such city. Such schedule of salaries shall provide a minimum salary for all such teachers, not including principals and vice principals, of not less than \$1,400 for a period of teaching service not to exceed 200 days in any one year, and a minimum-maximum salary for all such teachers, not including principals and vice principals, of not less than \$2,500 for a period of teaching service not to exceed 200 days in any one year.

(4) (a) The board may annually determine and fix a schedule or schedules of salaries for all its employes other than those mentioned in subsection (3) of this section.

(b) All schedules of salaries annually fixed by the board shall be adopted for the same period and on the same year basis as the annual school budget is adopted by the board.

(c) The board may, in the event of a general reclassification of all teachers as defined in s. 38.24 (19) and of its officers and employes to whom s. 63.53 is applicable, at any time during the year in which such reclassification is completed, amend its then current salary and wage schedules to conform to such reclassification, provided that funds realized from taxes and other sources are available for payment of such amended salary and wage schedule.

(5) The board shall each year at a time and place to be fixed by it, which shall be at least 5 days before making its annual report under subsection (1) (a), and prior to adopting its budget for the next fiscal year, hold a public hearing on the proposed school budget; and the board shall publish notice of such hearing in one issue of a newspaper of general circulation printed in the English language in said city, at least one week before the hearing.

History: 1963 c. 85.

38.17 Erection of schools; bonds, popular vote on, interest rate, levy for, maximum outstanding. Whenever the board shall deem it necessary to erect buildings or additions to buildings, or to remodel buildings, or to purchase school sites, it may by a two-thirds vote of the members send a communication to the common council of said city, at or before the second regular meeting of the council in October in each year, stating the amount of funds so needed and the purposes for which it is proposed to use the funds, and requesting the common council to submit to the voters of said city at the next election to be held in said city the question of issuing school bonds in the amount and for the purpose or purposes named; and upon receipt of such request the common council shall cause the question of the issuance of said bonds for the said school purposes to be submitted to the voters of the city at the next regular, special or other election held in the said city. The question of the issuance of said school bonds shall be submitted upon a separate ballot, or in some other manner so that the vote upon the issuance of said school bonds shall be taken separately from any other question submitted to the voters, and if a majority of the votes cast upon such bond proposition shall be in favor of the issuance of said bonds, then the common council shall cause such school bonds to be issued forthwith, or from time to time within the period permitted by the law and in the amounts requested by the board, in the same manner as other bonds which have been properly authorized are issued, and the proper officials of the said city shall sell or dispose of said bonds in the same manner as other bonds are disposed of and the entire proceeds of the same shall be placed in the city treasury, subject to the order of said board of school directors, for the purposes named in the request for the issuance of said bonds. Said school bonds shall not bear a greater rate of interest than 6 per cent per annum, and shall be payable in not to exceed 20 years from the date of their issue, and said common council shall levy and collect a tax upon all taxable property in said city, in the same manner and at the same time as other taxes are levied and collected, which shall be sufficient to pay the interest on all school bonds outstanding, issued under this chapter, and to pay such part of the principal of such school bonds so issued as becomes due during the next fiscal year. The amount of such school bonds outstanding at any time shall not be greater than

2 per cent of the total value of all taxable property in said city as equalized for state purposes, and the tax levied to pay the interest on and the principal of said school bonds shall be in addition to the tax levied for general purposes upon all the taxable property of said city.

38.18 Loans for reconstruction of school buildings destroyed by fire or other casualty. The common council of any such city may upon request of the board negotiate and make a loan in such amount as the board requests, for the purpose of the reconstruction of any school building destroyed, in whole or in part, in any manner and for the purpose of purchasing any equipment or supplies lost or damaged in any manner. The interest on any such loan shall not exceed 6 per cent per annum. The board shall discharge such debt in such sums per annum as may be agreed at the time of making any such loan, out of any funds at the disposal of the board. Such loan shall be an obligation of the city payable only by the board out of school funds.

38.19 Interest in contracts forbidden to board members, teachers, employes. No member of the board during the term for which he shall have been elected or appointed and for 2 years after the expiration of such term shall be employed by the board of school directors or by the trustees of the public school teachers' annuity and retirement fund created by s. 38.24, in any capacity for which salary or emolument is provided by said board or by such trustees. No member of the board, superintendent, assistant superintendent, secretary-business manager of the board, other assistant, teacher of any common school or high school, or janitor or other employe of the board, shall be in any wise interested in any purchase or sale of any real or personal property by the city for the use or convenience of any of the schools, and no such contract made in violation of this provision shall be valid, and any consideration paid by the city upon any such purchase or sale herein prohibited, may be recovered in an action at law in the name of the city aggrieved thereby, and any person so offending against the provisions of this chapter shall be removed from any position held by him under this chapter.

History: 1961 c. 33.

38.20 Existing terms of office to continue. This chapter is not intended to affect the term of office or employment of any person now serving in any capacity by virtue of an appointment or contract of employment heretofore made by the school board in any such city hereafter coming under the provisions of this chapter, but such officer or employe shall continue to serve in the same capacity under the board of school directors created for the term for which he was so appointed or employed; subject, nevertheless, to be removed from such office or employment for the causes and in the manner mentioned in this chapter. Any vacancy for any cause occurring in any office subject to the provisions of this chapter shall be filled by appointment for the unexpired term.

38.21 Real estate sold; purchase of lands and improvements thereon for school purposes by instalment contracts. (1) Whenever in any such city any real estate used for school purposes is sold, the proceeds of said sale shall not go into the general city fund, but shall become part of any fund to be applied on the purchase of real property for school purposes.

(2) The board is authorized to purchase, for school purposes, land within such city, and the improvements thereon, by written contract providing for the payment of the purchase price by instalments extending over a period not more than 5 years from the date of the contract, and for the payment of interest on the deferred instalments at a rate not exceeding 6 per cent per annum, under the conditions hereinafter provided. Such contract shall expressly provide that during the period of said contract such city shall have all the rights of an owner in fee simple with respect to the use of such lands and improvements. Such contract shall specifically provide that the interest on all deferred payments shall be paid by the board out of any funds available for school purposes under the mill limits provided by law for school purposes in such cities, but no interest shall be paid out of any moneys derived from the sale of bonds. Such contract shall have the further provision that the same may be retired at any time within the 5 years upon the payment of the entire principal by the board and when such payments are made the interest on the contract shall cease. Within 5 years the board shall pay the instalments out of any funds available for school purposes or out of any bond issues expressly authorized according to law for the purchase of sites and erection of buildings. No such contract shall be entered into until authorized by resolution of the board, which resolution shall specify the terms of purchase and have been adopted by at least three-fourths of all members of such board. All such contracts shall be in the name of the city and shall be signed, in behalf of such city, by the president and the secretary-business manager of the board

and countersigned by the comptroller of such city. The amount of contracts entered into under this section shall not exceed the sum of \$50,000 in any one year.

38.22 Use of school buildings and athletic fields. Upon the request of the common council of the city the school board shall grant the use of school buildings and athletic fields used in connection therewith, with a reasonable charge, for such functions stated in the request such as amateur football, basketball, track, physical culture and hygiene and physical exercises, when not interfering with regular school activities on regular school days, except that such buildings shall not be used for political propaganda, lectures on atheism, or discussion or speeches subversive of the government of this country. The board shall not be required to grant more than 3 such requests in any one calendar month nor any such request for the use of any school athletic field on a Friday evening or Saturday during the months of September, October or November. No admission shall be charged any person desiring to attend such functions either as a participant or a spectator, except that when such use is granted to a high school, such using school may charge a reasonable admission fee.

38.23 School laws applicable. Sections 40.01 (1), (2), 40.19, 40.30 (17) and (19), 40.435, 40.44, 40.47, 40.48 (2) to (4), 40.50, 40.53 (2), (5) to (7), 40.55, 40.56 (5), 40.57, 40.63, 40.65 (1), (2), 40.655, 40.657, 40.68, 40.77, 40.78 (1), (2), (4) to (8), 40.819, 40.905, 40.93, 40.99, 41.01 to 41.03, 41.175, 43.50, 59.07 (21) (a) and 66.03 (3) (c) are applicable to boards of school directors and to schools in cities of the first class. The board shall exercise the powers and perform the functions and shall be entitled to all school aids insofar as the same are relevant to cities of the first class. The school board and the schools in cities of the first class shall be governed in all matters by the general laws of the state, except as they are altered or modified by express amendments.

History: 1961 c. 572.

38.235 School board's report. The board shall report to the common council annually the general proceedings and acts of said board, the number and condition of the public schools kept during the year, and the time they have severally been taught, the number and names of teachers; the number of children taught in said schools respectively; the result of the annual enumeration required by law; the extent of school accommodations in the several schools; the amount of school money raised or received during the year, distinguishing the amounts received from the state fund and derived from taxes levied by the county board of supervisors and by the common council respectively; and the amounts allowed by it against the school funds in detail, together with such other information as it deems useful, or as the common council requires. Copies of the report shall be transmitted to the state superintendent of public instruction and to the librarian of the state historical society in Madison.

38.24 Teachers' retirement fund in cities of the first class. (1) FUNDS. A teachers' annuity and retirement fund is created in each city of the first class. The fund shall consist of:

(a) A reserve fund made up of amounts transferred from the general fund, the state accumulation fund and the retirement deposit fund for the payment of annuities granted pursuant to this section and interest accretions thereto.

(b) A retirement deposit fund, made up of deposits made under sub. (11) (f) 1, 2 and 3, for members of the combined group, and sub. (11) (g) for members of the formula group, and interest accretions thereto.

(ba) A state accumulation fund made up of amounts paid by the state on behalf of members of the formula group and interest accretions thereto.

(c) A general fund made up of: 1. deposits by teachers, 2. deposits from public sources, 3. gifts and legacies, and 4. amounts received from any other source, together with interest accretions thereto, except such amounts which are paid into the retirement deposit fund.

(d) An administrative account in the custody of the city treasurer, which shall be made up of an amount certified annually by the board of trustees to be sufficient for the expenses of administering the fund. The board of trustees shall certify to the department of administration not later than April 1 each year the amount required for such expenses for the fiscal year beginning the following July 1. The department of administration shall not later than July 1 draw an order upon the state treasurer for such amount which shall be transferred from the teachers annuity and retirement fund, to the city treasurer for the administrative account of the fund. If additional amounts are required for administrative expenses during the fiscal year they shall be provided in the same manner upon the certification of the board of trustees.

(e) An annuity account in the custody of the city treasurer, which shall be made up of an amount certified monthly by the board of trustees for the payment of annuities and other benefits. The board of trustees shall certify monthly to the city treasurer the amount of each annuity and benefit payable on the first day of the following month, and to the department of administration the total amount of such annuity and benefit payments. Upon such certification the department of administration shall draw an order upon the state treasurer for such amount, which shall be transferred to the city treasurer for the annuity account of the fund.

(2) DEFINITIONS. As used in this section, unless the context clearly requires otherwise:

(a) "Accumulation" means the total resulting from the addition of interest to required deposits, member's deposits, state deposits or additional deposits made under sub. (11) (f).

(b) "Board" or "board of trustees" means the board of trustees of a teachers' annuity and retirement fund created under this section.

(bk) "Combined group" means the combined group established under sub. (3), as created by chapter 78, laws of 1957.

(c) "Contribution" means a deposit as defined in par. (d) or an OASI contribution.

(d) *Deposits.* 1. "Additional deposit" means any deposit made in the retirement deposit fund by or on behalf of a member, excluding required deposits and state deposits.

2. "Member's deposit" means any deposit made in the retirement deposit fund by or on behalf of a member, excluding the state deposit.

3. "Required deposit" means the reservation made under sub. (11) from the salary of a teacher.

4. "State deposit" means the deposit made by the state in the retirement deposit fund on behalf of any member.

(e) "Fiscal year" is the year beginning July 1 and ending June 30.

(em) "General fund" means the fund created by sub. (1) (c).

(f) "Interest" means the actual rate earned by deposits.

(g) "Member" means a person who, as the result of having been a teacher as defined in sub. (19), has a credit in the retirement deposit fund or a reserve in the reserve fund, or who is or may be entitled to a present or future benefit under this section. For the purposes of sub. (3):

1. "Active member" means a member who is not receiving an annuity under this section and who has made a deposit in the retirement fund based on earnings after August 31, 1956, or is deemed an active member under sub. (3) (g), or is on a leave of absence from a teaching position in the public schools of a city of the first class.

2. "Inactive member" means a member who is not receiving an annuity under this section, who has not made a deposit in the retirement fund based on earnings after August 31, 1956, and is not on a leave of absence from a teaching position in the public schools of a city of the first class.

3. "Retired member" means a member who is receiving an annuity under this section.

4. Each member shall be a member of the separate group or the combined group, upon completion of the procedures under sub. (3), except that if less than a majority of the members of the combined group vote in favor of OASI coverage in a referendum under sub. (3) (j) all members shall thereafter be deemed members of the separate group.

(h) "OASI" means federal old-age and survivors insurance, as provided under Title II of the federal social security act.

(i) "Retirement fund" means a teachers annuity and retirement fund in a city of the first class.

(j) "Secretary" means secretary of the board of trustees.

(k) "Teacher" has the meaning provided in sub. (19).

(m) "Variable annuity" means any annuity provided by the accumulations in the funds of the variable annuity division resulting from contributions made pursuant to sub. (6), and constitutes a contract involving life contingencies providing for the dollar amount of benefits or other contractual payments or values under said subsection to vary so as to reflect differences which may arise between the total value of the annuity reserve for variable annuities and the reserve that would be required if such annuities were fixed annuities.

(n) "Membership teaching" means employment as a teacher in the public schools of a city of the 1st class.

(o) "Final average compensation" means the monthly rate of compensation obtained by dividing: a) the member's total compensation subject to required deposits and any compensation which would have been subject to required deposits if not exempted pursuant to sub. (14) (d) for the 5 fiscal years in which such compensation was the highest during the 10 fiscal years preceding both the June 30 nearest the date of termination of

his membership teaching and the June 30 following or coincident with his 70th birthday or July 1, 1966, if later, by b) 12 times the number of years of his creditable service for such 5 years. If a member has such compensation for less than 5 such fiscal years his final average compensation is the rate obtained by dividing his total compensation for all such years by 12 times the total number of years of his creditable service therefor. Final average compensation shall be determined separately with respect to each separate period of membership teaching. A separate period of membership teaching shall be deemed to have ended each time a member has not engaged in membership teaching for a period in excess of 2 school years, unless on authorized leave of absence, or has been granted an annuity or separation benefit. For purposes of this paragraph and sub. (7a) (a) 2 only, the phrase "2 school years" shall be defined by rule of the board, but in no event shall a period of 2 school years include more than 28 consecutive calendar months.

(p) "Final excess OASI compensation" means the monthly rate of compensation obtained by dividing: a) the member's total compensation for the 5 years or such lesser period determined pursuant to par. (o), in excess of the amounts subject to contributions under s. 66.99, by b) 12 times the number of years of his creditable service for such period, but such monthly rate shall not exceed the amount by which the final average compensation of the member exceeds \$550.

(3) FUND DIVIDED; REFERENDUM ON OASI. (a) *Division into groups.* Each retirement fund created under this section is divided into 2 parts known as the separate group and the combined group.

(b) *Combined group.* The combined group shall be composed of:

1. Members who indicate in accordance with this subsection that they desire coverage under an agreement under section 218 of Title II of the federal social security act;
2. Individuals who become members after May 15, 1957; and
3. Inactive and retired members who become active members after said date.
4. Persons who become members of the combined group under subd. 2 or 3 shall become members of the combined group as of July 1, 1957, or later.

(c) *Separate group.* The separate group shall be composed of all other members.

(d) *Information and forms to be furnished to members.* Not later than May 30, 1957, the secretary shall mail or deliver to each person who is an active member on May 15, 1957 information concerning the contributions, benefits and other features of the 2 groups into which the retirement fund is divided under this subsection, together with an envelope addressed to the retirement fund, with postage prepaid, and a form to be signed and returned to the office of the retirement fund by each member who desires to become a member of the combined group. A member who chooses to become a member of the combined group shall thereby elect to become subject to the laws relating to the combined group and the form provided under this paragraph shall contain a statement to that effect.

(e) *Evidence of mailing.* The secretary shall certify and file with the board and the governor a list of the names and addresses of all members to whom he delivers the materials specified in par. (d). Upon being filed, the certified list shall constitute prima facie evidence of compliance with par. (d).

(f) *Delivery other than mailing.* In lieu of mailing the materials specified in par. (d) to individual members, the secretary may mail or deliver sufficient supplies of such materials to other responsible persons, who shall deliver such materials to members as specified by the secretary. Such delivery to the individual members may be accomplished personally, by mail, or by means of a regularly constituted institutional or departmental delivery service. A certificate signed by any such person stating that on the dates specified therein he has so delivered such materials to the members named in a list attached to said certificate, when filed with the board, shall constitute prima facie evidence of compliance with par. (d) with respect to the members named in such list. Delivery may be made under this paragraph as to some members and under par. (d) as to other members.

(g) *Active status for retired members.* 1. Any retired member from whose salary reservations have been made under sub. (11) based on earnings during 2 or more calendar quarters after December 31, 1954, shall be deemed an active member if before December 1, 1957, he requests that the annuity he is then receiving be discontinued. Such request shall be made on a form furnished for that purpose by the secretary, who shall also inform such retired members concerning the provisions of this subsection and sub. (4).

2. When a person deemed to be an active member under this paragraph becomes a member of the combined group, the reserve held in the reserve fund based on the annuity being received by such member, shall be transferred to the general fund until an annuity is again granted to such member. Such reserve shall be based on the member's attained age when such funds are transferred. An annuity subsequently granted to any such member shall be granted in accordance with sub. (4).

3. A person deemed to be an active member under this paragraph shall be entered

upon the teachers' roster as provided for under s. 39.35 (14).

4. If any member dies after his annuity is discontinued under this paragraph and before an annuity is again granted to him, a death benefit shall be paid as provided in sub. (16). Said benefit shall be the full amount transferred to the general fund under subd. 2, reduced by the amounts transferred under par. (k) as employer and employe OASI contributions for retroactive coverage. For purposes of such death benefit a member may file a new designation of beneficiary with the board.

(h) *Member to indicate choice.* Each member to whom the materials are sent under par. (d) shall indicate whether he desires to be a member of the separate group or the combined group on the form furnished for that purpose, and mail or deliver said form to the office of the retirement fund. Such form must be received by the board not later than July 4, 1957. Each such member shall enter on such form the address at which he will receive mail, or from which first class mail will be forwarded to him, during the following 120 days.

(i) *Secretary to certify membership of combined group.* On or before July 19, 1957, the secretary shall certify to the governor the names and addresses of the members of the combined group. The secretary shall make such further certifications regarding membership of the fund as the governor may require to carry out the procedures under this subsection and s. 66.99.

(j) *Referendum to be held.* When the secretary has certified to the governor the names and addresses of the members of the combined group under par. (i), the governor shall forthwith take all actions necessary for the conduct of a referendum under s. 66.99 (3a), so that the members of the combined group may vote in favor of or against coverage under the federal old-age and survivors insurance system. If a majority of the members of the combined group vote in favor of such coverage this subsection (1957) shall be fully operative. If less than a majority vote in favor of such coverage this subsection (1957) shall not continue in effect and the retirement fund shall not be divided into the separate group and the combined group.

(k) *OASI coverage retroactive to January 1, 1955.* Coverage of members of the combined group under OASI shall be effective as of January 1, 1955, or the date on which covered earnings were first paid to any such member, if such date is later. The employer and employe contributions to the public employes social security fund in behalf of such members, for covered employment under OASI between January 1, 1955, and the end of the calendar quarter in which the agreement extending such coverage is executed, shall be paid by transferring the amounts necessary to make such payment from the general fund of the retirement fund. Such funds shall be transferred pursuant to sub. (9) (d).

(l) *Nature of contractual rights unchanged.* It is not intended that the enactment of this act (chapter 78, laws of 1957), shall extend or impair the nature of any contractual rights of members of the retirement fund.

(m) *Extension of dates.* The governor may extend the times within which certain actions are to be taken under pars. (d), (h) and (i), if the circumstances indicate that such extension is desirable.

(3a) TRANSFERS FROM SEPARATE TO COMBINED GROUP. (a) The position of any member of the separate group who was eligible to make the choice pursuant to sub. (3) (h) may be transferred to the combined group if prior to the date of execution of any modification to the agreement with the federal department of health, education and welfare made pursuant to s. 66.99 (3a) to implement such transfer the secretary receives from such member not less than 20 calendar days prior to the submission of such modification, a written request for such transfer on a form prescribed by the secretary which specifies the position in the school system of the city of the first class in which such member is then employed, and provided such member occupies a position covered under the retirement fund on the date of submission of the modification to the federal department of health, education and welfare. Such written request for a transfer shall be valid only if within 20 days of the receipt of such request by the secretary the member pays to such secretary all of the required employe contribution to the federal old-age and survivors insurance system for employment in such school system which is to be covered from and after January 1, 1958.

(b) Subsection (9) (d) shall be applicable to such transfer and sub. (11) (f) shall be applicable as of the end of the period of transfer to provide retroactive coverage under sub. (9) (d).

(c) The secretary shall certify to the director of the public employes social security fund the number of persons who have qualified to be covered by each modification to be submitted to implement this subsection.

(d) Contributions made and teaching service rendered after August 31, 1958, and before the date of transfer to the combined group under this subsection, except with

respect to OASI coverage, shall be construed as having been made and rendered under the separate group for all purposes.

(e) For purposes of applying sub. (4) (a) and (b) to any member who has transferred to the combined group under this subsection, the dates contained in sub. (4) (a) and (b) shall not apply and benefits shall be payable under sub. (4) (b) for the period before the date of transfer and under sub. (4) (a) for the period beginning with the date of transfer.

(4) **BENEFITS UNDER THE COMBINED GROUP.** This subsection applies only to members of the combined group.

(a) *Retirement annuities on future service.* When a member of the combined group has ceased to be employed as a teacher in the public schools of a city of the first class, and is not on leave of absence from such teaching position, the accumulation from the member's and state deposits made under sub. (11) (f) based on earnings after August 31, 1958, may be applied by the member as a net single premium at the rate certified by the board, to the purchase of an annuity or annuities, the first payment to be made in such month and year after the application for the annuity is received by the board as the member directs, except that if the total of such annuity added to the annuity payable under par. (b) and sub. (6) (1) would be less than \$10 per month, such accumulation may, at the option of the member, be paid to such member in a single sum.

(b) *Annuity based on past service.* In addition to the annuity under par. (a), an annuity shall be paid for teaching service before September 1, 1958, which annuity shall be determined as follows:

1. For any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (a) or (b), the annuity shall be \$2.50 per month for each year of such service not to exceed 35 years.

2. For any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (c), the annuity shall be \$3.25 per month for each year of such service not to exceed 35 years.

3. For any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (d), the annuity shall be \$4 per month for each year of such service not to exceed 35 years.

4. For any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (e), the annuity shall be \$5 per month for each year of such service not to exceed 35 years.

5. In computing years of service under this paragraph a member shall be given credit for years of service before September 1, 1958, for which he would have received credit under sub. (12) if he had remained a member of the separate group.

6. If any such member does not qualify for an OASI primary or disability benefit, and will not qualify for such benefit upon reaching the age of eligibility, his annuity for teaching service before September 1, 1958, shall be determined as follows: for any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (a) or (b), the annual annuity shall be \$24 for each of the first 25 years of service and \$40 for each additional year of service, but not to exceed \$1,200 per year; for any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (c), the annual annuity shall be \$32 for each of the first 25 years of service and \$85 for each additional year of service, but not to exceed \$1,650 per year; for any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (d), the annual annuity shall be \$45 for each of the first 10 years of service and \$66 for each additional year of service, but not to exceed \$2,100 per year; for any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (e), the annual annuity shall be \$60 for each of the first 10 years of service and \$84 for each additional year of service, but not to exceed \$2,700 per year. The total annuity of such member under par. (a) and this paragraph, when computed as a straight life annuity, shall be not less than the total annuity for which such member would have been eligible if he had remained a member of the separate group. If such member subsequently qualifies for an OASI primary or disability benefit, his annuity for teaching service before September 1, 1958, shall thereafter be determined under subs. 1 to 4; but the total annuity of any member under par. (a) and this paragraph, when computed as a straight life annuity and when added to the OASI primary or disability benefit for which such member is eligible, shall be not less than the total annuity for which such member would have been eligible if he had remained a member of the separate group.

(c) *Optional forms of annuities.* Annuities paid under pars. (a), (b) and (h) may at the option of the member be in any of the forms provided in sub. (12) (o).

(d) *Age for receiving annuity.* The first payment of an annuity under this sub-

section shall not be made before the fifty-fifth birthday anniversary of the member unless he has qualified for a disability annuity under par. (f) or (fg).

(da) *Compulsory retirement.* Any member of the combined group who attains the age of 70 years shall be retired by the board of school directors at the end of the school year in which he reaches age 70; but said board may permit the employment of a retired teacher of any age to teach as a substitute for a period of not more than 95 days in any one school year, without forfeiture of any retirement allowance. Under this paragraph the school year is deemed to begin on July 1 and end on June 30.

(e) *Optional integrated annuity.* Any member of the combined group who is eligible to receive a retirement annuity under pars. (a) and (b), which annuity is to begin before the member reaches the age of eligibility for an OASI retirement benefit, and who has sufficient quarters of OASI coverage to qualify for an OASI benefit upon reaching the age of eligibility therefor, may with the approval of the board elect in lieu of such annuity to take the actuarial equivalent thereof as:

1. A reduced annuity payable monthly for life; and
2. A temporary annuity payable monthly and terminating at death or with the payment due in the month in which the participant attains the age specified in the application for such annuity.

The purpose of this option is to provide a life annuity and temporary annuity in such amounts that the member's total anticipated retirement benefits from the retirement fund and primary OASI will be approximately the same both before and after attainment of the age of eligibility for an OASI retirement benefit, assuming that the member has no further wages credited to his account under OASI after payment of such annuity begins.

(em) *Widows optional integrated annuity.* 1. The widow of any member of the combined group may with respect to an annuity payable under par. (h) or under sub. (6) (m), which annuity is to begin prior to the widow's sixty-second birthday, elect to take the actuarial equivalent thereof as:

- a. A reduced annuity payable monthly for life; and
- b. A temporary annuity payable monthly and terminating at death or with the payment due in the month in which the widow attains age 62, whichever occurs earlier.

2. It is the intent of this option that so far as is practicable the aforesaid life annuity and temporary annuity will be determined in such amounts that the widow's total anticipated monthly retirement benefits from this system and her survivors benefit from the federal old-age and survivors insurance system will be the same both before and after the attainment of age 62.

(f) *Disability annuities for future members.* 1. This paragraph applies only to persons who first become members after August 31, 1958.

2. If, before attaining age 50, a member who has made required deposits during each of 5 fiscal years and who was employed in teaching or was on leave of absence from teaching in this state, within the 12-month period immediately preceding the occurrence of disability, becomes unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or to be a long-continued and indefinite duration, and furnishes due proof thereof and that such disability has then existed for 60 days, the member shall be paid an annuity during the continuance of such disability, in monthly payments of \$100 each, in addition to any other benefit payable to such member. The board may at any time not more than once in any year require proof of the continuance of such disability and if the member fails to furnish satisfactory proof thereof, or if it appears at any time that the member has become able to engage in any substantial, gainful activity, such annuity shall cease.

3. If a member receiving a disability annuity under subd. 2 becomes eligible to receive an OASI disability or primary retirement benefit the amount of such annuity paid from the general fund shall be reduced by the amount of such OASI benefit. If any such member fails to apply for an OASI benefit upon reaching the age of eligibility therefor, or fails to pursue any such application in good faith, the portion of such annuity paid from the general fund shall cease.

4. Each initial determination of disability under subd. 2 shall be made by the state agency designated to make determinations of disability by agreement with and for the secretary of health, education and welfare under the federal social security laws. An initial determination of ineligibility shall be binding upon the board. An initial determination of eligibility may be accepted or rejected by the board. Continued eligibility for benefits under subd. 2 shall be determined in the same manner. As a condition of continued payment of the portion of the annuity paid from the general fund, the board may require a member receiving a disability annuity under subd. 2 to reapply for an OASI disability benefit on the basis of any examination or determination under subd. 2, or to apply for the freezing of his OASI earning record on the basis of his disability.

5. If, before attaining age 55, a member who had made required deposits during each of 5 fiscal years and who was employed in teaching or was on leave of absence from teaching in this state, within the 12-month period immediately preceding the occurrence of disability, becomes physically or mentally incapacitated to such extent that the member is wholly, and presumably will be permanently, unable to engage in teaching, and furnishes due proof thereof and that such disability has then existed for 60 days, the member shall be paid an annuity during the continuance of such disability, in monthly payments of \$25 each, in addition to any other benefit payable to such member. The board may at any time not more than once in any year require proof of the continuance of such disability and if the member fails to furnish satisfactory proof thereof, or if it appears at any time that the member has become able to engage in teaching, such annuity shall cease.

6. A member may not receive an annuity under subs. 2 and 5 at the same time.

(fg) *Disability annuities for present members.* Any teacher who first became a member before September 1, 1958, upon certification for total and permanent disability in the manner provided in sub. (12) (f) or temporary disability after 5 years or more of teaching service in the public schools of a city to which this section applies in the manner provided in sub. (12) (d), may receive an annuity under par. (a) increased by such an additional amount so that the total annual disability annuity received by such teacher is as follows:

1. For any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (a) or (b), the annual disability annuity shall be \$24 for each of the first 25 years of service and \$40 for each additional year of service, but not to exceed \$1,200 per year.

2. For any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (c), the annual disability annuity shall be \$32 for each of the first 25 years of service and \$85 for each additional year of service, but not to exceed \$1,650 per year.

3. For any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (d), the annual disability annuity shall be \$45 for each of the first 10 years of service and \$66 for each additional year of service, but not to exceed \$2,100 per year.

4. For any member from whose salary reservations before September 1, 1958, were last made under sub. (11) (e), the annual disability annuity shall be \$60 for each of the first 10 years of service and \$84 for each additional year of service, but not to exceed \$2,700 per year.

5. When an annuity is increased under this paragraph the additional annuity shall be paid by transferring a sufficient amount from the general fund to the reserve fund to establish the reserve required to pay such additional annuity which shall be paid from the reserve fund. Such additional annuity shall be reduced by the amount of any social security (OASI) primary disability or retirement benefit received by the member.

6. In computing years of service under this paragraph a member shall be given credit for years of service for which he would have received credit under sub. (12) if he had remained a member of the separate group.

7. A period of time during which an annuity is paid under this paragraph shall not be considered teaching service under this section for purposes of computing retirement annuities.

(fr) *Reserves upon which annuities are based.* All annuities paid under this subsection shall be paid from the reserve fund. If the annuity or part thereof is based on an accumulation in the retirement deposit fund the board shall transfer such accumulation from the retirement deposit fund to the reserve fund. If the annuity or part thereof is not based on an accumulation in the retirement deposit fund, the board shall transfer from the general fund to the reserve fund an amount sufficient to establish the necessary reserve to pay such annuity. If the benefit is paid in a lump sum such payment may be made directly from the retirement deposit fund if based on an accumulation in said fund, from the reserve fund if based on a reserve in said fund, and otherwise from the general fund. The board may make such transfers between funds as may be necessary to carry out the purposes of this section.

(g) *Separation benefits.* Any member who has ceased to be employed as a teacher in the public schools of a city of the first class, and is not on leave of absence from a teaching position in such city, may be paid the accumulation from the member's deposits made while a member of the combined group, on filing with the board before the fifty-fifth birthday anniversary of such member a written request therefor and a full and complete discharge and release of all right, interest or claim on the part of such member to state deposit accumulations which accrued while he was a member of the combined group.

Such state deposit accumulations shall thereupon be transferred to the state general fund in accordance with s. 25.28 (3). Withdrawal of member's deposits made before said member became a member of the combined group shall be governed by sub. (16). Any member who has ceased to be employed as a teacher in the public schools of a city of the first class, and is not on leave of absence from a teaching position in such city and who has attained the age of 55 years, and whose total accumulation from required deposits and state deposits which accrued while he was a member of the combined group, does not exceed \$3,000 may be paid such accumulation in a single payment upon filing an application therefor in such form as the board requires.

(h) *Death benefits.* Each member may, by written notice to the board, in such form as it approves, designate a sole beneficiary, or 2 or more beneficiaries to whom any death benefits payable at the death of the member, shall be paid. The member may, from time to time, by a like written notice, change any of the aforesaid designations. Such death benefits shall be the full amount of the accumulation in the retirement deposit fund to the credit of the member from all member's deposits and all state deposits made under sub. (11) (f), plus an amount which is equal to twice the accumulation which would have resulted from the deposits made by such member under sub. (11) (a) to (e) if interest had been compounded thereon at the rate of 3 per cent per annum. Such death benefits shall be payable as an annuity or annuities payable monthly during the life of one or more beneficiaries, except that if any such annuity would be less than \$10 per month, the benefit shall be paid to the beneficiary in a single sum. If more than one beneficiary is designated and any of such designated beneficiaries shall predecease such member, the death benefit shall, unless the member has designated otherwise, be paid to the surviving beneficiaries in shares of equal value. The board may require proof of the death of deceased beneficiaries from the surviving beneficiaries. If no beneficiary has been designated by the member, or if no designated beneficiary survives the member, such death benefit shall be paid in a single sum to the estate of the member. If the designated beneficiary survives the member, but dies before making application for or receiving any benefits under this section, such death benefit shall be paid in a single sum to the estate of the deceased beneficiary upon the application of the executor or administrator of such estate.

(j) *Information on OASI benefits.* Each member may be required by the board, as a condition of receiving benefits under par. (b) 6, (f) or (fg), to authorize the social security administration to provide the fund with information regarding the present or future OASI benefits payable or to become payable to such member.

(k) *Additional annuity options.* In addition to the optional forms of annuities set forth in sub. (12) (o), an annuity under par. (a), (b), (f) or (fg) may at the option of the member be granted in any form of life annuity established by rule of the board on the basis of actuarial equivalent values, with due regard for selection against the fund. The amount payable monthly to the member during life under any such additional form shall be not less than the amount payable to others upon the death of the member.

(6) *VARIABLE ANNUITIES.* (a) *Purpose.* The purpose of this subsection is to establish a well balanced, broadly diversified investment program so as to provide retirement benefits which will fluctuate as the value and earnings of such investments vary, in relation to changes in the general economy. It is anticipated that greater utilization of equity investments will result in the accumulation of larger deposit reserves during the working years of the member and tend to preserve the purchasing power of the deposits made and the benefits provided, and should provide better protection in periods of inflation.

(b) *Fixed and variable annuity divisions.* There are created within the combined group of each retirement fund, as defined in sub. (2) (i), 2 divisions known as the variable annuity division and the fixed annuity division.

(c) *Deposits.* 1. Each member of the combined group may elect, by written notice filed with the board upon a form furnished by said board, to have 50 per cent of his required deposits and state deposits paid into the retirement deposit fund of the variable annuity division beginning September 1, 1958, and reserved for the purchase of a variable annuity.

2. Said election may be made at any time by the member, and shall become effective as to deposits based on earnings after the following June 30 unless the board adopts rules for more frequent elections.

3. Said election shall have no effect on any benefit under sub. (4) (b) or (fg).

4. Said election, once made, is irrevocable.

5. In the absence of such election the member shall participate in the fixed annuity division only, and his entire required deposit shall be paid into the retirement deposit fund of the fixed annuity division.

6. Any member of the combined group who has elected under subd. 1 to participate in the variable annuity division may also direct, upon a form furnished by the board, that any or all additional deposits subsequently made by or on behalf of said member be paid into the retirement deposit fund of the variable annuity division, but the maximum amount of such additional deposits paid into such fund shall be \$5,000 per year.

(d) *Funds.* 1. The board shall at all times maintain in the funds of the fixed annuity division assets in accordance with sub. (20).

2. The board shall at all times maintain in the funds of the variable annuity division a reserve fund and a retirement deposit fund:

a. The reserve fund shall consist of all transfers made to the reserve fund plus earnings from investments less payments from the fund—the total adjusted for capital gains and losses and for mortality gains and losses. The annuities paid from this fund shall be adjusted annually so that the value of the total required reserve for these annuities, if they were considered as fixed annuities, would, under the mortality and interest assumptions under which they were issued, be within 2 per cent of the amount of this fund;

b. The retirement deposit fund shall consist of the deposits made by or for the members plus earnings from investments less withdrawals and transfers from the fund—the total adjusted for capital gains and losses.

3. The board shall establish and maintain such reserve or surplus funds in the fixed annuity division and in the variable annuity division as the interests of the members and the future solvency of the funds may require. The board shall, as of June 30 of each year, make such valuations of the several funds as are necessary for the purposes of the retirement fund.

4. Assets of the variable annuity division shall be invested primarily in equities securities which shall include common stocks, real estate or other recognized forms of equities whether or not subject to indebtedness, including securities convertible into common stocks.

5. After July 1, 1968, all the assets of the fixed annuity division of the combined group shall be invested only in investments which are legal for life insurance companies in Wisconsin under s. 206.34.

6. The assets in the retirement deposit fund and the reserve fund of the variable annuity division shall be evaluated annually by the board of trustees at a date fixed by the rules of said board. The market value of investments used in this evaluation shall be the value certified by the state of Wisconsin investment board. The board of trustees may make additional evaluations of the fund at times between the annual evaluations if deemed desirable.

(e) *Earnings—apportionment and crediting.* 1. Earnings. The earnings of the funds of the variable annuity division and the fixed annuity division shall consist of such items as dividends, rents, interest payments and other income derived from investments rather than from changes in capital value of investments. The earnings shall be decreased by the administrative and investment expenses of such funds.

2. Apportionment. As of June 30 of each year the board shall determine the earnings to be apportioned to the several funds of the variable annuity division and the fixed annuity division.

3. Crediting. Earnings will be credited to the individual accounts in the retirement deposit fund only on amounts which have been on deposit for the full year except that, whenever a member's deposit accumulation, and state deposit accumulation, are transferred to the reserve fund, interest shall be credited to the amount to be so transferred for each 1-month period which has elapsed since the preceding June 30 at one-twelfth of the rate at which earnings were apportioned on such June 30. The interest so credited shall be charged to the earnings for the current fiscal year and shall be transferred with the amount to which it was so credited. No interest shall be credited to an account on a prorata basis where a refund of contribution is paid out in a single sum.

(f) *Capital gains and losses.* 1. Capital gains for any period shall be the value of each fund as evaluated by the board under par. (d) 6 at the end of the period plus the disbursements from the fund during the period (other than for investments or for administrative and investment expenses charged to earnings); less the total of a. the value of the fund at the beginning of the period, b. the earnings of the fund during the period, and c. receipts (other than receipts from investments) during the period. If this quantity is negative, it shall be the capital loss for the period.

2. Apportionment. As of June 30 of each year the board of trustees shall determine the capital gains or losses to be apportioned to the several funds.

3. Crediting to accounts. Capital gains and losses will be credited to the individual accounts in the retirement deposit fund only on amounts that have been on deposit for the full year, except that the board may, in order to avoid substantial inequities in case

of extraordinary capital gains or losses, allocate a portion of these to deposits made during the current year.

(g) *Board to fix annuities.* The board shall make such investigations of the mortality, disability, service and compensation experience of the several funds as shall be necessary. On the basis of such investigation the board shall determine, adopt and certify the rates at which the beginning payments on variable annuities shall be made. The rates last adopted by the board shall continue to be the prevailing rates until changed by action of the board.

(h) *Adjustment of variable annuity payments.* Whenever the balance in the reserve fund of the variable annuity division, as of June 30 of any year, exceeds or is less than the present value of all variable annuities in force, determined in accordance with the rate of interest and approved actuarial tables then in effect, by at least 2 per cent of said present value, the amount of each variable annuity payment shall be proportionately increased or decreased.

(i) *Interim adjustments.* Notwithstanding the provisions of par. (h), the board may, in order to avoid substantial inequities, in the event of extraordinary fluctuation in the market value of the investments, increase or decrease the variable annuity payments at times other than June 30.

(j) *Separation benefits.* Any member who has ceased to be employed as a teacher in the public schools of a city of the first class, and is not on leave of absence from such teaching position, may be paid the accumulation from the member's deposits made in or transferred to the variable annuity division, on filing with the board before the fifty-fifth birthday anniversary of such member a written request therefor and a full and complete discharge and release of all right, interest or claim on the part of such member to state deposit accumulations which accrued in the variable annuity divisions as the result of state deposits made in the variable annuity division while he was a participant therein. Withdrawals of accumulations from member's deposits in the fixed annuity division shall be governed by sub. (4) (g).

(k) *Other rights.* Other rights and benefits shall be as nearly consistent with this section as the board determines to be practicable considering the nature of the benefits under the variable annuity division.

(l) *Annuities.* When a member has ceased to be employed as a teacher in the public schools of a city of the first class, and is not on leave of absence from such teaching position, the accumulation from the member's deposits and state deposits may be applied by the member as a net single premium at the rate certified for beginning payments by the board, to the purchase of a variable annuity, the first payment to be made in such month and year after the application for the variable annuity is received by the board as the member directs, which variable annuity may be:

1. A variable annuity payable monthly to the member during life; or
2. A variable annuity payable monthly to the member during life, with a guaranty of at least 180 monthly payments; and in the event of the death of the member before 180 monthly payments have been made, the remainder of the 180 monthly payments shall be continued to one beneficiary or divided equally, or as the member otherwise specified, between 2 or more beneficiaries designated by the member until payments have been made for 180 consecutive months after such annuity began. Upon the death of any designated beneficiary after he has become entitled to receive monthly payments under this subdivision, the then present value of his benefit shall be paid in a single sum to his estate. Upon the death of the member before payment has been made for 180 months, the then present value of the remainder of such payments shall be paid in a single sum to the estate of the member in cases where no beneficiary was designated or where the member's estate was designated as beneficiary. In the event of the death of any designated beneficiary prior to the death of the member, then upon the death of the member, the then present value of the benefit, if any, which would have been payable to said beneficiary, shall be paid in a single sum to the estate of the member; or
3. A variable annuity payable monthly to the member during life, and after death of the member, monthly payments of one-half the monthly amounts which would have been paid to the member if he had lived, to be continued to such beneficiary during life as the member has designated in the original application for a retirement allowance; or
4. A variable annuity payable monthly to the member during life, and after the death of the member, the same monthly payment which would have been paid to the member if he had lived; to be continued to such beneficiary during life as the member has designated in the original application for a retirement allowance; or
5. In such variable life annuity or annuities as the board approves, but the amount

payable monthly to others upon the death of the member shall not be more than the amount which would have been payable monthly to the member if he continued to live.

6. The first payment of an annuity under this paragraph shall not be made before the fifty-fifth birthday anniversary of the member unless he has qualified for a disability annuity under sub. (4) (f).

7. If the total of any such annuity, when added to the annuity payable under sub. (4) (a) and (b), would be less than \$10 per month, the accumulation from member's deposits and state deposits may, at the option of the member, be paid to such member in a single sum.

(m) *Death benefits.* Each member may, by written notice to the board, in such form as it approves, designate a sole beneficiary, or 2 or more beneficiaries to whom any death benefits payable at the death of the member shall be paid. The member may, from time to time, by a like written notice change any of the aforesaid designations. Such death benefits shall be the full amount of the accumulation in the retirement deposit fund of the variable annuity division to the credit of the member from all member and state deposits. Such death benefits shall be payable as a variable annuity or annuities payable during the life of one or more beneficiaries. If the initial amount of such variable annuity payable to any beneficiary would be less than \$10 per month the benefit payable to such beneficiary shall be paid in a single sum or, if the beneficiary so elects, shall be transferred to the retirement deposit fund of the fixed annuity division and paid under sub. (4) (h). If more than one beneficiary is designated and any of such designated beneficiaries predecease the member, the death benefit shall, unless the member has designated otherwise, be paid to the surviving beneficiaries in equal shares. The board may require proof of the death of deceased beneficiaries from the surviving beneficiaries. If no beneficiary has been designated by the member, or if no designated beneficiary survives the members, such death benefit shall be paid in a single sum to the estate of the member. If the designated beneficiary survives the member, but dies before making application for or receiving any benefits under this section, such death benefit shall be paid in a single sum to the estate of the deceased beneficiary upon the application of the executor or administrator of such estate.

(7) CREATION OF FORMULA GROUP; ELECTION BY MEMBERS. (a) There is created, as of September 9, 1965, as a part of each retirement fund created pursuant to this section a formula group, to be composed of: a) any combined group or separate group member, except any member who on such date is a member receiving an annuity, who at any time on and after September 9, 1965, but prior to December 1, 1965, is employed in membership teaching and, unless exempted from making a required deposit by sub. (14) (d), makes a required deposit pursuant to sub. (11), and who elects in accordance with this subsection to become a member of the formula group; b) any combined group or separate group member who on September 9, 1965, is on authorized leave of absence, and who elects in accordance with this subsection to become a member of the formula group, but no such election shall be effective unless and until such member resumes membership teaching concurrently with the termination of such leave of absence; c) any member who is a member of the system on September 9, 1965, but who is not eligible for an election under a) or b) herein, who within 90 days from the last day of the month in which he first engages in membership teaching after September 9, 1965, elects in accordance with this subsection to become a member of the formula group, but his participation as a member of the formula group shall not include or relate to any benefit, compensation or employment for any period prior to September 9, 1965; d) any person who becomes a member of the system after November 30, 1965. For purposes of s. 66.99 each member of the formula group shall also be classified as a member of the combined group or of the separate group, as determined pursuant to sub. (3); such classification shall also be applicable with respect to any benefit, compensation or employment which is not includable for formula group purposes.

(b) Not later than January 1, 1966, the secretary shall mail or deliver to each member who is eligible for the election specified in par. (a)a) or b), comparative information concerning the required deposits, benefits and other features applicable to members of the formula group and to the members of the group to which such member then belongs, together with an envelope addressed to the retirement fund and a form to be signed and returned to the retirement fund by each member who desires to become a member of the formula group. A member who elects to become a member of the formula group shall thereby become subject to the laws relating to the formula group, and such election shall constitute a modification of the terms and conditions of employment of such member, and the form provided herein shall contain a statement to such effect. To be effective, the election form of any member must be received by the office of the retirement fund no later than the close of business on April 1, 1966, but the

board may provide for a reasonable extension of such date in individual cases on the basis of unusual or extenuating circumstances; no such extension shall be effective after June 30, 1967. The board shall have full authority to prescribe and to take all actions necessary to assure compliance with the expressed intent of this subsection, which is to assure all eligible members an opportunity to make an informed election of membership in the formula group.

1. Participation in the formula group shall not be effective, as to any member who becomes a member of such group, before July 1, 1966, or the beginning date of his retirement annuity under sub. (7a) (b) if earlier.

(7a) BENEFITS UNDER THE FORMULA GROUP. This subsection shall apply only to members of the formula group. Benefits provided under this subsection are inclusive of the benefits provided by accumulations under sub. (6).

(a) *Creditable service.* 1. Creditable service shall be expressed in years and such fractions thereof as the board determines. The creditable service of each member at any time prior to July 1, 1966, shall be the number of years of membership teaching creditable to him pursuant to the applicable statutes and rules. The creditable service of a member with respect to teaching after June 30, 1966, shall be the number of years and completed months of subsequent membership teaching until his employment is terminated but not including any period subsequent to the June 30 following or coincident with his 70th birthday. The board shall fix and determine by proper rules and regulations how much teaching in any year is equivalent to one year of creditable service. Military service after June 30, 1966, shall be creditable on the same basis as prior military service.

2. A member shall be considered a new member with respect to each separate period of membership teaching as determined pursuant to sub. (2) (o) which begins after June 30, 1966. The commencement of a separate period of membership teaching shall not cause the loss of any benefit to which a member is entitled by virtue of any preceding service.

(b) *Retirement annuities.* 1. When a member of the formula group has ceased membership teaching and is not on authorized leave of absence from membership teaching, he may elect to receive a retirement annuity or annuities, the first payment of which shall not be made before the member's 55th birthday.

2. The retirement annuity of a formula group member, except as provided in subd. 3 or 4 shall be in the monthly amount equal to the sum of the amounts determined pursuant to this subdivision, plus any benefit elected by such member to be provided by his accumulated additional deposits:

a. The annuity purchased by applying as a net single premium, the amount equal to 200% of the excess if any, of a) the accumulation from the required deposits of the member over b) the accumulation therefrom which would have resulted if the accumulation therefrom in the variable annuity division on June 30, 1966, had been transferred to, and all subsequent deposits had been made in, the fixed annuity division. If a) is less than b), the annuity of the member shall be reduced by the amount which could be purchased by 200% of the amount of the deficiency, plus:

1) If the annuity begins on or after the 65th birthday of the member, the monthly annuity in the normal form determined by multiplying the number of years of his creditable service by the sum of six-sevenths of one per cent of his final average compensation plus three-sevenths of one per cent of the final excess OASI compensation of the member; or

2) If the annuity begins prior to the 65th birthday of the member, the annuity which at the date it begins is the actuarial equivalent of the annuity deferred to the 65th birthday of the member determined pursuant to subd. 2. a. 1).

b. The initial amount of annuity in the normal form under subd. 2. a. shall not exceed the amount which, when added to the primary or disability insurance benefit for which he is eligible, or for which he will be eligible upon attaining the lowest age at which old-age benefits are payable, under the federal old-age and survivors insurance program, equals 75% of the members final average compensation. If a member does not receive such OASDI amount by reason of his failure to apply therefor or by virtue of the suspension thereof, he will notwithstanding such fact be deemed to receive such amount. If a member fails to establish the amount of, or his eligibility for, such OASDI benefits, determinations thereof shall be made by the board on such basis as the board, by rule, establishes.

c. If the member has accumulations from required deposits in the variable annuity division, the initial amount of the annuity under subd. 2. a shall be increased by 200% of the excess, or decreased by 200% of the deficiency, of the amount purchased by the application of such accumulations over the amount which could be purchased by an equal accumulation in the fixed annuity division.

3. In no case except as provided in subd. 4, shall the initial amount of the retirement annuity in the normal form of a formula member be less than the sum of the following, plus any benefit elected by such member to be provided by his accumulated additional deposits:

a. The annuity which can be provided, on the date such annuity begins, from the accumulated required deposits of the member at such time, and

b. One-half of the annuity determined pursuant to subd. 2, exclusive of any amount provided by accumulated additional deposits.

4. The retirement annuity of a member who elected under sub. (7) (a) a) or b) to become a member of the formula group shall be the amount determined pursuant to subd. 2 or 3 or this subdivision, as the member elects, but if the member fails to make an election, the annuity shall be that sum calculated under said subdivisions which results in the largest initial annuity. The annuity under this subdivision shall be the annuity purchased by applying as a net single premium the sum of the following, plus any annuity elected by such member to be provided by his accumulated additional deposits:

a. The accumulation from the member's required deposits made pursuant to sub. (11) (f) and (g).

b. The accumulation on June 30, 1966, from state deposits made on behalf of a member pursuant to sub. (11) (f), compounded to the end of the last completed calendar month at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year.

c. An amount equal to the accumulation from 4½% of a member's compensation for membership teaching in each fiscal year after June 30, 1966, compounded to the end of the last completed calendar month at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year.

d. An amount equal to the excess, if any, of a) the accumulation from the required deposits of the member over b) the accumulation therefrom which would have resulted if the accumulation therefrom in the variable annuity division on June 30, 1966, had been transferred to, and all subsequent deposits had been made in, the fixed annuity division. If a) is less than b), the accumulation under either subd. 4. b or c shall be reduced by the amount of such deficiency.

e. The present value as of the date of annuity purchase of any annuity payable pursuant to subs. (3a) (e) and (4) (b), but not including the present value of any such annuity based on service after June 30, 1966.

5. The normal form of retirement annuity is an annuity payable monthly during life, with a guaranty of at least 60 monthly payments. A member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided in this section. The excess of the total annuity to which a member is entitled under this subsection over the initial amount of the variable annuity hereunder, when both are computed in the normal form, shall be the annuity payable from the fixed annuity division.

6. Two annuities shall be deemed to be actuarially equivalent if both require the same net single premium on the date as of which the determination is made. The net single premium for a deferred annuity shall be deemed to include the present value of any death benefit payable prior to its commencement.

7. The provisions of this subsection shall be effective with respect to any retirement annuity provided herein if application therefor is filed after September 9, 1965 and if the beginning date of such annuity is after such effective date, but until July 1, 1966, each such retirement annuity shall be determined and paid as provided by the law in effect as to any member prior to September 9, 1965. As soon as possible after July 1, 1966, each such retirement annuity shall be increased to the amount determined pursuant to this subsection, subject to the same optional modification if any as was applied to the original retirement annuity, and payment of such increased amount shall be made retroactively to the beginning date of each such annuity. Any such increased amount shall be included, as provided herein, as a part of any related death benefit or beneficiary annuity arising from the death of a member.

8. The compulsory retirement provision of sub. (4) (da) shall be fully applicable to formula group members.

9. Notwithstanding the provisions of par. (a), an election to become a member of the formula group may be made at any time prior to December 1, 1965, by any member who made a required deposit pursuant to sub. (11) based on teaching service in the month of May or June, 1965, and who had not received an annuity at any time prior to May 1, 1965. Any member so electing shall be subject to all provisions applicable to members of the formula group, including the right to have his retirement annuity ad-

justed in accordance with the provisions of subd. 7, any provision thereof to the contrary notwithstanding.

(c) *Disability annuities.* 1. If, before attaining age 65, a formula group member who has made required deposits for not less than a school year during each of 5 fiscal years within the 84-month period preceding the occurrence of disability, becomes unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration, and furnishes due proof thereof, and if the teaching service of the member was terminated because of such disability, such member shall be paid a disability annuity during the continuance of such disability. The teaching service of a member shall not be considered to have been terminated because of disability if a member has engaged in any employment other than membership teaching between the date the disability occurred and the date of approval by the board of his application for a retirement annuity. The board may at any time, but not more than once in any fiscal year, and only until the member has attained age 65, require proof of the continuance of such disability, and if the member fails to furnish satisfactory proof thereof, or if it appears at any time that the member has become able to engage in any substantial gainful activity, such annuity shall be reduced to the amount of the retirement annuity to which he would be entitled under par. (b), notwithstanding the age 55 requirement expressed therein.

2. The amount of a disability annuity under this paragraph shall be the greater of the following:

a. The amount of the retirement annuity to which the member would be entitled under par. (b), notwithstanding the age 55 requirement expressed therein, or

b. The sum of the amount of the annuity that can be purchased by the accumulation from additional deposits on the date the disability annuity begins, if the member so elects, plus the lesser of the following amounts: 50% of the final average compensation, or 1½% of the final average compensation multiplied by the number of years of creditable service including in the latter assumed service between the date the disability occurred and the 65th birthday of the member. Whenever the annuitant becomes eligible for disability benefits or for old-age benefits as a retired worker under the federal old-age and survivors insurance system, the amount of his disability annuity, other than any amount attributable to his additional deposits, shall be reduced by 20% of the amount thereof, but in no event shall such reduction lower the disability annuity below that which could have been provided under subd. 2. a. Such reduction shall be effective with the annuity payment for the 8th month after the annuity begins except during such period as the disability annuitant furnishes evidence to the fund that he is not eligible for benefits from the federal old-age and survivors insurance system. Any annuity payable under this paragraph shall not be subject to optional modification. All available required deposit accumulations, state deposit accumulations and state contributions shall be applied to the cost of any annuity provided under this paragraph.

3. Each initial determination of disability under this paragraph shall be made by the state agency designated to make determinations of disability by agreement with and for the secretary of health, education and welfare under the federal social security laws. An initial determination of ineligibility shall be binding upon the board. An initial determination of eligibility may be accepted or rejected by the board. Continued eligibility for benefits under this paragraph shall be determined in the same manner.

4. This paragraph shall not be effective as to any disability which occurred prior to July 1, 1966. Payment of a disability annuity under this paragraph shall be effective as of the first day of the month following the month in which the disability occurred, as determined by the board, but no payment shall be made for any period more than 60 days prior to the receipt by the board of a written application, on a form prescribed by the board, for such disability annuity. Such application shall be completed by the member or, if the member is incapacitated, by any person on behalf of the member.

(d) *Limited disability annuities.* If, before attaining age 55, a formula group member who has made required deposits for not less than a school year during each of 5 fiscal years, and who was employed in membership teaching or was on authorized leave of absence from membership teaching within the 12-month period immediately preceding the occurrence of disability, becomes physically or mentally incapacitated to such extent that the member is wholly, and presumably will be permanently, unable to engage in teaching, and furnishes proof thereof and that such disability has then existed for 60 days, the member shall be paid a life annuity during the continuance of such disability, in monthly payments of \$25 each, in addition to any other benefit which would be payable to such member pursuant to par. (b) in the absence of the age 55 limitation expressed in par. (b) 1. The board may at any time, not more than once in any year,

require proof of the continuance of such disability and if the member fails to furnish satisfactory proof thereof, or if it appears at any time that the member has become able to engage in teaching, the \$25 monthly annuity payment provided herein shall cease. A member shall not receive an annuity under par. (c) and this paragraph at the same time.

(e) *Death benefits.* 1. Any member of the formula group may, by written notice to the board, in such form as it approves, designate a sole beneficiary, or 2 or more beneficiaries to whom any death benefits payable at the death of the member shall be paid. The member may, from time to time, by a like written notice, change any previous designation. Such death benefits, except as otherwise provided in this paragraph, shall be payable as an annuity or annuities payable monthly during the life of one or more beneficiaries, except that if any such annuity would be less than \$10 per month, the benefit shall be paid to the beneficiary in a single sum. If more than one beneficiary is designated and any of such designated beneficiaries predecease such member, the death benefit shall, unless the member has designated otherwise, be paid to the surviving beneficiaries in shares of equal value. The board may require proof of the death of deceased beneficiaries from the surviving beneficiaries. If no beneficiary has been designated by the member, or if no designated beneficiary survives the member, such death benefit shall be paid in a single sum to the estate of the member. If the designated beneficiary survives the member, but dies before making application for or receiving any benefits under this paragraph, such death benefits shall be paid in a single sum to the estate of the deceased beneficiary upon the application of the executor or administrator of such estate. Such death benefit shall be the full amount of the accumulation in the retirement deposit fund to the credit of the member from the member's deposits made under sub. (11) (f) and (g), plus:

a. An amount which is equal to twice the accumulation which would have resulted from the deposits made by such member under sub. (11) (a) to (e) prior to July 1, 1966, if interest had been compounded thereon at the annual rate of 3% per annum, and

b. An amount which is equal to the accumulation on June 30, 1966, from state deposits made under sub. (11) (f), compounded to the end of the last completed calendar month preceding his death at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year, provided that any accumulation on June 30, 1966, from state deposits in the variable annuity division shall be so compounded at the respective rates of earnings and capital gains and losses credited to individual accounts in the variable annuity division.

2. Upon the death, after June 30, 1966, of a member age 60 or more of the formula group while employed in membership teaching, or while on authorized leave of absence from membership teaching, and if such member has not previously been granted an annuity under any provision of this section, there may be paid in lieu of any other benefit under this section a death benefit as follows:

a. If the designated beneficiary to whom a death benefit is payable is a spouse, child under age 21 (including legally adopted child), child age 21 or older if handicapped, or other dependent of such member, as determined by the board, a benefit having a present value at the day following the date of death of such member of the life annuity to the beneficiary which would have been payable if such member had been eligible to receive a retirement annuity beginning on the date of his death and had elected to receive such annuity in the optional form provided under (2) (a) of sub. (12) (o).

b. If there is more than one such designated beneficiary, the amount of such annuity and its present value shall be determined as if the oldest of such beneficiaries were the sole beneficiary.

3. Upon the death of a formula group member receiving a disability annuity under par. (c) a death benefit shall be payable to his beneficiary in the amount of the excess, if any, of the accumulations from member deposits applied to provide the annuity over the aggregate amount of annuity payments received by the member. If the beneficiary or beneficiaries to whom a death benefit is payable is a wife, minor child, or dependent husband designated as beneficiary on the date the disability annuity was approved, the death benefit shall not be less than:

a. If such death occurs prior to the 65th birthday of the member the present value, at the date of such death, of the annuity (terminating in the case of a minor child at the end of the month in which he reaches the age of 21) in the normal form of the monthly amount to which such beneficiary would have become entitled under subd. 1 if such death had occurred on the day prior to the date on which the disability annuity commenced and if the death of the beneficiary or beneficiaries who failed to survive the disability annuitant had occurred prior to said date. For the purposes of this paragraph, the \$10 minimum annuity provision in subd. 1 shall be disregarded and present

values shall be determined at the rate certified by the board; or

b. If such death occurs on or after the 65th birthday of the member, the excess, if any, of the accumulations from member deposits applied to provide the annuity over the aggregate amount of annuity payments received by the member after his 65th birthday.

4. The payment of any death benefit under this paragraph shall be subject to optional modification under sub. (4) (em).

(f) *Separation benefits.* Any formula group member who has ceased membership teaching and is not on authorized leave of absence from membership teaching shall be paid the accumulation from the member's required and additional deposits, including the amount paid by the member pursuant to sub. (11) (a) to (e), the total reduced by any amount transferred to the public employes social security fund for the payment of employe retroactive social security contributions pursuant to sub. (9) (d), upon filing with the board, before the 55th birthday of the member, a written request therefor and a full and complete discharge and release of all right, interest or claim on the part of the member to state deposit accumulations and to any benefit arising under this section. Any member who has attained the age of 55 years, has ceased membership teaching, is not on authorized leave of absence from membership teaching and who is entitled to an annuity or annuities commencing immediately for which (exclusive of any annuity purchased by the accumulation from additional deposits) the aggregate single premium does not exceed \$3,000, may be paid such single premium in a single payment upon filing an application therefor in such form as the board requires. The accumulation from additional deposits shall be paid at the same time.

(g) *Reserves upon which annuities are based.* All annuities paid under this subsection shall be paid from the reserve fund. If the annuity or part thereof is based on an accumulation in the retirement deposit fund, the board shall transfer such accumulation from the retirement deposit fund to the reserve fund. If the annuity or part thereof is not based on an accumulation in the retirement deposit fund, the board shall transfer from the state accumulation fund to the reserve fund an amount sufficient to establish the necessary reserve to pay such annuity. If the benefit is paid in a lump sum such payment may be made directly from the retirement deposit fund if based on an accumulation in said fund, from the reserve fund if based on a reserve in said fund, and otherwise from the state accumulation fund. The board may make such transfers between funds as may be necessary to carry out the purposes of this section.

(h) *Variable annuities.* Except as provided in this subsection, the provisions of sub. (6) shall be applicable to formula group members.

1. Each member of the formula group may elect, by written notice filed with the board upon a form furnished by said board, to have 50% of his required deposits and not to exceed \$5,000 in any fiscal year of his additional deposits, paid into the retirement deposit fund of the variable annuity division. With respect to members who so elect or who made such an election prior to becoming members of the formula group, there shall concurrently be paid into the state accumulation fund of the variable annuity division an amount equal to the amount of each required deposit paid into the retirement deposit fund of the variable annuity division after June 30, 1966.

2. The retirement deposit fund after June 30, 1966, shall not include deposits or payments made by the state for formula group members. On July 1, 1966, there shall be established for the purpose of providing variable annuity benefits for members of the formula group the state accumulation fund of the variable annuity division in the amount equal to the aggregate amount of the accumulations from required deposits of all such members in the variable annuity division. Earnings and capital gains shall be credited to the state accumulation fund of the variable annuity division at the same time and in the same amounts as such earnings and capital gains are credited to individual accounts in the retirement deposit fund of the variable annuity division with respect to accumulations of required deposits which are subject to this subsection.

3. The excess of the total annuity payable under this subsection over the initial amount of variable annuity payable, when both are computed in the normal form, will be paid as a fixed annuity.

(7b) ELECTION OF FORMULA GROUP BENEFITS BY MEMBERS OF SEPARATE GROUP.

(a) Any separate group member who is eligible to elect to participate in the formula group as provided in sub. (7), and who so elects, shall be subject to all laws and regulations applicable to the formula group, but he shall not be required to become subject to social security coverage. Each such separate group member shall also be subject to the following:

1. For purposes of determining the amount of member deposits and state contributions, and for purposes of determining the amount of any benefit, with respect to

each such member, it shall be assumed that the member is and was subject to s. 66.99, and that the social security benefit expectancy of such member is the same as that of a combined group member with the same salary and service experience, and the same age, whose social security coverage was effective January 1, 1955.

2. An election by a separate group member to become a member of the formula group shall constitute a modification of his contract of employment.

3. No such member shall be denied a disability annuity under sub. (7a) by reason of the lack of an initial determination of disability under sub. (7a) (c) 3 if the member's ineligibility by reason of insufficient coverage for OASI disability benefits prevents the issuance of such a determination. The reduction required by sub. (7a) (c) 2. b shall be effective as to each separate group member who elects to become a formula group member, on the basis established in subd. 1.

4. Each such member may elect to participate in the variable annuity division to the same extent and under the same procedures as other formula group members.

5. The initial amount of retirement annuity of each separate group member who elects to become a member of the formula group, and who on or after September 9, 1965 becomes subject to s. 66.99, shall be the amount determined pursuant to sub. (7a) (b) reduced by the annuity in the normal form which could be purchased by:

a. If determined pursuant to sub. (7a) (b) 2, the total amount transferred to pay retroactive social security taxes with respect to such member; or,

b. If determined pursuant to sub. (7a) (b) 3, one-half of the amount so transferred;

or,

c. If determined pursuant to sub. (7a) (b) 4, one-half of the amount so transferred, but excluding any amount by which the accumulation specified in sub. (7a) (b) 4. b. was reduced by reason of such transfer.

(8) BOARD OF TRUSTEES; MEMBERS. (a) *Board, how constituted.* The president of the managing body of the schools, 2 female teachers, not more than one of whom shall be a principal or vice principal, 2 male teachers, not more than one of whom shall be a principal or vice principal, and 4 members of the managing body of the schools in cities of the first class, are hereby constituted a board of trustees to be known as the "Public School Teachers' Annuity and Retirement Fund Trustees." The trustees shall serve without pay, but the member who shall have been elected secretary of such board of trustees may receive such compensation for clerical duties performed in connection with the annuity and retirement fund, as said board shall determine. Said board is empowered to employ counsel, and all persons needed to perform actuarial, accounting, and clerical work necessary to the proper performance of the duties of such board, and also any physician or physicians, surgeon or surgeons, whose services may be necessary to advise said board concerning the condition of any person who applies for pension or annuity to said board of trustees. Whenever any trustee shall cease to be a member of the managing body, or a teacher in the public school, he shall cease to be such trustee.

(b) *Application, membership.* All teachers employed in the public schools of such cities at the time of the organization of said board desiring to come under the provisions of this section, shall file a written application therefor and consent thereto with the superintendent of schools, or with the clerk or secretary of the managing body of such schools, together with written authority to the managing body to deduct from each monthly salary due the applicant, the sum or sums hereinafter provided, and to pay the same regularly into the city treasury as part of said annuity and retirement fund as herein provided.

(c) *Implied consent.* Any person accepting an appointment as teacher, as defined in s. 38.24 (19), in the regular service of such city, after this section takes effect, and serving thereunder, shall, as a part of the consideration for his employment, be conclusively presumed to have consented to the provisions of this section, but any person who shall have attained the age of 50 years before entering the service of such city as any such teacher and who shall enter such service as any such teacher after this section takes effect in any such city, shall have the option to elect whether he desires to avail himself of the rights and benefits conferred and to assume the limitations and assessments imposed by this section, and such person shall file written notice of such election with the superintendent of schools, or with the secretary-business manager of the board, within 6 months from the date of such person's appointment as teacher.

(d) *Meeting; organization.* When 25 or more teachers in such school have consented, a meeting of all such teachers may be called by 5 or more who shall designate the time and place of holding such meeting, and publish notice thereof in such city as a class 2 notice, under ch. 985. Such teachers shall, at such meeting, elect by ballot one female teacher, who shall hold office as trustee aforesaid for a term of one year, one female teacher, who shall hold office as trustee for a term of 2 years, one male teacher who shall hold office as trustee for a term of one year, and one male teacher who shall

hold office for a term of 2 years; and a majority of all the votes cast shall be necessary in each case for an election. Annually, thereafter, at a meeting duly called by the board of trustees on the last Saturday of September, one female and one male teacher shall be elected in the same manner for a term of 2 years.

(e) *Terms.* At the next meeting of the managing body of the schools, after the election of such trustees, such body shall elect 2 of its numbers members of the said board of trustees, for a term of one year, and 2 for a term of 2 years, and annually thereafter at its first regular meeting held after the last Saturday of September, such body shall elect 2 of its numbers to be members of said board of trustees for a term of 2 years. The trustees shall hold office until their successors are elected and qualified.

(f) *Quorum.* A majority of said board of trustees shall constitute a quorum for the transaction of business. Such board shall, within 30 days after the election of trustees, meet and organize, by the election from its members, of a president, vice president and secretary, and may adopt rules of order not inconsistent with this section.

(g) *Insurance premiums.* The board may deduct group life, medical and hospitalization insurance premiums from allowances paid to retired members with the written consent of such member. The consent shall be in such form as is determined by the board and when executed shall be binding upon such retired member.

(9) **POWERS.** (a) 1. The board of trustees shall administer the annuity and retirement fund, and beginning January 1, 1958, the state of Wisconsin investment board shall have control of the investment and collection of the principal and interest of the annuity and retirement fund, investing the funds thereof in accordance with s. 25.17.

2. The board of trustees and the treasurer of the annuity and retirement fund are authorized and directed to take all actions necessary to transfer the custody of the assets of such fund to the state treasurer as of January 1, 1958. In transferring the moneys of such fund the city treasurer shall retain in the administrative account established under sub. (1) (d) the amount estimated by the board of trustees to be necessary for the payment of administrative expenses until September 1, 1958; and shall retain in the annuity account established under sub. (1) (e) the amount certified by the board of trustees to be necessary to pay on January 1, 1958, the annuities payable for the month of December, 1957.

3. Said board of trustees shall have the power to require each teacher employed in the public schools of such city to file a statement or statements in such form as such board shall direct, concerning all service rendered by such teacher, and such other information which said board shall need in the performance of its duties. The board of trustees shall receive and consider all applications for annuity under this section, shall determine the amount thereof, if not otherwise provided, and direct payment of the annuities.

(b) For the purpose of administering this section the board of trustees or any member thereof shall have power to administer oaths, to secure by subpoena, issued in the name of the board of trustees and signed by a member thereof, the attendance of witnesses and the production of books, papers and records relevant to any matter pending before the board of trustees, and to compel witnesses to answer material and relevant questions put concerning any such pending matter. Such subpoena shall be served in the manner prescribed by law for the service of a circuit court subpoena, and shall be in such form as will advise the witness of the nature of the proceedings in which he is to testify, and the place and time where and when his testimony is to be given. Each witness so subpoenaed shall receive for his attendance the fees and mileage provided for witnesses in civil cases in circuit courts. When a subpoena is issued on the initiative of the board of trustees, or a member thereof such witness fee and mileage shall be paid by the board of trustees and charged to the administration of the annuity and retirement fund. In case of failure of any person to obey the commands of any subpoena lawfully issued or the refusal of any witness to testify before the board of trustees to any matter concerning which he may be lawfully questioned, it shall be the duty of the circuit court, or any judge thereof, in the county where such board of trustees is located, on application by the board of trustees or any member thereof, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.

(c) The board of trustees shall have power and authority to deduct from the compensation of each full-time employe of such board who is or becomes a member of the employes' retirement system provided for in chapter 396, laws of 1937, and from every monthly payment of any such employe's compensation after chapter 396, laws of 1937, shall have become or becomes effective in any such city, the amounts certified to such board of trustees by the annuity and pension board mentioned in chapter 396, laws of 1937. Out of the funds administered by it the board of trustees shall have power and authority to make public contributions to such employes' retirement system for the benefit of such

board's employe members of such employes' retirement system in the amounts certified to such board of trustees by the annuity and pension board mentioned in chapter 396, laws of 1937. All such deductions and contributions made by such board of trustees shall be paid into such employes' retirement system for the purposes mentioned in chapter 396, laws of 1937. All acts of such board of trustees and its members, officers, agents and employes in making any such deductions, contributions and payments prior to March 31, 1939, in any such city are ratified and confirmed.

(d) *Extension of OASI coverage.* 1. The board and treasurer are authorized and directed to take such actions as may be necessary to complete the inclusion of the members of the combined group of the retirement fund under federal old-age and survivors insurance as provided in sub. (3), as of January 1, 1955. The board is authorized to employ such additional personnel as may be necessary for such purposes.

2. Said board shall certify to the treasurer the amounts to be transferred from the retirement fund to the public employes social security fund to provide for the contributions which will thereby become payable to the federal old-age and survivors insurance system as employer and employe contributions for such employes as the result of making such coverage effective as of January 1, 1955, and said board is also authorized and directed to deduct such amounts from the general fund of the retirement fund. Upon such certification by the board the treasurer shall pay such amounts to the public employes social security fund.

3. If the payment of the contributions under subd. 2 is not made to the federal old-age and survivors insurance system before any interest or penalty accrues thereon under federal regulations as defined in s. 66.99 (1) (b), the board is authorized to pay such interest or penalty and charge the same to the interest income of the retirement fund.

(e) *Annuity rates.* The board shall make such investigations of the mortality, disability, service and compensation experience of the several funds as shall be necessary. On the basis of such investigation the board shall determine, adopt and certify the rates at which the annuities and other benefits shall be granted. The rates shall be adequate to provide for all benefits as near as may be at actual cost but shall not be less than the rates based on the minimum standard prescribed by law for granting annuities in this state. No revision of rates shall affect adversely the rights of any beneficiary or annuitant under an application made prior to the date when such revision becomes effective.

(f) Beginning with the 1967 fiscal year the board shall furnish once each year to each member currently making deposits, a statement of his account together with appropriate explanatory material and shall furnish such statement and explanatory material to any other member upon request.

(10) **TREASURER AND ATTORNEY.** (a) The state treasurer shall be the custodian of said annuity and retirement fund, and shall make such payments therefrom as may be directed by the state of Wisconsin investment board under s. 25.17, or otherwise required by law, including the payment to reimburse the state general fund under s. 20.480 for the services of the state of Wisconsin investment board.

(b) The city treasurer shall be the treasurer of the administrative and annuity accounts of the annuity and retirement fund, and shall make such payments therefrom as are directed by the board of trustees under this section; he shall keep the records concerning such accounts, in such manner as may be prescribed by said board of trustees, which records shall always be subject to the inspection of the board of trustees, or any member thereof, and any contributing teacher. He shall furnish to said board of trustees a bond in such amount as the said board may designate, which bond shall indemnify the said board of trustees against any loss which may result from any action or failure to act on the part of such city treasurer or any of his agents. All fees and charges incidental to the procuring and giving of such bond shall be paid by said board of trustees.

(c) The city attorney of such city shall act as the legal advisor of and attorney for the board in all matters referred to him by the board, except as the board may otherwise direct.

(11) **COLLECTION OF FUND.** (a) Except as otherwise provided in par. (b), beginning with the monthly payment of teachers' salaries in November, after the first meeting of the board of trustees the managing body of such schools shall reserve from the salary of each teacher who has come under the provisions of this section, and from every monthly payment thereafter, the sum of \$2 for the first 10 years of service, the sum of \$3 for the next 5 years of service, and thereafter the sum of \$4, and shall pay the sum so reserved into the annuity and retirement fund. Any teacher in the service at the time par. (b) takes effect in any such city, and from whose salary reservations or deductions are made in accordance with the provisions of this paragraph, may, on or before the first day of November in the year following the year in which par. (b) takes effect in any such city, elect in writing to have the managing body of such schools reserve from the salary of such

teacher the amounts provided for in par. (b), and whenever such election is made by any such teacher, the granting of an annuity to such teacher under this section shall be governed by and contingent upon the provisions of sub. (14) (b). Whenever any such teacher shall make such election, any refunds to any such teacher under the provisions of this section shall be governed by sub. (16) (b). Except as provided in sub. (41), every teacher employed in the public schools of any such city at the time this section shall have become operative in any such city, and who shall not have come under its provisions on or before the first day of November, 1917 (in the case of public school teachers of any such city in which a public school teachers' annuity and retirement fund shall have been heretofore established), or, on or before the expiration of 2 years after this section shall have become operative in such city (in the case of public school teachers of any such city in which this section may hereafter become operative), shall be forever barred from coming under the provisions of this section.

(b) Beginning with the first monthly payment of teachers' salaries after the first day of September in the year in which this paragraph takes effect in any such city, the managing body of such schools shall reserve from the salary of each teacher who enters the teaching service after this paragraph takes effect in any such city, and from the salary of each teacher who has come under the provisions of this paragraph after this paragraph takes effect in any such city, and from every monthly payment thereafter, the sum of four dollars for the first ten years of service, the sum of six dollars for the next five years of service, and thereafter the sum of eight dollars, and shall pay the sum so reserved into the annuity and retirement fund. After written election, as provided by paragraph (a) of this subsection, by any teacher to have reservations from such teacher's salary made in accordance with the provisions of this paragraph, beginning with the first monthly payment of any such teacher's salary after such election, the managing body of such schools shall reserve from the salary of each such teacher, and from every monthly payment thereafter, the sum of four dollars for the first ten years of service, the sum of six dollars for the next five years of service, and thereafter the sum of eight dollars, and shall pay the sum so reserved into the annuity and retirement fund. The granting of an annuity to any teacher from whose salary reservations are made in accordance with the provisions of this paragraph, shall be governed by and contingent upon the provisions of paragraph (b) of subsection (14) of this section, and the payment of any refunds to any such teacher, under the provisions of this section, shall be governed by the provisions of paragraph (b) of subsection (16) of this section.

(c) Beginning with the first monthly payment of teachers' salaries after September 1, 1945, in any such city, the managing body of such schools shall reserve from the salary of each teacher who enters teaching service, and from the salary of each teacher who elects to come under the provisions of this paragraph, and from every monthly payment thereafter, the sum of \$7 for the first 10 years of service, the sum of \$11 for the next 5 years of service, and thereafter the sum of \$15 but such reservations shall be limited to 10 in any school year, and shall pay the sums so reserved into the annuity and retirement fund. Any teacher from whose salary reservations or deductions have been made under the provisions of section 925-xx or of paragraph (a) or (b) may elect in such manner as the board of trustees may prescribe to have reservations made from salary under the provisions of this paragraph and become entitled to benefits as provided herein. Any teacher who does not elect to come under the provisions of this paragraph within one year from June 1, 1949, shall be forever barred from coming under the provisions of this paragraph, except that any teacher on leave on June 1, 1949, may elect to come under its provisions within one year after returning to teaching service upon termination of such leave. Any teacher making such election after June 1, 1949, shall within one year after making such election pay into the annuity and retirement fund the difference between the amount of salary reservations provided under this paragraph and the salary reservations actually made during the period from September 1, 1946, to the date of such election with interest at 3 per centum per annum in order that such election may become effective. Annuities payable to teachers coming under the provisions of this paragraph shall be determined as provided in subsection (12) (m), subject to the provisions of subsection (14) (c), and payment of refunds shall be governed by the provisions of subsection (16) (b).

(d) Beginning with the first monthly payment of teachers' salaries after September 1, 1951, the managing body of such schools in any such city shall reserve from the salary of each teacher who enters teaching service, and, beginning with the first monthly payment after such election, from the salary of each teacher who elects to come under the provisions of this paragraph, and from every monthly payment thereafter, the sum of \$12 for the first 10 years of service, and thereafter the sum of \$20, but such reservations shall be limited to 10 in any school year, and shall pay the sums so reserved into the

annuity and retirement fund. Any teacher from whose salary reservations or deductions have been made under the provisions of s. 925-xx or of par. (a), (b) or (c) may elect in such manner as the board of trustees may prescribe to have reservations made from salary under the provisions of this paragraph and become entitled to benefits as provided herein, except that any teacher from whose salary reservations or deductions are being made under the provisions of s. 925-xx or of par. (a) or (b) shall within one year after making such election pay into the annuity and retirement fund the difference between the amount of salary reservations provided under par. (c) and the salary reservations actually made during the period from September 1, 1946, to the date of such election with interest at 3 per cent per annum, in order that such election may become effective. Any teacher who does not elect to come under the provisions of this paragraph within one year from June 30, 1951, shall be forever barred from coming under the provisions of this paragraph, except that any teacher on leave on said date of this paragraph may elect to come under its provisions within one year after returning to teaching service upon termination of such leave. Annuities payable to teachers coming under the provisions of this paragraph shall be determined as provided in sub. (12) (p), subject to the provisions of sub. (14) (e), and payment of refunds shall be governed by the provisions of sub. (16) (b).

(e) Beginning with the first monthly payment of teachers' salaries after September 1, 1953, the managing body of such schools in any such city shall reserve from the salary of each teacher who enters teaching service, and, beginning with the first monthly payment after such election, from the salary of each teacher who elects to come under the provisions of this paragraph, and from every monthly payment thereafter, the sum of \$17 for the first 10 years of service, and thereafter the sum of \$26, but such reservations shall be limited to 10 in any school year, and shall pay the sums so reserved into the annuity and retirement fund. Any teacher from whose salary reservations or deductions have been made under the provisions of s. 925-xx or of par. (a), (b), (c) or (d), may elect in such manner as the board of trustees may prescribe to have reservations made from salary under the provisions of this paragraph and become entitled to benefits as provided herein. Any teacher who does not elect to come under the provisions of this paragraph within one year from June 4, 1953 shall be forever barred from coming under the provisions of this paragraph, except that any teacher on leave on said date may elect to come under its provisions within one year after returning to teaching service upon termination of such leave. Annuities payable to teachers coming under the provisions of this paragraph shall be determined as provided in sub. (12) (q), subject to the provisions of sub. (14) (f), and payment of refunds shall be governed by the provisions of sub. (16) (b).

(f) *Deposits for members of combined group.* 1. Beginning with the first monthly payment of teachers' salaries after August 31, 1958, the managing body of such schools in any such city shall reserve from the salary of each teacher who is a member of the combined group an amount equal to $4\frac{1}{2}$ per cent of all compensation received for teaching service performed by such teacher.

2. Any such member, or any person on behalf of any such member, may make additional deposits.

3. A state deposit on behalf of each such teacher shall be made in an amount equal to the member's deposit reserved under subd. 1. State deposits shall be credited as of June 30 of the fiscal year for which such member's deposits were made, except that whenever, prior to the end of the fiscal year, a member's deposit accumulation is to be paid out in a single sum as a death benefit pursuant to sub. (4) (h), or transferred pursuant to sub. (4) (fr), immediately before such withdrawal or transfer the account of the member shall be credited with the same state deposit which it would have received on the following June 30. All amounts credited as state deposits shall be charged to the sums transferred to the retirement fund under s. 20.548 (1) (a).

4. All amounts reserved from the salaries of such members, or deposited by or on behalf of such members, shall be held for the benefit of the individual teacher in the retirement deposit fund for the purpose of providing an annuity or other benefit as provided in this section.

(11) (g) *Deposits for members of the formula group.* 1. Beginning with the first monthly payment of teachers' salaries after June 30, 1966, the managing body of such schools in any such city shall reserve from the salary of each teacher who is a member of the formula group an amount equal to $4\frac{1}{2}$ % of all compensation received for teaching service performed by such teacher which is subject to contributions under s. 66.99, plus 7% of such compensation in excess of the amount subject to such contributions, but no reservation shall be required with respect to compensation for teaching service subsequent to the June 30 following or coincident with the 70th birthday of any teacher.

2. Any such member, or any person on behalf of any such member, may make additional deposits.

3. All amounts reserved from the salaries of such members, or deposited by them, shall be held for the benefit of the individual teacher in the retirement deposit fund for the purpose of providing an annuity or other benefit under this section.

4. State contributions with respect to members of the formula group shall be made as provided in sub. (20) (f).

(12) PAYMENT OF ANNUITIES. (a) All applications or claims for annuity or for refund of contributions, and proofs in support of any such claim, shall be made to the board of trustees in such manner and form as the board of trustees may prescribe or deem sufficient, and the board of trustees may make reasonable rules and regulations for making, hearing and determining claims and for carrying into effect the provisions of this section. The city treasurer, upon order or warrant of the board of trustees, shall pay out of the annuity account of said annuity and retirement fund, in monthly payments, to each retired teacher an annuity in such sum as such retired teacher is entitled to as determined by said board of trustees, in accordance with this section.

(b) A teacher who has taught twenty-five years in public schools, at least fifteen of which must have been served in the public schools of a city to which this section applies, upon filing with the board of trustees proper application, sufficient proofs of teaching service, the date of retirement therefrom, compliance with the provisions of this section with respect to required contributions, and a certificate of incapacity for teaching service sworn to by his attending physician and by a physician employed by the board of trustees, and upon determination by the board of trustees that such teacher presumably is incapacitated permanently for teaching service, shall be paid an annuity of six hundred dollars.

(c) For every additional year of service over 25, a teacher, entitled to an annuity under the provisions of this section, shall be paid an additional sum of \$40 a year; but every such additional year of service shall have been rendered in the public schools in such city of the first class, and in no case shall any pension or annuity exceed the sum of \$1,200 a year, provided, that said additional sum of \$40 a year and said maximum sum of \$1,200 a year shall be applicable only to teachers who retired from service on June 23, 1931 and thereafter, or who shall hereafter retire from service, and in respect to whom monthly salary reservations have been made in the amounts as provided in section 38.24 (11) (a) or (b).

(d) A teacher who has taught 5 years or more in the public schools in any such city, and who has become incapacitated for teaching service and has paid the amount of 5 years' contribution or more, upon filing with the board of trustees proper application, sufficient proofs of teaching service, temporary cessation from active teaching service for 6 months preceding application, compliance with the provisions of this section with respect to required contributions, and a certificate of such incapacity sworn to by his attending physician and by a physician employed by the board of trustees, and upon determination by the board of trustees that such teacher presumably is incapacitated temporarily for teaching service, may be allowed and paid, 6 months after he has ceased, temporarily, active teaching service, and for the duration of such incapacity, a proportionate annuity, the amount of which, to be determined by the board of trustees, shall be, as nearly as practicable as many twenty-fifths of \$600 as the years of teaching service of such teacher in the public schools in said city are a part of 25, and such annuity shall cease when the incapacity ceases. Should such incapacity become permanent and should such teacher retire from the teaching service of such city, the board of trustees, upon its determination that such teacher has retired and presumably is incapacitated permanently for teaching service, may allow and cause to be paid to such teacher a proportionate annuity, which shall be, as nearly as practicable, as many twenty-fifths of \$600 as the years of teaching service of such teacher in the public schools in said city are a part of 25.

(e) A teacher who has taught fifteen or more years and less than twenty-five years in public schools, at least fifteen of which must have been served in the public schools of a city to which this section applies, and who shall have attained the age of sixty-five years, having paid the full amount of contribution for each year of such teaching service in public schools, upon filing with the board of trustees proper application, sufficient proofs of age, teaching service, the date of retirement therefrom, and compliance with the provisions of this section with respect to contributions, shall be allowed and paid a proportionate annuity which shall be, as nearly as practicable, as many twenty-fifths of six hundred dollars, as the years of teaching service of such teacher in public schools are a part of twenty-five.

(f) Upon certification by the superintendent of schools, if any, and the managing body of such schools, by its proper officers, to the board of trustees that a teacher who has come under the provisions of this section presumably is mentally or physically incapacitated permanently for teaching service, and has been retired from teaching service because of

such incapacity, and upon filing with the board of trustees by such school officers sufficient proofs in support of such teacher's incapacity, length of teaching service, and compliance with the provisions of this section with respect to contributions, the board of trustees shall allow and cause to be paid to such teacher an annuity the amount of which shall be, as nearly as practicable, as many twenty-fifths of six hundred dollars as the years of teaching service of such teacher are a part of twenty-five.

(g) On the application of any teacher coming under the provisions of this section, and having complied therewith, said board of trustees shall retire such teacher provided he has been engaged in the work of teaching in public schools for a period aggregating thirty-five years, twenty of which shall have been in the public schools of such city and such teacher shall be entitled to receive and be paid the annuity provided for in paragraphs (b) and (c) of this subsection.

(h) On the application of any teacher coming under the provisions of this section who has complied therewith and is sixty-five years of age, said board of trustees shall retire such teacher provided he has been engaged in the work of teaching for a period aggregating twenty-five years in public schools, fifteen years of which shall have been in the public schools in the said city, and such teacher shall be entitled to receive and be paid the annuity provided for in paragraphs (b) and (c) of this subsection.

(i) In determining the teaching service record and the amount of annuity payable under this section to an applicant who, at the time of applying for an annuity under this section, is entitled to any benefit, absolute, contingent or otherwise, under the provisions of sections 42.20 to 42.54, or under the provisions of any teachers' annuity and retirement plan of any other state, territory, nation, province, or governmental subdivision thereof, no credit shall be allowed or given by the board of trustees to such applicant for teaching service performed outside of a city to which this section applies for which outside teaching service such applicant is entitled to any benefit, absolute, contingent or otherwise, under the provisions of any other teachers' annuity and retirement plan as hereinbefore specified. The provisions of this paragraph shall not affect any rights acquired under this section prior to the taking effect of this paragraph in any such city.

(j) Computation and payment of annuities granted under the provisions of paragraphs (d) and (f) of this subsection shall be made on the proportionate basis therein provided for teaching service of less than twenty-five years only. For teaching service of twenty-five years or more, computation and payment of annuities granted under the provisions of said paragraphs (d) and (f) shall be made as provided in paragraphs (b) and (c) of this subsection.

(k) Any teacher, as defined in section 38.24 (19), heretofore or hereafter coming under the provisions of this section who has attained or shall attain the age of 70 years shall be retired by the board at the end of the school year in which the said teacher has reached the age of 70, and the school year under this section shall be deemed to begin on July 1 in any year and end on June 30 of the following year. When so retired under the provisions of this paragraph, a teacher who has taught 15 or more years in public schools, at least 15 of which must have been served in the public schools of a city to which this section applies, and who has paid the full amount of contributions for each year of such teaching service in public schools, upon filing with the board of trustees proper application, sufficient proofs of age, teaching service, the date of retirement therefrom, and compliance with the provisions of this section with respect to the contributions, shall be allowed and paid an annuity computed on the proportionate basis provided in paragraph (e) of this subsection for teaching service of less than 25 years and on the basis provided in paragraphs (b) and (c) of this subsection for teaching service of 25 years or more.

(l) In determining the teaching service record and computing the amount of annuity payable under this section the board of trustees shall credit each applicant for annuity with time absent on leave from teaching duty while serving in the military or naval forces of the United States, or in any auxiliary branch thereof, or in the merchant marine, or in overseas service of the American Red Cross or in the overseas service of any United Service Organization, during any war, or during a period officially proclaimed to be a national emergency or limited national emergency or under P.L. 87-117; and said board of trustees shall credit each applicant for annuity, serving as aforesaid, with a sum equivalent to the total amount which would have been reserved from and after September 16, 1940, from the salary of such applicant for payment into the annuity and retirement fund if such applicant's teaching duties had not been interrupted by such service, upon proof of such service being furnished to the board.

(m) Any teacher from whose salary reservations have been made in accordance with the provisions of subsection (11) (c) shall become eligible for an annuity under the following conditions: (1) Upon certification for total and permanent disability as provided in paragraph (f); or (2) upon certification for temporary disability after 5

years or more of teaching service in the public schools of a city to which this section applies, as provided in paragraph (d); or (3) after 10 or more years of teaching service in a city to which this section applies, having ceased to render teaching service in the public schools of a city to which this section applies and having attained the age of 55 years and upon compliance with the provisions of subsection (14) (e) and if no refund of contributions has been paid to such teacher as provided in subsection (16) (b). The annuity payable shall be determined as follows: Where the period of service is less than 25 years the annuity shall be as many twenty-fifths of \$800 as the years of teaching service are part of 25, and for the period of service of 25 years or more the annuity shall be \$800 for the first 25 years of service, increased by \$85 for each additional year of service, but shall not exceed \$1,650 in any event.

(n) Any teacher who is a member of the annuity and retirement fund may elect in writing to authorize the managing body of the schools to reserve from the salary of such teacher beginning with the first monthly payment of teachers' salaries after such election and from every monthly payment thereafter the sum of \$1, but such reservations shall be limited to 10 in any school year, and to pay the sums so reserved into the annuity and retirement fund. Any teacher who does not make such election within one year after becoming a member of the annuity and retirement fund shall be forever barred from coming under this paragraph. Upon the death of any teacher who has elected to come under this paragraph before retirement or withdrawal from teaching service, his designated beneficiary, or in the absence of such designation, his executors or administrators shall be entitled to a death benefit of \$1,500 in addition to the refund of contributions as provided in sub. (16), upon application therefor and upon proof of the death of said teacher and establishment of claim to the satisfaction of the board of trustees. If any teacher who has elected to come under this paragraph is on leave of absence, such teacher shall pay into the fund the amounts required under this paragraph in lieu of the salary reservations herein authorized within 30 days of the due date of each payment and if such payments are not made the right to a death benefit under this paragraph shall terminate. Upon the retirement of any teacher who has elected to come under this paragraph, such teacher may elect to continue the benefit under this paragraph for a period of one year from the date of retirement upon payment to the fund at the date of such election the single sum of \$10.

(o) Any teacher who is entitled to any annuity under this section may elect that in lieu of the annuity payable for the life of the annuitant as herein provided, the annuity shall be paid as follows: (1) An annuity payable monthly to the annuitant during life, with a guarantee of at least 180 monthly payments, and in the event of the death of the annuitant before 180 monthly payments have been made, the remainder of the monthly payments shall be continued to the beneficiary designated by the annuitant, and, in the event of the death of said beneficiary before 180 monthly payments have been made, the remainder of the 180 monthly payments shall be continued to a beneficiary designated by the primary beneficiary; in the absence of such designation by the primary beneficiary, or in the event of the prior death of the person so designated by the primary beneficiary, the then present value of the remainder of the monthly payments shall be paid in a single sum to the estate of the primary beneficiary; in the event of the death of the secondary beneficiary after becoming entitled to receive monthly payments but before all such payments have been received, the then present value of the remaining payments shall be paid in a single sum to the estate of the secondary beneficiary; in the event of the death of the annuitant before 180 monthly payments have been made with no beneficiary surviving the annuitant, the then present value of the remaining payments shall be paid in a single sum to the estate of the annuitant; or (2) an annuity payable monthly to the annuitant during life and after the death of the annuitant monthly payments of, (a) the amount paid to the annuitant, or (b) of one-half the amount paid to the annuitant, to be continued during life to the beneficiary designated by the annuitant in the original application for the annuity. Any such optional annuity shall be the actuarial equivalent of the life annuity herein provided. Any form of annuity entered upon by the annuitant cannot thereafter be changed.

(p) Any teacher from whose salary reservations have been made in accordance with the provisions of subsection (11) (d) shall become eligible for an annuity under the following conditions: (1) Upon certification for total and permanent disability as provided in paragraph (f); or (2) upon certification for temporary disability after 5 years or more of teaching service in the public schools of a city to which this section applies, as provided in paragraph (d); or (3) after 10 or more years of service in a city to which this section applies, having ceased to render teaching service in the public schools of a city to which this section applies and having attained the age of 55 years and upon compliance with the provisions of subsection (14) (e) and if no refund of contributions has

been paid to such teacher as provided in subsection (16) (b). The annuity payable shall be determined as follows: Where the period of service is less than 10 years, the annuity shall be as many tenths of \$450 as the years of teaching service are a part of 10, and for the periods of service of 10 years or more the annuity shall be \$450 for the first 10 years of service, increased by \$66 for each additional year of service, but shall not exceed \$2100 in any event.

(q) Any teacher from whose salary reservations have been made in accordance with the provisions of sub. (11) (e) shall become eligible for an annuity under the following conditions: 1. Upon certification for total and permanent disability as provided in par. (f); or 2. upon certification for temporary disability after 5 years or more of teaching service in the public schools of a city to which this section applies, as provided in par. (d); or 3. after 10 or more years of service in a city to which this section applies, having ceased to render teaching service in the public schools of a city to which this section applies and having attained the age of 55 years and upon compliance with the provisions of sub. (14) (f) and if no refund of contributions has been paid to such teacher as provided in sub. (16) (b). The annuity payable shall be determined as follows: Where the period of service is less than 10 years, the annuity shall be as many tenths of \$600 as the years of teaching service are a part of 10, and for the periods of service of 10 years or more the annuity shall be \$600 for the first 10 years of service, increased by \$84 for each additional year of service, but shall not exceed \$2,700 in any event.

(s) Except for pars. (a), (n) and (o), this subsection shall not apply to members of the combined group established under sub. (3).

(12a) SUPPLEMENTAL BENEFIT. (a) Any member of a teachers annuity and retirement fund created pursuant to this section who, having completed not less than 20 years of teaching in the public schools of a city of the 1st class prior to June 1, 1965, and having attained the age of 60 years (whether before or after the date of termination of such teaching service or November 7, 1965), is not eligible for a retirement annuity computed pursuant to sub. (7a), shall be eligible to receive monthly a supplemental benefit, subject to a continuation of the appropriation made by s. 20.548 (1) (e), determined as follows:

1. \$5 for each year of teaching in the public schools of a city of the 1st class while a member of such fund (but not to exceed 32 such years), reduced by the total of the following amounts:

a. The initial monthly amount of any annuity payable from such fund resulting from service as a teacher (other than any annuity provided by voluntary additional deposits), adjusted for purposes of this subsection to the initial amount of any such annuity which would have been payable on a straight life annuity basis.

b. The monthly amount of any other benefit payable from such fund resulting from service as a teacher, adjusted as provided in subd. 1. a.

c. The monthly amount of any payment made pursuant to s. 39.35.

d. The monthly amount of any OASI primary or disability insurance benefit payable to the member as of January 1, 1966, or, if later, as of the first day of the month for which the member would, upon application therefor, be entitled to such OASI benefit. For purposes of this subsection, OASI primary or disability insurance benefits shall be deemed to have been paid for every month for which the member was eligible for such a benefit, notwithstanding the fact that payment of such benefit was not made due to lack of application therefor or for any other reason.

(b) The age and service requirements specified in par. (a) shall not apply with respect to any member who is otherwise eligible for a supplemental benefit hereunder who is receiving a disability annuity pursuant to sub. (4) (f) 2. The service requirement specified in par. (a) shall not apply with respect to any member who is otherwise eligible for a supplemental benefit hereunder who is receiving a disability annuity under any provision of this section.

(c) Any supplemental benefit payable by virtue of the operation of this subsection shall not in any way augment, reduce or affect the death benefit otherwise payable to a beneficiary of any member.

(d) Any supplemental benefit payable by virtue of the operation of this subsection shall be paid from the general purpose revenues of the state, from the appropriation made by s. 20.548 (1) (e), but no such supplemental benefit shall be paid for any month prior to January 1966.

(e) Determinations of eligibility and the amount of any payment to be made pursuant to this subsection shall be made by the board, and shall be certified by the board for payment as specified in sub. (1) (e).

(13) UNIFORMITY. All annuities granted by the board of trustees under this section shall be uniform in amount except as otherwise provided herein. Annuities under sub.

(12) (a) to (q) shall be computed from the first day of the month next following the date of retirement of the annuitant from teaching service in such city, except that the temporary incapacity annuity provided for in sub. (12) shall be computed from a date 6 months after such annuitant temporarily has ceased active teaching service. No annuity, except the temporary incapacity annuity provided for in sub. (12) and the disability annuity under sub. (4) (f) or (fg), shall be paid to any person until such person has retired from teaching service in the public schools to which this section applies. No teacher is deemed to have retired from teaching service until such teacher has resigned from his position, or the board of school directors of such city has legally caused such teacher's name to be stricken from the official list of teachers; except that a teacher is deemed to have retired from teaching service if he has received a disability annuity under sub. (4) (f) or (fg) for 36 consecutive months; but the board of school directors of such city may permit the employment of a retired teacher of any age to teach as a substitute for a period of not more than 95 days in any one school year, without forfeiture of any retirement allowance.

(14) WHEN PAYABLE. (a) No annuity shall be paid to any teacher from whose salary reservations have been made in accordance with the provisions of paragraph (a) of subsection (11) of this section until such teacher shall have contributed to the annuity and retirement fund the following sums: Two hundred dollars for the first ten years of service, one hundred fifty dollars for the next five years of service, and forty dollars for each and every succeeding year of service.

(b) No annuity shall be paid to any teacher from whose salary reservations have been made in accordance with the provisions of paragraph (b) of subsection (11) of this section until such teacher shall have contributed to the annuity and retirement fund the following sums: Four hundred dollars for the first ten years of service, three hundred dollars for the next five years of service, and eighty dollars for each and every succeeding year of service.

(c) No annuity shall be paid on retirement to any teacher from whose salary reservations have been made in accordance with the provisions of subsection (11) (c) until such teacher shall have contributed to the annuity and retirement fund the sum of at least \$1,500 under said subsection (11) (c) in addition to the amounts required, if any, while under the provisions of section 925-xx, or at least \$750 under said subsection (11) (c) in addition to the amounts required, if any, while under the provisions of subsection (11) (a) or (b). Any teacher making application for retirement under subsection (12) (m) who has not contributed the sum of \$1,500 under the provisions of subsection (11) (c) in addition to the amounts required, if any, while under the provisions of section 925-xx, shall pay into the annuity and retirement fund the difference between the amounts actually contributed under subsection (11) (c) and \$1,500, which amount may be paid, at the option of the member, by deduction from the annuity payments for the first year; and any teacher making application for retirement under subsection (12) (m) who has not contributed the sum of at least \$750 under subsection (11) (c) in addition to the amounts required, if any, while under the provisions of subsection (11) (a) or (b) shall pay into the annuity and retirement fund the difference between the amounts actually contributed under subsection (11) (c) and \$750, which amount may be paid, at the option of the member, by deduction from the annuity payments for the first year.

(d) No teacher shall be required to pay into such fund under sub. (11) (a) to (e) for more than 40 years, except that such limitation shall not apply to the requirements of pars. (a), (b), (c), (e) and (f). An annuity may be applied for by a contributing teacher and may be granted or allowed by the board of trustees prior to the retirement of the applicant from teaching service, but no annuity shall be paid until all requirements of this section have been complied with by the applicant.

(e) No annuity shall be paid on retirement to any teacher from whose salary reservations have been made in accordance with the provisions of subsection (11) (d) until such teacher shall have contributed to the annuity and retirement fund at least \$1,000 under said subsection (11) (d) in addition to the amounts required, if any, while under the provisions of subsection (11) (a), (b) or (c). Any teacher making application for retirement under subsection (12) (p) who has not contributed the sum of at least \$1,000 under subsection (11) (d) in addition to the amounts required, if any, while under the provisions of subsection (11) (a), (b) or (c), shall pay into the annuity and retirement fund the difference between the amounts actually contributed under subsection (11) (d) and \$1,000 which amount may be paid, at the option of the member, by deduction from the annuity payments for the first year. The provisions of this paragraph shall not be required to qualify for a temporary disability annuity.

(f) No annuity shall be paid on retirement to any teacher from whose salary reservations have been made in accordance with the provisions of sub. (11) (e) until such teacher

shall have contributed to the annuity and retirement fund at least \$1,300 under said sub. (11) (e) in addition to the amounts required, if any, while under the provisions of sub. (11) (a) (b), (c) or (d). Any teacher making application for retirement under sub. (12) (q) who has not contributed the sum of at least \$1,300 under sub. (11) (e) in addition to the amounts required, if any, while under the provisions of sub. (11) (a), (b), (c) or (d), shall pay into the annuity and retirement fund the difference between the amounts actually contributed under sub. (11) (e) and \$1,300 which amount may be paid, at the option of the member, by deduction from the annuity payments for the first year. The provisions of this paragraph shall not be required to qualify for a temporary disability annuity.

(15) INFORMATION TO BE FURNISHED BOARD. It shall be the duty of the managing body in charge of the public schools of any such city to notify the board of trustees, in writing, on the first day of each month, of the employment or appointment of any new teacher or teachers, and of all discharges, dismissals, suspensions, and resignations from the service, and all deaths which shall have occurred in the teaching corps during the preceding month, and such written notification shall state the dates upon which any such event or events shall have occurred. The officers and heads of departments of said managing body of such schools are hereby charged with the duty of supplying to said board of trustees, without any charge or expense to said board of trustees, all information requested by said board of trustees concerning any employe under the charge of or supervision of such officers, heads of departments, or such managing body, which such information such board of trustees shall need in the performance of its duties, and all employes of such managing body are charged with the duty of promptly supplying such information for the purposes of said board of trustees.

(16) REFUND OF CONTRIBUTIONS. (a) Any contributing teacher from whose salary reservations have been made in accordance with the provisions of paragraph (a) of subsection (11) of this section who shall retire voluntarily or involuntarily from the service, not being in receipt of an annuity, shall be entitled to receive one-half of the total amount paid by him into said fund, and in case of the death of any such contributing teacher, his heirs or legatees shall be entitled to receive one-half of the total amount paid by such teacher into said fund, upon application therefor and upon proof of death of said contributing teacher, and establishment of said claim to the satisfaction of said board of trustees.

(b) Any contributing teacher from whose salary reservations shall have been made in accordance with the provisions of sub. (11) (b), (c), (d) or (e) and who shall retire voluntarily or involuntarily from the service, not being in receipt of an annuity, shall be entitled to receive the total amount paid by him into said fund under the provisions of said paragraph or paragraphs, and in case of the death of any such contributing teacher, his designated beneficiary, or in the absence of such designation, his executors or administrators shall be entitled to receive the total amount paid by such teacher into said fund as above provided, upon application therefor and upon proof of death of said contributing teacher, and establishment of said claim to the satisfaction of said board of trustees. In case of the death of an annuitant who has contributed to said fund the amounts provided for in sub. (11) (b), (c), (d) or (e) and sub. (14) (b), (c), (e) or (f) prior to the time when such annuitant shall have received as annuity, in monthly payments, an aggregate amount equal to the amount paid into said fund by said annuitant under said pars. (b), (c), (e) or (f), the designated beneficiary, or in the absence of such designation, the executors or administrators of said deceased annuitant shall be entitled to receive an amount equal to the difference between the amount paid into said fund as aforesaid by said annuitant and the amount paid to said annuitant, as annuity, during said annuitant's life, upon application therefor and upon proof of death of said annuitant and establishment of said claim to the satisfaction of said board of trustees.

(c) In the event of the death of a contributing teacher from whose salary reservations have been made in accordance with the provisions of sub. (11) (a), (b), (c) or (d) while employed in the public schools in a city to which this section applies and who has qualified by reason of age and service for an annuity under the provisions of sub. (12), the designated beneficiary of such teacher, or in the absence of such designation, the estate of such teacher shall be entitled to a death benefit in lieu of such refund, which shall be the actuarial equivalent of the life annuity to which such teacher would have been entitled if retirement had taken place on the date of death. Such death benefit shall be reduced by the amount of any award under ch. 102 to such beneficiary on account of the death of the member. Such death benefit may be paid in one sum, or in instalments for a guaranteed period or as a life income to the beneficiary as may have been elected by such teacher in writing. In the absence of such election by the teacher such election may be made by the beneficiary after the death of the teacher. Such death benefit shall be in lieu of any payment provided in par. (b).

(d) In the event of the death of a contributing teacher from whose salary reservations have been made in accordance with the provisions of sub. (11) (e) while employed in the public schools in a city to which this section applies and who has qualified by reason of years of service for an annuity under the provisions of sub. (12), the designated beneficiary or beneficiaries of such teacher, subject to the restrictions contained herein, shall be entitled to a death benefit which shall be the actuarial equivalent of the life annuity to which such teacher would have been entitled if retirement had taken place on the date of death, except that when the death of the teacher occurs at an age less than age 55, the amount of the death benefit shall be the actuarial equivalent of the life annuity to which the teacher would have been entitled for the period of service rendered if retirement had taken place at age 55. Such death benefit shall be paid as a life annuity to the designated beneficiary or beneficiaries. If more than one beneficiary is designated, the teacher may elect in writing the manner in which the death benefit shall be apportioned to the beneficiaries; in the absence of such election, the death benefit shall be apportioned in equal shares to the beneficiaries, and each beneficiary shall be entitled to the life annuity provided by his or her share. No beneficiary shall be entitled to the payment of benefits under this paragraph unless such beneficiary bears one of the following relationships to the teacher: wife, husband, child, father, mother, sister, or brother. The death benefit under this paragraph shall be in lieu of any payment provided in par. (b).

(e) This subsection shall apply in the case of any member of the combined group established under sub. (3) who dies before September 1, 1958, but not in the case of any such member who dies after August 31, 1958.

(17) EXECUTION; EXEMPT FROM. All annuities granted under the provisions of this section shall be exempt from taxation, and from execution, attachment and garnishment process, and no annuitant shall have the right to transfer or assign his annuity. The exemption from taxation contained herein shall not apply with respect to any tax on income.

(18) PROBATION PERIOD. All elections or appointments of teachers in such cities shall be on probation, and after successful probation for three years, the election or appointment shall be permanent, during efficiency or good behavior, provided that teachers having taught three years or more in cities to which this section applies shall be deemed to have served their term of probation. No teacher who has become permanently employed as herein provided by reason of three or more years of continuous service, shall be discharged, except for cause upon written charges, which shall after ten days' written notice thereof to such teacher, upon such teacher's written request, be investigated, heard and determined by the board of school directors, whose action and decision in the matter shall be final.

(19) TEACHER DEFINED. The term "teacher" in this section shall include all superintendents, principals, supervisors, welfare workers and attendance officers; all high school teacher-librarians having the qualifications of teachers as provided in the statutes and prescribed by the board of school directors, pursuant to s. 43.22 (1m) except assistant or clerk librarians; all employes defined as teachers and made eligible to membership and becoming members of the teachers' retirement fund by ss. 38.265 and 38.27; all regular instructors employed in the public schools of such cities, and instructors of instrumental music classes whose positions normally require actual performance of duty for at least 600 hours in each year; but this subsection shall not affect the election, appointment or tenure of the superintendent, assistant superintendents, special supervisors, part-time instructors of instrumental music classes or substitute teachers.

(20) MAINTENANCE OF ASSETS. The board of trustees shall at all times maintain assets in the annuity and retirement fund as follows:

(a) In the reserve fund at least equal to the present value of the prospective benefit payments under annuities which have been granted.

(b) In the retirement deposit fund equal to the liabilities for deposits and earnings and capital gains accretions.

(c) In the general fund as of June 30 of each year, at least equal to the following ratios to the present value of all future payments of benefits from the general fund, namely: the actual percentage of such assets to such present value on August 31, 1957, which percentage shall be increased by 2½% on August 31, 1957; and the actual percentage of such assets to such present value on August 31, 1958, which percentage shall be increased by 2½% on August 31, 1958, and on August 31 of each year thereafter, until and including August 31, 1960, and on June 30 thereafter, but not to exceed 100%. The board of trustees shall as of August 31, 1957 and on August 31 of each year thereafter, until and including August 31, 1960, and on each June 30 thereafter, cause a valuation to be made of the funds on such basis as they may establish to determine the amount necessary to maintain the assets of the fund as provided in this para-

graph, and shall certify the amount required to maintain the assets of the fund each year as provided in par. (e). As of July 1, 1966, the board shall transfer to the state accumulation fund 34¾% of the present value of all future payments of benefits from the general fund to members of the formula group. Thereafter the general fund shall be applied solely to provide benefits for members of the combined group and the separate group.

(d) As of July 1, 1966, the board shall establish the state accumulation fund for the benefit of members of the formula group by the transfer provided in par. (c) and by the transfer from the retirement deposit fund of the accumulations from state deposits in the accounts in the fixed annuity division and in the variable annuity division of all such members.

(e) The board shall annually, prior to July 15, estimate the amount required, if any, to be paid into the reserve fund in order to maintain assets therein as required by par. (a), the amount which must be placed in the general fund of the annuity and retirement fund in order to maintain the ratio of assets to liabilities therein required by par. (c) and the amount required to be paid into the state accumulation fund pursuant to par. (f). Thereupon said board shall certify such estimate to the department of administration which shall prepare a warrant each month for one-twelfth of said estimated amounts and upon such warrants the state treasurer shall transfer the sums specified therein to the annuity and retirement fund from funds appropriated for the purpose. When the board has determined the exact amounts which were payable by the state to the annuity and retirement fund for the reserve fund, the general fund and the state accumulation fund thereof respectively for the preceding fiscal year, a final certification thereof shall be made by said board to the department of administration and a final payment pursuant thereto shall be made to or from the annuity and retirement fund, whichever the case may be, as determined from the aforesaid final certification.

(f) For the purpose of providing benefits of members of the formula group under this section, the state shall pay each fiscal year to the annuity and retirement fund for credit to the state accumulation fund as provided by par. (e), the amount equal to the sum of the normal contribution and the accrued liability contribution for such year. The amounts of such contributions shall be determined annually by the board on the basis of such estimates of interest, mortality, salary increases and dropout rates as are applied to the system, and such other tables as the board shall approve, as follows:

1. The accrued liability shall be determined as of June 30, 1966, as the then present value of all future benefits to or for the then members of the formula group to be paid or purchased from the state accumulation fund, less the present value of a percentage of the prospective future compensation of such members, and less the amount then credited to the state accumulation fund. The percentage referred to in the preceding sentence shall be determined as the uniform percentage of the compensation of all such members which if contributed throughout the entire period of the employment of each as a teacher in membership teaching would be sufficient to provide for all benefits to be paid or purchased on their behalf from the state accumulation fund. The accrued liability contribution shall be the uniform annual amount required to liquidate the accrued liability within 40 years from July 1, 1966.

2. The normal contribution rate for any fiscal year commencing after June 30, 1965, shall be the uniform percentage of the compensation of all members of the formula group determined as of the first day of such fiscal year by deducting from the then present value of all future benefits to be paid or purchased from the state accumulation fund on behalf of the then members of the formula group, the amount then credited to said fund and the present value of future accrued liability contributions, and dividing the remainder by the present value of the prospective future compensation of all such members.

(21) TEACHERS IN ANNEXED TERRITORY. (a) Whenever territory heretofore has been or is annexed to or consolidated with any city to which this section applies, any teacher employed in any public school in such territory who shall have acquired or shall acquire the status of a regularly appointed teacher in the public schools of the city to or with which such territory shall have been or is annexed or consolidated, shall be entitled to the rights and privileges provided for in this section upon complying with the provisions of this section. As to such teachers, for the purpose of qualifying for an annuity under this section, time spent in teaching in such territory prior to the annexation or consolidation thereof shall be considered as time spent in teaching in such city, except that the provisions of paragraph (i) of subsection (12) of this section shall apply to such teachers.

(b) No teacher mentioned in paragraph (a) of this subsection shall be required to comply with the provisions of section 42.40 after the effective date of such annexation or

consolidation nor, as to such teachers, shall the provisions of sections 42.41 to 42.44 be applicable or effective after the effective date of such annexation or consolidation.

(23) WITHDRAWALS FROM STATE TEACHERS RETIREMENT SYSTEM. (a) When a member of the state teachers retirement system ceases to be employed in a school or school system to which the state teachers retirement law applies and becomes employed in a position in a school or school system to which this section applies such member may elect in writing, filed with the state teachers retirement board, to withdraw the total accumulation from such member's deposits in the state teachers retirement system, under s. 42.49 (1), and to discharge, release, waive and forfeit all interest, right or claim on the part of such member or his heirs, assigns, beneficiaries or estate under the state teachers retirement law. This amendment (1961) is retroactive to August 16, 1957, and shall apply to all withdrawals under this section since that date. The member's deposits based on teaching service after September 1, 1958, which, prior to this amendment, were forfeited under this section shall be paid to any member who has suffered such forfeiture.

(b) Paragraph (a) shall apply in all cases of withdrawals under s. 42.49 (1) whether made prior to or after June 30, 1951, and whether or not at the time of such election the member making such election was employed in a school or school system to which this section applies, and notwithstanding the repeal of sub. (22), statutes of 1949, by chapter 511, laws of 1951.

(41) TEACHERS UNDER OLD SECTION. The provisions of section 925—*xx*, heretofore in effect, fixing the amounts and conditions of payments of any assessments, refunds, and annuities thereunder, shall remain in force and shall be referred to for the purpose of determining such amounts and conditions of payments until all such payments have been made, insofar as said provisions apply to teachers in the public schools of cities of the first class who are in the service at the time this subsection takes effect in any such city, and insofar as said provisions apply to pensioners or annuitants under said section 925—*xx*. Every teacher in the schools of any such city where a pension system has been established at the time this subsection takes effect in any such city who desires to avail himself of the rights and benefits conferred and to assume the limitations and assessments imposed by this section, shall file a written application therefor and consent thereto, as provided in sub. (8) (b), within 3 years from the first day of November in the year in which this subsection takes effect in any such city. Every such teacher who fails to file such written application and consent within the time prescribed by the provisions of this subsection shall be forever barred from coming under the provisions of this section. The filing of such application and consent by any teacher who heretofore has come under the provisions of section 925—*xx*, shall operate as a substitution by such teacher of the provisions of this section in lieu of the provisions of section 925—*xx* heretofore in effect, fixing the amounts and conditions of payments of any assessments, refunds and annuities for such teacher. Any teacher in the service at the time this subsection takes effect in any such city who had not elected to come under the provisions of section 925—*xx*, heretofore in effect, and who elects to come under the provisions of this section shall, within 5 years from the date upon which this subsection takes effect in any such city, pay as arrearages, into the annuity and retirement fund, in addition to the current monthly payments provided for in this section, a sum equal to the various payments, compounded semiannually at the rate of 4 per cent interest, which would have been made by such teacher if he had elected to come under the provisions of section 925—*xx*, heretofore in effect. Payment of such arrearages by any such teacher shall be made, within said 5 years, in such manner as the board of trustees may determine.

History: 1961 c. 33, 116, 223, 450, 473, 622, 660; 1963 c. 71, 72, 115, 117, 125, 267; 1965 c. 37, 242, 247, 248, 252, 324, 407, 433 s. 121.

Whether the method of teaching sex in a speech class in high school was improper enough to justify discharge for misconduct may be judged on the basis of whether the conduct transcended the standards of propriety of the community; the fact that the conduct occurred in a speech class would not alone justify discharge in the absence of a rule or warning that the subject should not be taught. State ex rel. Wasilewski v. Bd. School Directors, 14 W (2d) 243, 111 NW (2d) 198.

38.25 Teachers' additional retirement benefits. (1) Every person who is an annuitant under a public school teachers annuity and retirement fund created in cities of the first class and who retired before June 11, 1947, shall be paid an additional \$1 per month, beginning with July 1, 1951 or with the date on which the annuitant elects to come under this provision if such date is after July 1, 1951, for each year of teaching service for which credit was given under s. 38.24, but for not more than 35 years of such teaching service. The sum of the annuity of such annuitant and the increase provided herein shall not exceed \$1,650 per year. Annuitants to be eligible for this additional payment shall, not later than January 1, 1952, elect to come under this provision, and each such annuitant shall pay into said fund the sum of \$100 at the time of such election. This additional annuity shall cease at the death of the annuitant.

(2) Every person who is an annuitant under a public school teachers annuity and retirement fund created in a city of the first class, who is 65 years of age or more, or who attains such age, who taught 20 years or more in the public schools in this state, and who retired before January 1, 1952, shall be paid an additional \$1 per month, beginning on July 31, 1957, for each year of teaching service for which credit was given under s. 38.24 but not in excess of 40 years. The sum of the annuity of such annuitant under s. 38.24 and the increase provided under this subsection shall not exceed \$1,800 per year. The additional benefit paid under this subsection shall cease at the death of the annuitant. Benefits may not be received under this subsection and sub. (1) at the same time.

38.26 Benefits of 38.24 extended to additional Milwaukee teachers. Any teacher heretofore or hereafter employed as a continuous substitute teacher in the public schools of any such city, who shall have acquired or shall acquire the status of a regularly appointed teacher therein, shall be entitled to credit for the years of such substitute teaching service for the purpose of qualifying for an annuity pursuant to s. 38.24, provided such teacher shall pay into the annuity and retirement fund all monthly instalments for the accrued period of such substitute teaching service; and provided further that such teacher who taught as a continuous substitute teacher and who acquired the status of a regularly appointed teacher before the effective date of this subsection shall make such instalment payments within 2 years after the effective date of this subsection [June 12, 1945]; and provided further that any continuous substitute teacher who shall hereafter acquire the status of a regularly appointed teacher shall make such instalment payments within 2 years after the date of such appointment. Any substitute teacher who teaches a minimum of 100 days in any school year shall be deemed to be a continuous substitute teacher.

38.265 Substitute teachers; inclusion. Any person employed in the public schools of any city to which s. 38.24 applies, who has not acquired the status of a regularly appointed teacher and who has taught continuously in said schools, for a period of 3 school years or more of not less than 100 days each as a substitute, may elect within the time and in the manner prescribed by the board of trustees of the public school teachers' annuity and retirement fund of such city to become a member of said fund as of the beginning of the fiscal year following said election, but not before September 1, 1958, under those provisions which apply to new teachers entering teaching service of such city. Persons becoming members of said fund under this section shall not have any other status, right or privileges of regularly appointed teachers.

38.27 Full-time qualified social center and welfare workers eligible to teachers' retirement system. All full-time social center, community house, adult education, or recreation directors, instructors or other employes employed by the board of school directors, who possess the qualifications required by law and the rules of the board for employment as teachers and as such directors, instructors or other employes employed as hereinabove provided in such city, shall have the status, rights and privileges of regular teachers and shall be and are regular instructors within the meaning of that term as used in subsection (19) of section 38.24.

38.28 Trade schools; pupils eligible, pay for materials, sale of products, trade schools fund. (1) In any such city the board of school directors may establish, conduct and maintain schools for the purpose of giving practical instruction in the useful trades, and continue in operation any such schools existing at the time this section becomes effective in such city; and the board in any such city to which chapter 459 of the laws of 1907, as amended, was applicable, may establish, conduct and maintain one or more such trade schools in addition to those in existence in such city at the time this section becomes effective therein; and the board may purchase the proper machinery, tools and equipment and employ sufficient teachers and other necessary employes in said schools.

(2) Such schools shall be known as senior trade schools and junior trade schools. Separate trade schools may be established, conducted and maintained for girls only, and for boys only, or for both girls and boys; until otherwise determined by the board, only pupils who have completed the eighth grade in any accredited school whose graduates are eligible to admission to any of the high schools in any such city shall be admitted to the senior trade schools. Only pupils who have attained the age of 14 years or have completed at least 6 grades in the elementary schools shall be admitted to the junior trade schools.

(3) During the remainder of the calendar or budget year in which this section takes effect in any such city, the existing senior and junior trade schools in any such city shall be supported and maintained respectively by funds heretofore raised and appropriated for such schools respectively.

(4) The funds required for the support and maintenance of said senior and junior

trade schools shall be included annually in the school operations fund provided for in s. 38.16 (1) (a) and (b) with other funds provided and placed at the disposal of said city for such purposes.

(5) The pupils in such trade schools may be required by the board to pay the cost of all materials consumed by them in their work, or in lieu thereof the board may establish a fixed sum to be paid by each student in any course, which sum shall be sufficient to cover the cost of materials to be consumed by pupils in any course; and the board may in its discretion dispose of any articles made or manufactured in such trade schools and the proceeds thereof shall be paid into the trade school fund.

History: 1963 c. 429; 1965 c. 249.

38.29 Provisions not applicable. Sections 41.05 and 41.06 do not apply to cities of the first class.

38.30 This act amendatory of charters; repeal of conflicting laws. This chapter is amendatory of the charters of the various cities to which it applies or may hereafter become applicable, and any provision of said charters inconsistent herewith is hereby modified, amended or repealed by this chapter to the extent necessary to give full force and effect to the provisions and intent hereof. All acts or parts of acts contravening the provisions of this chapter are hereby repealed.