

of public instruction before *October 15 and August 15* of each year.

Approved July 2, 1947.

No. 282, S.]

[Published July 7, 1947.

### CHAPTER 357.

AN ACT to repeal chapter 201, laws of 1937, section 5 (1) (a) (as amended by chapter 218, laws of 1943), (b) 1, 2 and 3, (b) 4, 5 and 6 (as created by chapter 144, laws of 1941) and (6) (b); to amend chapter 201, laws of 1937, section 1 (4) (as amended by chapter 77, laws of 1945) and (12), section 3 (6) (as amended by chapter 144, laws of 1941), section 4 (4), section 5 (2) (b), (3) (b), (4) (as amended by chapter 144, laws of 1941) and (6) (c), section 6 (1), (3) and (4), section 8 (1) (a) (as amended by chapter 144, laws of 1941) (b) and (d), and (4) (a) and section 10; to repeal and recreate chapter 201, laws of 1937, section 5 (6) (a), and to create chapter 155, laws of 1937, section 59.136 and chapter 201, laws of 1937, section 1 (21), section 3 (1) (a), section 4 (2) (c), section 5 (1), (2) (c) and (5), relating to the general employes' and sheriffs' retirement systems in counties of a population of 500,000 or more.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Chapter 201, laws of 1937, section 1 (4), as amended by chapter 77, laws of 1945, is amended to read:

(Chapter 201, Laws of 1937) Section 1. (4) "Employe" shall mean any person regularly employed by the county at an annual wage or salary payable at stated intervals, including any person who is employed by the state but who receives part of his wage or salary from the county \* \* \*. In the event of a question arising as to the right of any person in the service of the county to be classified as an employe under this act, the decision of the board shall be final.

SECTION 2. Chapter 201, laws of 1937, section 1 (12) is amended to read:

(Chapter 201, Laws of 1937) Section 1. (12) "Prior serv-

ice" shall mean the service of a member as an employe rendered prior to the date of the establishment of the retirement system, either in the service of the county or in the service of any department in any town, village, city or metropolitan sewerage commission in the county, which department has by consolidation or merger been absorbed by the county, certified on a prior service certificate and allowable as provided in section 4 of this act. *In the event, however, that a person ineligible for membership in the retirement system is made eligible by this or subsequent amendments to chapter 201, laws of 1937, as amended, prior service shall be defined to mean all service of a member rendered prior to the effective date of the amendment which made him eligible for such membership.*

SECTION 3. Chapter 201, laws of 1937, section 1 (21) is created to read:

(Chapter 201, Laws of 1937) Section 1 (21) "Deputy Sheriff" shall mean a person employed in the sheriff's department of the county whose duty is to preserve the peace and order of the county having the power to arrest without warrant.

SECTION 4: Chapter 201, laws of 1937, section 3 (1) (a) is created to read:

(Chapter 201, Laws of 1937) Section 3. (1) (a) Any employe elected by the vote of the people who is in service on the effective date of this paragraph shall be eligible for membership and shall become a member as of such date unless within a period of 30 days thereafter he files with the board on a blank provided for that purpose an election not to become a member and a waiver of all present and prospective benefits which would otherwise inure to him by his participation in the system.

SECTION 5. Chapter 201, laws of 1937, section 3 (6), as amended by chapter 144, laws of 1941, is amended to read:

(Chapter 201, Laws of 1937) Section 3. (6) Should any member in a period of 10 consecutive years after last becoming a member be absent from service more than 5 years, *except as provided in section 4 (2) (b) and except as provided in section 5 (6)*, or should he withdraw more than 50 per cent of his accumulated contributions, or should he become a beneficiary or die, he shall thereupon cease to be a member.

SECTION 6. Chapter 201, laws of 1937, section 4 (2) (e) is created to read:

(Chapter 201, Laws of 1937) Section 4. (2) (c) Notwithstanding any other provisions of chapter 201, laws of 1937, as amended, the board shall allow as prior service credit all time served by persons in the employment of any municipal subdivision of the county in departments or institutions the operation of which has been or shall hereafter be continued or taken over by the county as a result of which such person's employment was or shall hereafter be immediately transferred to the county, and shall issue a prior service certificate or amend an existing prior service certificate to evidence such credit. The provisions of this paragraph shall be retroactive so as to affect all persons who have become members of the employes' retirement system of Milwaukee county on or after January 1, 1938.

SECTION 7. Chapter 201, laws of 1937, section 4. (4) is amended to read:

(Chapter 201, Laws of 1937) Section 4. (4) Upon verification of the statements of service the board shall issue prior service certificates certifying to each member as enumerated in subsection (1) of this section, the length of service rendered prior to the date of the establishment of the retirement system, with which he is credited on the basis of his statement of service. *The board shall similarly issue prior service certificates as specifically provided for in this or subsequent amendments to chapter 201, laws of 1937, as amended.*

SECTION 8. Chapter 201, laws of 1937, section 5 (1) (a) as amended by chapter 218, laws of 1943; section 5 (1) (b) 1, 2, and 3 and section 5 (1) (b) 4, 5, and 6 as created by chapter 144, laws of 1941, are repealed.

SECTION 9. Chapter 201, laws of 1937, section 5 (1) is created to read:

(Chapter 201, Laws of 1937) Section 5. **BENEFITS.** (1) **SERVICE RETIREMENT ALLOWANCE.** (a) Any member in active service, except as hereinafter provided, who has attained the minimum retirement age, shall be retired upon filing with the board a request for retirement, on the form provided by the board for that purpose, stating a date not less than 30 nor more than 90 days subsequent to the filing thereof when the retirement is to be effective.

(b). The minimum ages for service retirement shall be in the case of deputy sheriffs age 57, and for all other members, age 60.

(c) Each member in active service except deputy sheriffs who has attained the age of 70, and in the case of deputy sheriffs the age of 63, on the date of the establishment of the retirement system or who thereafter attains such age, shall be retired at the end of the month at which such age is attained. A member who is elected by vote of the people shall not be required to retire at age 70. The board, however, shall permit an employe to continue in the service if a request has been made to the board by the county board of supervisors. Such further employment shall be for a period of not more than 2 years next following such request or a renewal thereof.

(d) The service retirement allowance except for deputy sheriffs shall consist of:

1. An annuity which is the actuarial equivalent of the member's accumulated contributions, and
2. A pension equal to one-one hundred and fortieth of the member's final average salary for each year of membership service, and
3. If the member has a prior service certificate in full force and effect, a pension of one-seventieth of the member's final average salary for each year of creditable prior service.
4. If the retirement allowance of a member entitled to prior service is less than \$60 per month, the pension shall be increased so that the retirement allowance is equal to \$3 per month for each creditable year of service, provided that such increase shall not result in a total retirement allowance in excess of \$60 per month. The retirement allowance of a part-time employe shall be reduced in proportion to the ratio of part-time hours to normal full-time hours, or should such ratio be indeterminate, then in ratio of the part-time salary to the full-time salary.
5. The total pension of any member payable under the provisions of this section shall not exceed \$125 per month.

(e) The service retirement allowance of deputy sheriffs shall consist of:

1. An annuity which is the actuarial equivalent of the member's accumulated contributions, and
2. A pension equal to one-one hundredth of the member's final average salary for each year of membership service.

(f) The pension payable to any member elected by the vote of the people and who retires after attainment of age 70, shall

be the amount which would have been payable to him had he retired at age 70.

SECTION 10. Chapter 201, laws of 1937, section 5 (2) (b) is amended to read:

(Chapter 201, Laws of 1937) Section 5 (2) (b) The ordinary disability retirement allowance *except for deputy sheriffs* shall consist of:

1. An annuity which is the actuarial equivalent of his accumulated contributions, and
2. A pension which together with his annuity shall provide a total retirement allowance equal to 90 per cent of one-seventieth of his final average salary multiplied by the number of years of service creditable to him at retirement, if such retirement allowance exceeds 25 per cent of his final average salary. If such retirement allowance does not exceed 25 per cent of his final average salary, a pension shall be payable which together with his annuity shall provide a total retirement allowance of 25 per cent of his final average salary, \* \* \* *but* no retirement allowance shall exceed 90 per cent of one-seventieth of his final average salary multiplied by the number of years of total service which would be credited to the member were his service continued to age 60.

SECTION 11. Chapter 201, laws of 1937, section 5 (2) (c) is created to read:

(Chapter 201, Laws of 1937) Section 5 (2) (c) In the case of deputy sheriffs the ordinary disability retirement allowance shall consist of:

1. An annuity which is the actuarial equivalent of his accumulated contributions, and
2. A pension which together with his annuity shall provide a total retirement allowance equal to 90 per cent of one-fiftieth of his final average salary multiplied by the number of years of service creditable to him at retirement.

SECTION 12. Chapter 201, Laws of 1937, section 5 (3) (b) is amended to read:

(Chapter 201, Laws of 1937) Section 5 (3) (b) The accidental disability retirement allowance shall equal the service retirement allowance if such member has attained age \* \* \* *the minimum age for service retirement*, otherwise it shall consist of:

1. The annuity which is the actuarial equivalent of his accumulated contributions, plus

2. A pension equal to 75 per cent of his final average salary.

SECTION 13. Chapter 201, laws of 1937, section 5 (4) as amended by chapter 144, laws of 1941, is amended to read:

(Chapter 201, Laws of 1937) Section 5 (4) (a) Upon the receipt of proper proofs of the death of a member in active service *who is not a deputy sheriff*, his accumulated contributions shall be paid to such person, if any, as he has nominated by written designation duly executed and filed with the board, otherwise to his executors or administrators, and if such member has completed one or more years of creditable service, there shall be so paid in addition a lump sum benefit of one-half the final average salary of such deceased member, but not to exceed \$1,000.

(b) *Upon the receipt of proper proofs of death of a member who is a deputy sheriff in active service which is not the result of an accident in the actual performance of duty as defined in subsection (5) of this section, his accumulated contributions shall be paid to such person, if any, as he has nominated by written designation duly executed and filed with the board, otherwise to his executors or administrators, and if such member who is a deputy sheriff has completed one or more years of creditable service, there shall be so paid in addition a lump sum benefit of one-half the final average salary of such deceased member. The beneficiary may elect to receive the return of the contributions and lump sum benefit as follows:*

1. *The total amount of accumulated contributions and lump sum benefits due immediately; or*

2. *Equal monthly payments until the principal amount and interest have been exhausted; provided, however, that the monthly payments be not less than \$10 per month, and not less than regular interest on the initial principal amount, and provided that should a beneficiary die while any of said installments remain unpaid, the present value of such installments remaining unpaid shall be paid in a lump sum to such person, if any, as such beneficiary has named by written designation duly executed and filed with the board, otherwise to his executors or administrators; or*

3. *An annuity payable in equal monthly installments for life, the amount of such annuity to be determined at the time of*

*the member's death on the basis of the age of the beneficiary at that time; provided, however, that the return of contributions and lump sum death benefit due shall be sufficient to provide monthly payments of not less than \$10 per month.*

SECTION 14. Chapter 201, laws of 1937, section 5 (5) is created to read:

(Chapter 201, Laws of 1937) Section 5 (5) ACCIDENTAL DEATH BENEFIT: WIDOW'S, CHILD'S ANNUITY. Upon receipt of proper proofs of the death of a member who is a deputy sheriff in active service containing evidence acceptable to the board that such death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, the board shall grant, in lieu of the ordinary death benefit of a lump sum payment of one-half the final average salary of such deceased member, a pension of one-half the final average salary of such deceased member:

- a. To his widow to continue during her widowhood; or
- b. If there be no widow, or if the widow dies or remarries before every child of such deceased member attains the age of 18 years, then to his child or children under said age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension until every such child dies or attains said age; or
- c. If there be no widow or child under the age of 18 years surviving such deceased member, then to his dependent father or mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the board; or if there be no such nomination, then to his dependent father or to his dependent mother, as the board in its discretion shall direct, to continue for life.

SECTION 15. Chapter 201, laws of 1937, section 5 (6) (a) is repealed and recreated to read:

(Chapter 201, Laws of 1937) Section 5 (6) (a) Should a member cease to be an employe except by death or retirement under the provisions of this act, he shall be paid:

1. Such part of his accumulated contributions as he shall demand; or
2. If he is separated from the service for any cause other than fault or delinquency on his part, and his retirement allowance at age 60 as calculated in accordance with this para-

graph equals or exceeds \$10 per month, he may elect not to withdraw any part of his accumulated contributions and to receive a retirement allowance commencing at the attainment of age 60 and consisting of an annuity of equivalent actuarial value to his accumulated contributions and in addition a pension of one-seventieth of his final average salary at withdrawal multiplied by the number of his years of prior service plus one one-hundred and fortieth of such final average salary multiplied by the number of his years of membership service; provided that if he is removed or otherwise involuntarily separated from service for any cause other than fault or delinquency on his part after having completed 15 years of creditable service, including not less than one-half year during the year immediately preceding such discontinuance, he may elect to receive in lieu of a retirement allowance commencing at age 60 the amount of his accumulated contributions in a lump sum or an annuity of equivalent actuarial value, and a pension commencing immediately which shall be the actuarial equivalent of the retirement allowance commencing at age 60. The provisions of section 5 (1) (d) 4 shall not apply in calculating the retirement allowance provided for in this subdivision. Failure of re-election by a member elected by vote of the people shall not be construed as fault or delinquency on the part of such member as such phrase is used in this subsection and paragraph.

3. Should any member who has exercised the option to receive the deferred retirement allowance under subsection (6) (a) 2 be restored to active service prior to attaining the minimum retirement age he shall again become an active member of the retirement system and shall contribute thereafter at the same rate at which he contributed prior to his separation from service, and the credits for service which he had at the time of such separation shall be restored to him. Upon his subsequent retirement, he shall be credited with all his service as a member subsequent to his last restoration to active membership and shall receive a retirement allowance to which he will be entitled at that age on account of his service as a member. Should a beneficiary receiving a retirement allowance under the provisions of subsection (6) (a) 2 be restored to active service, his allowance shall cease and he shall again become a member of the retirement system and shall make contributions as if he were then first becoming a member. Upon his subsequent re-



tirement, he shall be credited with all his service as a member subsequent to his last restoration to membership and shall receive a pension therefor as if he were a new entrant, and, in addition he shall receive the pension which he was receiving immediately prior to his last restoration.

4. Upon the death of any such person before the effective date of his deferred retirement allowance as provided in subdivision 2 above, there shall be paid to his estate or to such person as he has nominated by written designation, duly executed and filed with the board, his accumulated contributions.

SECTION 16. Chapter 201, laws of 1937, section 5 (6) (b) is repealed.

SECTION 17. Chapter 201, laws of 1937, section 5 (6) (c) is amended to read:

(Chapter 201, Laws of 1937) Section 5 (6) (c) Should a beneficiary receiving a retirement allowance under the provisions of paragraph \* \* \* (a) of this subsection be restored to active service, his allowance shall cease, he shall again become a member of the retirement system, and he shall make contributions as if he were then first becoming a member. Upon his subsequent retirement, he shall be credited with all his service as a member subsequent to his last restoration to membership, and shall receive a pension therefor as if he were a new entrant, and, in addition, he shall receive the pension which he was receiving immediately prior to his last restoration.

SECTION 18. Chapter 201, Laws of 1937, section 6 (1) is amended to read:

(Chapter 201, Laws of 1937) Section 6 (1) PERIODIC MEDICAL EXAMINATIONS. Once each year during the first 5 years following retirement of any disability beneficiary and once in every 3 year period thereafter, the board may require such beneficiary, if he has not attained \* \* \* *the minimum age for service retirement*, to submit to medical examination by a physician or physicians of or appointed by the medical board. Should any such beneficiary refuse in any such year or period to undergo at least one such medical examination, his allowance may be discontinued until he consents to the examination; and should the refusal continue for one year, all rights in and to the pension may be revoked by the board.

SECTION 19. Chapter 201, laws of 1937, section 6 (3) and (4) are amended to read:

(Chapter 201, Laws of 1937) Section 6 (3) Should any disability beneficiary be restored to active service at a salary less than his final average salary at the time of retirement he shall not become a member at that time. No disability beneficiary restored to active service after attaining \* \* \* *the minimum age for service retirement* shall become a member.

(4) Should any disability beneficiary be restored to active service prior to attaining \* \* \* *the minimum age for service retirement* and at a salary equal to or greater than his final average salary at the time of retirement, or should any disability beneficiary be at any time in active service prior to attaining \* \* \* *the minimum age for service retirement* at a salary equal to or greater than his final average salary at the time of retirement, his disability retirement allowance shall cease, and he shall again become a member of the retirement system and shall contribute thereafter at the same rate at which he contributed prior to his disability retirement. Any prior service certificate on the basis of which his allowance was computed at the time of his disability retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his membership service on the basis of which his allowance was computed at the time of his disability retirement, but should he be restored to active service after the attainment of age 50, his pension upon subsequent retirement shall not exceed the sum of the pension which he was receiving immediately prior to his last restoration to membership and the pension that he would have received on account of his service since such last restoration had he first become a member at that time.

SECTION 20. Chapter 201, laws of 1937, section 8 (1) (a) as amended by chapter 144, laws of 1941, is amended to read:

(Chapter 201, Laws of 1937) Section 9 (1) (a) The annuity savings fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities. Upon the basis of such tables as the board shall adopt, and regular interest, the actuary of the retirement system shall determine for each member the proportion of earnable compensation which, when deducted from each payment of his prospective earnable annual compensation prior to his

attainment of \* \* \* *the minimum age for service retirement* and accumulated at regular interest until his attainment of such age, shall be computed to provide at that time an annuity equal to the pension to which he will be entitled at that age on account of his service as a member. The provisions of section 5 (1) (b) 4 shall not be considered in making such computation. Such proportion of compensation shall be computed to remain constant. The proportion so computed for a member age 59, or in the case of deputy sheriffs age 56, shall be applied to a member who has attained a greater age before he becomes a member of the retirement system. *In like manner, the normal rate of contribution established for age 20 shall be the rate for any member who enters the retirement system at a lesser age.*

SECTION 21. Chapter 201, laws of 1937, section 8 (1) (b) is amended to read:

(Chapter 201, Laws of 1937) Section 8 (1) (b) The board shall certify to the head of each county agency, and the head of each county agency shall cause to be deducted from the salary of each member on each and every payroll of such agency for each and every payroll period the proportion of earnable compensation of each member so computed. But the head of any county agency shall not have any deduction made for annuity purposes from the compensation of a member who elects not to contribute if he has attained \* \* \* *the minimum age for service retirement and has become eligible for retirement allowance of one-half of final average salary.* In determining the amount earnable by a member in a payroll period, the board may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employe was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one per cent of the annual compensation upon the basis of which such deduction is to be made.

SECTION 22. Chapter 201, Laws of 1937, section 8 (1) (d) is amended to read:

(Chapter 201, Laws of 1937) Section 8 (1) (d) In addition

to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom, or any part thereof as provided in this act; or any member may deposit therein by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity, which, together with his prospective retirement allowance, will provide for him a total retirement allowance not exceeding one half of his prospective final average salary at \* \* \* *the minimum age for service retirement.* Such additional amounts so deposited shall become a part of his accumulated contributions except in the case of disability retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value. The accumulated contributions of a member withdrawn by him, or paid as provided in this act to his executors or administrators or to his designated beneficiary in event of his death, shall be paid from the annuity savings fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

SECTION 23. Chapter 201, laws of 1937, section 8 (4) (a) is amended to read:

(Chapter 201, Laws of 1937) Section 8 (4) (a) The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted on account of members not entitled to credit for prior service and from which such pensions and benefits in lieu thereof shall be paid. Should such a beneficiary retired on account of disability or on account of involuntary separation from service as provided under section 5 (6) (b) \* \* \* again become a member of the retirement system his pension reserve shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of the annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction. *Should a beneficiary of an employe dying in service elect to receive the amount or amounts otherwise payable in a*

*lump sum in the form of an annuity, then the amount or amounts otherwise payable in the lump sum shall be transferred to the pension reserve fund and the annuity shall be paid from this fund.*

SECTION 24. Chapter 201, laws of 1937, section 10, is amended to read:

(Chapter 201, Laws of 1937) Section 10. The creation and maintenance of reserves in the pension accumulation fund, the maintenance of annuity reserves and pension reserves as provided for, and regular interest creditable as provided for to the various funds, and the payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this act, and all expenses in connection with the administration and operation of the retirement system are hereby made obligations of the county. The various funds of the retirement system shall be subject to periodic examination by the insurance department of the state of Wisconsin, for the purpose of insuring that the technical features of this act are observed. *The legal title to the funds of the retirement system shall be in the retirement system created by this act and shall be held by it in trust for the purposes for which they were contributed under this act, and no amendment to the act shall reduce the benefits of any member below those which can be provided by the reserves of the system held in his account, nor shall the reserves held on account of any member be diluted by the addition of new members or annuitants receiving the benefits of any members.*

SECTION 25. Chapter 155, laws of 1937, 59.136 is created to read:

(Chapter 155, Laws of 1937) 59.136 MEMBERSHIP CLOSED. No person who had not contributed to and become a member of a sheriff's annuity and benefit fund in a county having a population over 500,000 established pursuant to chapter 155, laws of 1937, shall be permitted to contribute to such fund or become a member thereof on or after the passage of this section, nor shall he or his widow or his child be, or become, entitled to receive any benefit from such fund. Only persons who are members of such fund created by chapter 155, laws of 1937 on the day before this section becomes effective may contribute to such fund or be members thereof after said date.

SECTION 26. CONSTITUTIONALITY. If any section, subsection, paragraph, or other provision of this act, or its application to any person or circumstance shall be held unconstitutional, such decision shall not affect the constitutionality of any other section, subsection, paragraph, or other provision, or its application to other persons or circumstances.

SECTION 27. This act shall take effect upon the first day of the month after passage and publication.

Approved July 3, 1947.

No. 351, S.]

[Published July 8, 1947.

### CHAPTER 358.

AN ACT to amend 132.01 (6) of the statutes, relating to trade-marks.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

132.01 (6) of the statutes is amended to read:

132.01 (6) Registrations recorded under this section and sections 132.04 and 132.11, shall be effective for 20 years, and shall be renewable for like periods upon application to the secretary of state and payment of the same fee \* \* \* required for an original registration. Registrants of labels, trade-marks, terms, trade names, patterns, models, designs, devices, shop marks, drawings, specifications, designations, \* \* \* forms of advertising, marks of ownership or brands of beverages heretofore recorded under \* \* \* these sections shall be notified by the secretary of state at their last-known address of the necessity of renewal and notice shall also be given by publication in the official paper once each month for 3 months following \* \* \* the effective date of this amendment (1947). Application for renewal may be made \* \* \* prior to January 1, 1948, or within the 6 months' period next preceding the expiration of 20 years from the date of registration.

Approved July 2, 1947.