

## CHAPTER 42

## TEACHERS' AND STATE EMPLOYEES' RETIREMENT ACTS

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**42.20 Definitions.** In ss. 42.20 to 42.54 unless the context otherwise requires:

(1) "Accumulation" means the total resulting from the addition of interest to required deposits, members' deposits, state deposits or additional deposits.

(1m) "Board" means the state teachers retirement board.

(2) DEPOSITS. (a) "Additional deposit" means any deposit made in the retirement deposit fund under s. 42.40 by or on behalf of a member, excluding required deposits.

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

(c) "Required deposit" means the deduction in accordance with ss. 42.40 and 42.41 (1) from the compensation received by a teacher deposited in the retirement deposit fund.

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

(3) "Employer" means this state or any subdivision thereof authorized by law to employ teachers or to pay their salaries.

(3m) "Executive secretary" means the executive secretary of the state teachers retirement board.

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

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

(6) "Junior teacher" designates a teacher who shall not have arrived at the 25th birthday anniversary on the first day of July preceding.

(6r) (a) "Member" means a person who, as the result of having been engaged in Wisconsin teaching, has a credit in the retirement deposit fund or a reserve in the annuity reserve fund, or who is or may be entitled to a present or future benefit under the teachers' insurance and retirement law as provided by s. 42.51.

(b) For the purposes of s. 42.241:

1. "Active member" means a member who is not receiving an annuity under s. 42.242, 42.49 or 42.51 and who has made a required deposit in the retirement deposit fund based on earnings after June 30, 1956, or is deemed an active member under s. 42.241 (7), or is on a leave of absence from a Wisconsin teaching position.

2. "Inactive member" means a member who is not receiving an annuity under s. 42.242, 42.49 or 42.51, who has not made a required deposit in the retirement deposit fund based on earnings after June 30, 1956, and is not on a leave of absence from a Wisconsin teaching position.

3. "Retired member" means a member who is receiving an annuity under s. 42.242, 42.49 or 42.51.

4. A member is not receiving an annuity while benefits are being withheld under s. 42.242 (6) or 42.49 (13).

(c) Each member shall be a member of the separate group or the combined group, upon completion of the procedures under s. 42.241; except that if less than a majority of the members of the combined group vote in favor of OASDHI coverage in a referendum under s. 42.241 (11), all members shall thereafter be deemed members of the separate group.

(7) "Net interest" means the gross interest earned by deposits less expense of investment and depreciation of principal.

(7m) "OASDHI" means federal old-age, survivors, disability and health insurance, as provided under Title II of the federal social security act.

(8) "Prior service" means service rendered as a teacher in the public schools, the state colleges or the university, prior to July 8, 1921.

(9) "Public schools" means all schools supported wholly or in part by public funds, and under the control and management of this state, or any subdivision thereof, and state departments performing educational functions, empowered by law to employ teachers, except schools under the control and management of the board of regents of state colleges or the regents of the university of Wisconsin and except schools in cities of the 1st class included under s. 119.24.

(10) "School year" means 120 teaching days, or in case of service in this state prior to July 8, 1921, not less than 75% of the then legal school year.

(11) "Senior teacher" designates a teacher who shall have arrived at the 25th birthday anniversary on the first day of July preceding.

(12) "State college" means any college under the control and management of the board of regents of state colleges.

(12g) "Straight life annuity" means an annuity payable monthly to a member for life, as provided under s. 42.49 (2) (a).

(12m) "System" means the state teachers retirement system.

(13) "Teacher" means any person legally or officially employed or engaged in teaching as a principal occupation.

(14) "Teaching" includes the exercise of any educational function for compensation, in any of the public schools, the state colleges, or the university, or in any school, college, department or institution, within or without this state, in instructing or controlling pupils or students, or in administering, directing, or-

ganizing or supervising any educational activity.

(15) "University" means any college, school or department under the control and management of the regents of the university of Wisconsin.

(15g) "Variable annuity" means any annuity provided by the accumulations in the variable annuity division established pursuant to s. 42.243; and constitutes a contract involving life contingencies providing for the dollar amount of benefits or other contractual payments or values under said section 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.

(15m) "Wisconsin teaching" means teaching in the public schools, the state colleges or the university in this state.

(16) "Year of teaching experience" means a fiscal year during which the teacher was employed as a teacher not less than a full school year.

(17) For the purposes of s. 42.245:

(a) "Final average compensation" means the monthly rate of compensation obtained by dividing: 1. the member's total compensation subject to required deposits 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 he ceased to be employed as a teacher in Wisconsin teaching and the June 30 following or coincident with his 70th birthday or July 1, 1966, if later, by 2. 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 service as a teacher in Wisconsin teaching. A separate period of service as a teacher in Wisconsin teaching shall be deemed to have ended each time a member has not served as a teacher in Wisconsin 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 s. 42.245 (1) (b) 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.

(b) "Final excess OASDHI compensation" means the monthly rate of compensation obtained by dividing: 1. the member's total compensation for the 5 years or such lesser period determined pursuant to par. (a), in excess of the amounts subject to contributions under s. 66.99, by 2. 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.

**History:** 1965 c. 250; 1967 [13.93 (1) (d)]; 1967 c. 26, 29, 92.

**42.21 Title of act; administration of.** This act, consisting of ss. 42.20 to 42.54 and all amendments thereto, shall be known as the "State Teachers' Retirement Law." The state teachers retirement system hereby established shall be administered by and under the state teachers retirement board.

**42.22 State teachers retirement board.**

(1) There is created a state teachers retirement board. The board shall be provided with suitable offices and shall be supplied with necessary furniture, supplies, postage, stationery, equipment and printing on the same basis as other state departments.

(2) The board shall be composed of 7 members. The original 7 members shall be appointed by the governor. Three members of the board shall be members of, and represent, the public school retirement association. One of the members who is first appointed shall serve until November 15, 1952 and the other until November 15, 1953. The 3rd member appointed shall serve until November 15, 1957. Two of the members of the board shall be members of, and represent, the state colleges retirement association. One of the members who is first appointed shall serve until November 15, 1952 and the other until November 15, 1953. The remaining 2 members of the board shall be members of, and represent, the university retirement association. One of the members who is first appointed shall serve until November 15, 1952 and the other until November 15, 1953. As the term of any member shall expire his successor shall be elected by the retirement association which he represents for a term of 3 years. All members of the board, whether appointed or elected, shall serve until their successors have been appointed or elected and shall have qualified. The members of the board shall be paid a salary of \$25 for each day actually devoted to the performance of

their duties, including time spent in travel, and shall also be reimbursed their actual and necessary expenses.

(3) Regular meetings of the board shall be held each month, and special meetings shall be held upon the call of its executive secretary or any 3 members of the board.

(4) The board shall elect one of its members chairman, one vice-chairman and one secretary. The chairman shall preside at all meetings of the board. The vice-chairman shall act in lieu of the chairman in the event of the absence or disability of the chairman. The secretary shall keep the minutes of the meetings of the board.

(5) The executive head of the board shall be the executive secretary thereof. He shall be appointed by the board. He shall furnish a bond for the faithful performance of his duties in such sum and with such sureties as the board may require, the cost of which shall be borne by the board.

(6) The executive secretary shall have the direction of all employes of the board. He may act for the board, pursuant to its direction and under such regulations as it may adopt, in all matters concerning the administration of the state teachers retirement system which the board may see fit to delegate to him.

(7) The board shall adopt such bylaws and make such rules for the transaction of the business of the state teachers retirement system and for the control of the several funds hereby created and the payment of the benefits hereby provided as it shall deem necessary and proper and shall perform all duties necessary or convenient for putting into effect and carrying on the state teachers retirement system.

(8) The board shall employ such actuarial, legal, medical or other technical service and such clerical and other services as may be necessary, fix the compensation therefor, and may allow actual and necessary expenses incurred in the performance of duty.

(9) The board may deduct and remit premiums for group life, medical and hospitalization insurance and may also deduct and remit premiums for supplementary medical coverage under federal social security from benefits paid to retired members with the written consent of such member. The consent shall be in such form as is determined by the board.

**History:** 1965 c. 487; 1967 [13.93 (1) (h)]; 1967 c. 26, 29.

**42.23 Refunds.** The board may refund any money paid in error into any of the

funds of the state teachers retirement system, including money paid in error by an employer. To effect such a refund the executive secretary of said board shall certify to the department of administration the name of each person entitled to a refund and the amount thereof. Thereupon, and notwithstanding s. 20.913, the department of administration shall draw its warrant for the amount and in favor of the person so certified, and the state treasurer shall pay the same and charge it to the appropriation made by s. 20.515 (2) (u).

**History:** 1965 c. 433 s. 121; 1967 c. 26, 291 s. 14.

**42.24 State treasurer ex officio treasurer of system; bond.** The state treasurer shall be ex officio treasurer of the state teachers retirement system, and shall give an additional bond in such amount and with such corporate sureties as shall be required and approved by the board, the cost of which shall be borne by the board.

**History:** 1967 c. 26.

**42.241 System divided; referendum on OASDHI.** (1) DIVISION INTO GROUPS. Subject to s. 42.244 the state teachers retirement system is divided into 2 parts known as the separate group and the combined group.

(2) COMBINED GROUP. The combined group shall be composed of:

(a) Members who indicate in accordance with this section that they desire coverage under an agreement under section 218 of Title II of the federal social security act;

(b) Individuals who become members after April 5, 1957;

(c) Inactive and retired members who become active members after said date; and

(d) Persons who become members of the combined group under par. (b) or (c) shall become members of the combined group on or after July 1, 1957.

(3) SEPARATE GROUP. The separate group shall be composed of all other members.

(4) INFORMATION AND FORMS TO BE FURNISHED TO MEMBERS. Not later than April 20, 1957, the executive secretary shall mail or deliver to each person who is an active member on April 5, 1957 information concerning the contributions, benefits and other features of the 2 groups into which the system is divided under this section, together with an envelope addressed to the system, with postage prepaid, and a form to be signed and returned to the office of the system 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 subsection shall contain a statement to that effect.

(5) EVIDENCE OF MAILING. The executive 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 sub. (4). Upon being filed, the certified list shall constitute prima facie evidence of compliance with sub. (4).

(6) DELIVERY OTHER THAN MAILING. In lieu of mailing the materials specified in sub. (4) to individual members, the executive secretary may with the approval of the governor mail or deliver sufficient supplies of such materials to other responsible persons, who shall deliver such materials to members as specified by the executive 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 sub. (4) with respect to the members named in such list. Delivery may be made under this subsection as to some members and under sub. (4) as to other members.

(7) ACTIVE STATUS FOR RETIRED MEMBERS.

(a) Any retired member who has made required deposits 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 executive secretary, who shall also inform such retired members of ss. 42.241 and 42.242.

(b) When a person deemed to be an active member under this subsection becomes a member of the combined group, the reserve held in the annuity reserve fund based on the accumulations from member's deposits and state deposits, and the reserve held in the contingent fund based on any prior service computation, of such member, shall be transferred to the retirement deposit 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 in the same optional form as the discontinued annuity.

(d) If any member dies after his annuity is discontinued under this subsection and before an annuity is again granted to him, a death benefit shall be paid as provided in s. 42.50. Said death benefit shall be the full amount transferred to the retirement deposit fund under par. (b), reduced by the amounts transferred under sub. (12) as employer and employe OASDHI contributions for retroactive coverage. For purposes of such death benefit a member may file a new designation of beneficiary with the board.

(e) Notwithstanding s. 42.49 (13), any retired member who is employed in a position in which he makes required deposits after August 17, 1957, and before the date on which an agreement is executed extending coverage under OASDHI to the members of the combined group under this section and s. 66.99, shall be deemed an active member, his annuity shall be discontinued, and the reserve held in the annuity reserve fund based on accumulations from member's and state deposits, and the reserve held in the contingent fund based on any prior service computation under s. 42.51 or annuity under s. 42.49, of such member, shall be transferred to the retirement deposit fund until an annuity is again granted to such member. Such reserves shall be based on the member's attained age when such funds are transferred. An annuity subsequently granted to any such member shall be in the same optional form as the discontinued annuity. Paragraph (c) shall not apply to members who become active members under this paragraph.

(f) The reserve held in the contingent fund based on a prior service computation or an annuity under s. 42.49, which is transferred to the retirement deposit fund under par. (b) or (e), shall for the purposes of s. 42.242 (1) be deemed an accumulation from state deposits.

(8) REDUCTION OF ANNUITY. (ab) The annuity paid from the contingent fund to any member of the separate group who retired after April 30, 1957, who was eligible to make the choice pursuant to sub. (9) and who elects under sub. (12a) to become a member of the combined group, shall be canceled at the end of 6 months after becoming a member of the combined group, except for that portion thereof which is paid under s. 42.51 because of prior service. If any such member shall present to the board satisfactory proof that he is not qualified for either an

OASDHI primary or disability benefit that portion of the annuity so canceled shall be reinstated and paid thereafter until he qualifies for such an OASDHI benefit.

(9) MEMBER TO INDICATE CHOICE. Each member to whom the materials are sent under sub. (4) 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 system. Such form must be received by the board not later than May 25, 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.

(10) EXECUTIVE SECRETARY TO CERTIFY MEMBERSHIP OF COMBINED GROUP. On or before June 9, 1957, the executive secretary shall certify to the governor the names and addresses of the members of the combined group.

(11) REFERENDUM TO BE HELD. When the executive secretary has certified to the governor the names and addresses of the members of the combined group under sub. (10), 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 OASI system. If a majority of the members of the combined group vote in favor of such coverage this section (1957) shall be fully operative. If less than a majority vote in favor of such coverage this section (1957) shall not continue in effect and the state teachers retirement system shall not be divided into the separate group and the combined group.

(12) OASDHI COVERAGE RETROACTIVE TO JANUARY 1, 1955. Coverage of members of the combined group under OASDHI 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 contributions to the public employes social security fund in behalf of such members, for covered employment under OASDHI 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 accumulations from state deposits in the account of each such member. The employe contributions for such period shall be paid by transferring the amounts necessary to make such payment

from the accumulation from required deposits in the account of each such member. If such accumulations are not sufficient to make such payment the additional amount necessary to make such payment shall be paid from the contingent fund. Such funds shall be transferred pursuant to s. 42.241 (12). For the purposes of this subsection covered earnings are earnings upon which required deposits are based.

(12a) TRANSFERS TO COMBINED GROUP. (a) The position of any employe who is a member of the separate group and who was eligible to make the choice pursuant to sub. (9) 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 executive secretary of the state teachers retirement system 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 such executive secretary which specifies the school district or other public agency by which such member is then employed, and provided such member occupies a position covered under the state teachers retirement system at that time and on the date of submission of the modification to the federal department of health, education and welfare. Thereupon such member shall be a member of the combined group.

(b) Section 42.241 (8), (12ab) and (15) shall be applicable to such transfers but s. 42.241 (12) shall not be so applicable.

(c) The executive secretary of the state teachers retirement system shall certify to the director of the public employes social security fund a list of the public agencies to be included in any such modification.

(12ab) OASDHI COVERAGE RETROACTIVE TO JANUARY 1, 1955. Coverage under OASDHI of a member of the combined group who elects to transfer thereto under sub. (12a) shall be effective as of January 1, 1955, or the date on which covered earnings were first paid to such member, if such date is later. The employer contributions to the public employes social security fund on behalf of such a member for covered employment under OASDHI between January 1, 1955, and the end of the calendar quarter in which the agreement extending such coverage is submitted to the federal department of health, education and welfare, shall be paid by transferring to said fund the amount which is re-

quired to make such payment from the accumulation from state deposits in the account of such member. The employe contributions for such period shall be paid by transferring the amount which is required to make such payment from the accumulation from required deposits in the account of such member. If such accumulations are not sufficient to make such payments and the member is receiving an annuity from the annuity reserve fund, the additional amount required therefor shall be paid from the reserve for such member's annuity in the annuity reserve fund, and such member's annuity shall be reduced proportionately. If such accumulations and the said amount in the annuity reserve fund are not sufficient to make such payments, the additional amount required to make such payments shall be paid from the contingent fund.

(13) NATURE OF CONTRACTUAL RIGHTS UNCHANGED. It is not intended that the enactment of chapter 12, laws of 1957, shall extend or impair the nature of any contractual rights of members of the state teachers retirement system.

(14) EXTENSION OF DATES. The governor may extend the time within which certain actions are to be taken under subs. (4), (9) and (10), if the circumstances indicate that such extension is desirable.

(15) FUND INTEGRATION. The board shall take such actions as are necessary to complete the inclusion of the members of the combined group of the state teachers retirement system under the federal OASDHI system as provided in this section. Said board shall also deduct from the respective accounts of participants in the state teachers retirement system, and certify to the department of administration, the amounts to be transferred from the state teachers retirement fund to the public employes social security fund to provide for the contributions which will thereby become payable to the federal OASDHI system as employer and employe contributions for such employes as the result of said integration. If payment of said contributions is not made to the federal OASDHI system before any interest or penalty accrues thereon under federal regulations as defined in s. 66.99 (1) (b), the board shall pay such interest or penalty and charge the same to the interest income of the state teachers retirement system.

History: 1965 c. 163, 250, 433 s. 121; 1967 [13.93 (1) (e)]; 1967 c. 26, 29, 92.

Teacher who should have but did not contribute to state teachers retirement fund prior to her death may not be classed as a member of a com-

bined group of said system for coverage under OASDI for self and surviving children. 51 Atty. Gen. 34.

#### 42.242 Benefits under the combined group.

This section shall apply only to members of the combined group.

(1) RETIREMENT ANNUITIES. (a) When a member of the combined group has ceased to be employed as a teacher in the public schools, state colleges or university in this state, and is not on leave of absence from a teaching position in the public schools, state colleges or university in this state, the accumulation from the member's required deposits, additional deposits or state deposits 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. A member may elect to receive an annuity or annuities from member's required deposits in one form and an annuity or annuities from state deposits in another form. He may elect to receive his additional deposits in a lump sum or in the form of an annuity or annuities. Small amounts remaining in the retirement deposit fund to the credit of a member which may have been omitted in the purchase of an annuity or annuities may, at the discretion of the board, be paid to the member in a single payment in lieu of an adjustment to the annuity or annuities purchased under this subsection.

(b) The first payment of an annuity under this section shall not be made before the 50th birthday anniversary of the member unless he has qualified for a disability annuity under sub. (4) or s. 42.49 (9).

(2) OPTIONAL INTEGRATED ANNUITY. (a) Any member of the combined group who is eligible to receive a retirement annuity under this section, which annuity is to begin before the member reaches the age of eligibility for an OASDHI retirement benefit, and who has sufficient quarters of OASDHI coverage to qualify for an OASDHI 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.

(b) The purpose of this option is to provide a life annuity and temporary annuity in such amounts that the member's total antici-

pated retirement benefits from the state teachers retirement system and primary OASDHI will be approximately the same both before and after attainment of the age of eligibility for an OASDHI retirement benefit, assuming that the member has no further wages credited to his account under OASDHI after payment of such annuity begins.

(2a) WIDOW'S OPTIONAL INTEGRATED ANNUITY. (a) The widow of any member of the combined group may with respect to an annuity payable under s. 42.243 (7) (d) or 42.50 which annuity is to begin prior to the widow's 62nd birthday, elect 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 widow attains age 62 whichever occurs earlier.

(b) 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 OASDHI system will be the same both before and after attainment of age 62.

(c) The annuity payable under par. (a) 1 may at the option of the widow be granted in any optional form permitted under s. 42.50.

(3) INCREASED ANNUITIES. (a) The annuity of any member of the combined group who before April 5, 1957, was a member as defined in s. 42.20 (6r) (a), when computed as a straight life annuity, shall be increased by an amount sufficient so that such annuity, when added to the OASDHI primary or disability benefit for which the member is or may be eligible as of the date payment of such annuity is to begin, is equal to:

1. The total annuity, when computed as a straight life annuity, for which such member would have been eligible under s. 42.49 (4), (5), (6) and (7) if he had remained a member of the separate group excluding any portion of such annuity based on additional deposits; plus

2. For a member who, upon the date payment of such annuity is to begin, has attained the age of 60 years, an amount equal to 5% of the amount computed under subd. 1; plus

3. Three-fourths of one per cent of the amount computed under subd. 1 for each full 3-month period by which the attained age of the member, upon the date payment of such annuity is to begin, exceeds 60 years, ex-

cluding any period beyond the 65th birthday anniversary of the member.

(b) 1. In computing the amount of the primary OASDHI benefit for which a member is or may be eligible the actual amount of such benefit, according to the best available information, shall be used if the member has attained the age of 65 years or more. If the member is under 65 years of age the amount used in making such computation shall be based on the actuarial equivalent value, for the sex and then attained age of the member, of the estimated OASDHI benefit which will be payable at age 65 according to the best available information. In all such cases it will be assumed that the OASDHI benefit formula will remain unchanged and that the member will have no further wages credited to his account under OASDHI after payment of such annuity begins.

2. If the OASDHI benefit actually received is different from the estimated OASDHI benefit, except as the result of a change in the OASDHI benefit formula or the earning of additional covered wages by the member, the increased annuity will be adjusted up or down as to future payments in order to compensate for such difference to the extent practicable. No such adjustments shall be made which would require a change of less than \$2 per month in the annuity being received by any member. This subdivision does not apply in the case of an annuity under sub. (2).

(c) For purposes of computing additional annuities under this subsection, OASDHI benefits taken into account shall be based on the OASDHI benefit formulas in effect on April 5, 1957. To the extent that the OASDHI benefit formulas are changed thereafter the combined benefits under this subsection shall be changed accordingly.

(d) If any such member does not qualify for an OASDHI primary or disability benefit his annuity shall be increased by an amount such that said annuity, when computed as a straight life annuity, is equal to the total annuity for which such member would have been eligible under s. 42.49 (4), (5), (6) and (7) if he had remained a member of the separate group, excluding any portion of such annuity based on additional deposits. An annuity under this paragraph shall cease if such member subsequently qualifies for an OASDHI primary or disability benefit either wholly or partially as a result of OASDHI coverage as a teacher in the public schools of this state, and such member may then receive

an annuity for which he qualifies otherwise; provided that said annuity for which the member qualifies otherwise shall be increased by an amount such that, when added to the OASDHI primary or disability benefit of such member, the total shall equal the annuity for which such member would have been eligible under s. 42.49 (4), (5), (6) and (7) if he had remained a member of the separate group.

(e) When an annuity is increased under this subsection the increase in the annuity shall be paid from the contingent fund.

(f) An annuity under this subsection may, at the option of the member, be in any of the forms provided in s. 42.49 (2) (a) to (d), on an actuarial equivalent basis. Section 42.49 (8) shall not apply to annuities under this subsection.

(g) In computing the total annuity for which a member would have been entitled under s. 42.49 (4), (5), (6) and (7) if he had remained a member of the separate group, as provided for in pars. (a) and (d), in those cases only where the annuity would have been increased in accordance with s. 42.49 (4), (6) (b) or (7), that part of such total annuity which is based on accumulations from required deposits shall be based on the actual accumulations from required deposits and not the accumulations from required deposits which would have resulted if the member had remained a member of the separate group.

(4) DISABILITY ANNUITIES. (a) If, before attaining age 50, a member who has made required deposits for not less than a school year 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 of 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 from the contingent fund 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.



(b) If a member receiving a disability annuity under par. (a) becomes eligible to receive an OASDHI disability or primary retirement benefit the amount of such annuity paid from the contingent fund shall be reduced by the amount of such OASDHI benefit. If any such member fails to apply for an OASDHI 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 contingent fund shall cease.

(c) Each initial determination of disability under this subsection 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 subsection shall be determined in the same manner. As a condition of continued payment of the portion of the annuity paid from the contingent fund, the board may require a member receiving a disability annuity under this subsection to reapply for an OASDHI disability benefit on the basis of any examination or determination under this subsection, or to apply for the freezing of his OASDHI earning record on the basis of his disability.

(d) A member may not receive an annuity under this subsection and s. 42.49 (9) at the same time.

(e) Payments to members who qualify for the disability annuity under par. (a) shall begin on or after January 1, 1958.

(5) SEPARATION BENEFITS. Any member who has ceased to be employed as a teacher in the public schools, state colleges or university in this state, and is not on leave of absence from a teaching position in the public schools, state colleges or university in this state, may be paid the accumulation from the member's deposits made while a member of the combined group based on teaching service performed after June 30, 1957, on filing with the board before the 50th 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 based on teaching service performed after June 30, 1957. Withdrawal of accumulations from member's deposits made before said member became a member of the combined group shall be governed by s. 42.49.

(6) BENEFITS WITHHELD WHILE MEMBER IS PAID FOR TEACHING. Any benefit payable for more than 95 days for which the member receives compensation which is subject to s. 42.40, shall be withheld from the member and be paid into the retirement deposit fund to be accumulated and applied, on the application of the member, toward the purchase of an annuity under this section, paid as a death benefit under s. 42.50, or withdrawn under sub. (7). Any part of the annuity which is payable from the contingent fund shall be withheld for the benefit of the contingent fund.

(7) LUMP SUM PAYMENT OF DEPOSITS OF \$3,000 OR LESS. Any member, who has attained the age of 50 years, has ceased to be employed as a teacher in the public schools, state colleges or university in this state, and is not on leave of absence from a teaching position in the public schools, state colleges or university in this state, and whose total accumulation from required deposits, state deposits and annuity payments withheld pursuant to sub. (6), including accumulations under s. 42.243, 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. The accumulation from additional deposits shall be paid at the same time.

(8) INFORMATION ON OASDHI BENEFITS. Each member may be required by the board, as a condition of receiving benefits under sub. (3) or (4), to authorize the social security administration to provide the state teachers retirement system with information regarding the present or future OASDHI benefits payable or to become payable to such member.

(9) ANNUITY OPTIONS. An annuity under sub. (1), (2) (a) 1 or (3) may at the option of the member be granted in any of the optional forms set forth in s. 42.49 (2) (a) to (e).

History: 1961 c. 194, 195; 1963 c. 186, 357; 1965 c. 482; 1967 c. 26 s. 35; 1967 c. 29.

**42.243 Variable annuities.** (1) ESTABLISHMENT. (a) *Purpose.* The purpose of this section 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 the state teachers retirement system 2 divisions known as the variable annuity division and the fixed annuity division.

(c) *Combined group.* The term "combined group," as used in this section, means the combined group established under s. 42.241, created by chapter 12, laws of 1957.

(2) **DEPOSITS.** (a) Each member of the combined group, or any prospective member of such group who has signed a contract or accepted an appointment to teach for the ensuing school year, may elect, by written notice filed with the board upon a form furnished by the board, to have 50% of his required deposits and state deposits paid into the retirement deposit fund of the variable annuity division and reserved for the purchase of a variable annuity.

(b) Said election may be made at any time and shall become effective as to deposits based on earnings after the following June 30 unless the board adopts rules which permit an election to become effective earlier.

(c) Said election shall constitute a complete waiver and forfeiture of any right of the member to any benefit under s. 42.242 (3) or s. 42.49 (4), (6) and (7).

(d) Said election, once made, is irrevocable.

(e) 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.

(f) Any member of the combined group who has elected under par. (a) 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 teacher 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.

(g) Any member of the separate group may 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. Benefits available from additional deposit accumulations for members of the combined group

shall also be available to members of the separate group. Subsection (3) shall not apply to members of the separate group.

(3) **TRANSFER OF ACCUMULATIONS.** Each person who, on January 1, 1958, has a deposit in the retirement deposit fund, and subsequently becomes a participant in the variable annuity division, may elect in writing upon a form furnished by the board, that 10% per year, for not to exceed 5 years, of his accumulation in the retirement deposit fund, as of the date he becomes a participant in the variable annuity division, be transferred from the retirement deposit fund of the fixed annuity division to the retirement deposit fund of the variable annuity division. The first transfer shall be made on July 1 following such election, or earlier at the discretion of the board. If at the time of retirement the transfers as elected under this subsection have not been completed, another transfer equal to one annual transfer may be made at the election of the member. No such transfers shall be made after the commencement of a retirement annuity.

(4) **FUNDS.** (a) The board shall at all times maintain in the funds of the fixed annuity division assets in accordance with s. 42.33 (1).

(b) The board shall at all times maintain in the funds of the variable annuity division an annuity reserve fund and a retirement deposit fund:

1. The annuity reserve fund shall consist of all transfers made to the annuity 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 then in effect, be within 2% of the amount of this fund.

2. Except as otherwise provided in ss. 42.245 (7) (d) and 42.33 (1) (d), the retirement deposit fund shall consist of the deposits made by or for members plus earnings from investments less withdrawals and transfers from the fund—the total adjusted for capital gains and losses.

(c) 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 state teachers retirement system.

(e) 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.

(f) The assets in the retirement deposit fund and the annuity reserve fund of the variable annuity division shall be evaluated annually by the board 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 may make additional evaluations of the fund at times between the annual evaluations if deemed desirable.

(5) EARNINGS—APPORTIONMENT AND CREDITING. (a) *Earnings.* The earnings of the funds of the variable 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.

(b) *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.

(c) *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, or state deposit accumulation, or both, are to be paid out in a single sum as a death benefit pursuant to sub. (7) (d) or s. 42.50, or are transferred to the annuity reserve fund pursuant to s. 42.48, interest shall be credited to the amount to be so paid out or transferred for each 3-month period which has elapsed since the preceding June 30 at one-fourth 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 paid out or transferred with the amount to which it was so credited. Earnings credited pursuant to this paragraph shall be excluded from the determination of the excess or deficiency resulting from participation in the variable annuity division as required by s. 42.245 (2) (b) 1 or (d) 4.

(6) CAPITAL GAINS AND LOSSES. (a) *Determination.* Capital gains for any period shall

be the value of the fund as evaluated by the board under sub. (4) (f) 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 1. the value of the fund at the beginning of the period, 2. the earnings of the fund during the period, and 3. receipts (other than receipts from investments) during the period. If this quantity is negative, it shall be the capital loss for the period.

(b) *Apportionment.* As of June 30 of each year the board shall determine the capital gains or losses to be apportioned to the several funds.

(c) *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:

1. Where transfers from the fixed annuity division have been elected pursuant to sub. (3), such gains and losses may be credited on the basis of full quarters that such transferred funds have been on deposit at the rate of one-quarter of the current year's capital gains and losses.

2. The board may, in order to avoid substantial inequities in case of extraordinary capital gains or losses, allocate a portion of these to deposits or transfers made during the current year.

(7) BENEFITS. (a) *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.

(b) *Adjustment of variable annuity payments.* Whenever the balance in the annuity reserve fund of the variable annuity division, as of June 30 of any year, exceeds or is less than the then 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% of said present value, the amount of each variable annuity payment shall be proportionately increased or decreased.

(c) *Interim adjustments.* Notwithstanding par. (b), the board may, in order to avoid substantial inequities, in the event of extra-

ordinary fluctuation in the market value of the investments, increase or decrease the variable annuity payments at times other than June 30.

(d) *Death benefits.* Death benefits with respect to accumulations in the variable annuity division shall be governed by s. 42.50, except that when any such benefit is payable to one or more persons and such benefit will provide a beginning life annuity to any beneficiary of at least \$10 per month or more a variable annuity shall be paid to such beneficiary in lieu of a single sum payment. Notwithstanding any other provision, in each such case, such variable annuity shall be paid to the beneficiary or beneficiaries, upon his or their application therefor, and for such period as he or they may elect, but not less than 60 months. If the accumulations in the variable annuity division are such that they will provide a beginning life annuity of less than \$10 per month for any beneficiary such beneficiary may elect to have such accumulation transferred to the fixed division to be applied in the same manner as accumulations therein are applied or to receive a variable annuity in the form specified herein.

(e) *Separation benefits.* Any member who has ceased to be employed as a teacher in the public schools, state colleges or university in this state, and is not on leave of absence from a teaching position in the public schools, state colleges or university in this state, 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 50th 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 division as the result of state deposits made in or transferred to the variable annuity division while he was a participant therein. Withdrawal of accumulations from member's deposits in the fixed annuity division shall be governed by s. 42.242 (5).

(f) *Other rights.* Other rights and benefits shall be as nearly consistent with ss. 42.242, 42.49 and 42.50 as the board determines to be practicable considering the nature of the benefits under the variable annuity division.

(g) *Annuities.* When a member has ceased to be employed as a teacher in the public schools, state colleges or university in this state, and is not on leave of absence from a teaching position in the public schools, state colleges or university in this state, the accumulation from the member's required deposits,

additional deposits or 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, 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

2a. A variable annuity payable monthly to the member during life, with a guarantee 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 monthly payments shall be continued to one beneficiary designated by the member, 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 secondary beneficiary or beneficiaries 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 he has become entitled to

receive monthly payments but before he has received all of them, the then present value of the remaining payments shall be paid in a single sum to the estate of the secondary beneficiary; 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 50th birthday anniversary of the member unless he has qualified for a disability annuity under s. 42.242 (4), 42.245 (3) or 42.49 (9).

7. Small amounts remaining in the retirement deposit fund to the credit of a member which may have been omitted in the purchase of an annuity or annuities may, at the discretion of the board, be paid to the member in a single payment in lieu of an adjustment to the annuity or annuities purchased under this paragraph.

History: 1961 c. 150, 194, 422; 1963 c. 235, 357; 1965 c. 250, 482, 581; 1967 [13.93 (1) (e)]; 1967 c. 26, 43.

**42.244 Creation of formula group; election by members.** (1) There is created as of September 11, 1965, as a part of the system a formula group, to be composed of: (a) Any combined group or separate group member, except any member who on September 11, 1965, is a member receiving an annuity or a member whose annuity is being withheld pursuant to s. 42.242 (6) or 42.49 (13), who at any time on and after September 11, 1965, but prior to December 1, 1965, is employed as a teacher in Wisconsin teaching and makes a required deposit pursuant to s. 42.40, and who elects in accordance with this section to become a member of the formula group; (b)

any combined group or separate group member who on September 11, 1965, is on authorized leave of absence, and who elects in accordance with this section to become a member of the formula group, but no such election shall be effective unless and until such member resumes employment as a teacher in Wisconsin teaching concurrently with the termination of such leave of absence; (c) any member who is a member of the system on September 11, 1965, but who is not eligible for an election under (a) or (b), who prior to July 1, 1966, or, who within 90 days from the last day of the month in which he is first employed as a teacher in Wisconsin teaching after September 11, 1965, elects in accordance with this section 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 July 1, 1966; and (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 s. 42.241; such classification shall also be applicable with respect to any benefit, compensation or employment which is not includable for formula group purposes.

(2) Not later than January 1, 1966, the executive secretary shall mail or deliver to each member who is eligible for the election specified in sub. (1) (a) or (b), comparative information concerning the required deposits, benefits and other features applicable to members of the formula group and to members of the group to which such member then belongs, together with an envelope addressed to the system and a form to be signed and returned to the office of the system 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 employment contract of such member, and the form provided herein shall contain a statement to such effect. To be effective, the election form from any member must be received by the office of the state teachers retirement system 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 may prescribe and 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.

(3) 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 s. 42.245 if earlier.

**History:** 1965 c. 250, 407, 581.

**42.245 Benefits under the formula group.**

This section shall apply only to members of the formula group. Benefits provided under or pursuant to this section are inclusive of the benefits provided by accumulations under s. 42.243.

(1) CREDITABLE SERVICE. (a) Creditable service shall be expressed in years and such fractions thereof as the board determines. The creditable service of each member any time prior to July 1, 1966, shall be the number of years of service as a teacher in Wisconsin teaching (including prior service) theretofore creditable to him pursuant to the applicable statutes and rules, provided that military service meeting the requirements of s. 42.45 (3) shall be included for any such period for which the member makes deposits as provided by s. 42.45 (4). The creditable service of a member with respect to teaching after June 30, 1966, shall be the number of years of subsequent service as a teacher in Wisconsin teaching until such service as a teacher 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 military service prior thereto.

(b) A member shall be considered a new member with respect to each separate period of service as a teacher in Wisconsin teaching as determined pursuant to s. 42.20 (17) (a) which begins after June 30, 1966. The commencement of a separate period of teaching service shall not cause the loss of any benefit to which a member is entitled by virtue of any preceding service.

(c) Creditable service for Wisconsin teaching prior to September 11, 1965 shall be reduced by one-half of any period included therein with respect to which the required deposits of a member have been withdrawn,

unless repayment of any such withdrawal has been made prior to July 1, 1966, pursuant to any applicable law. Nothing in this paragraph shall be construed to reinstate any rights waived in connection with the payment of a withdrawal or separation benefit.

(2) RETIREMENT ANNUITIES. (a) When a member of the formula group has ceased to be employed as a teacher in Wisconsin teaching and is not on authorized leave of absence from a teaching position in Wisconsin teaching, he may elect to receive a retirement annuity or annuities, the first payment of which shall not be made before the 50th birthday of the member.

(b) The retirement annuity of a formula group member, except as provided in par. (c), (d) or (dm), shall be in the monthly amount equal to the sum of the amounts determined pursuant to subs. 1 and 2, plus any benefit elected by such member to be provided by his accumulated additional deposits:

1. 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.

2. a. 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 and three-sevenths of one per cent of the final excess OASDHI compensation of the member; or

b. 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.

c. The initial amount of annuity in the normal form under this subdivision 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 OASDHI program, equals 75% of the mem-

ber's final average compensation. If a member does not receive such OASDHI 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 OASDHI benefits, determinations thereof shall be made by the board on such basis as the board, by rule, establishes.

d. If the member has accumulations from required deposits in the variable annuity division, the initial amount of the annuity under this subdivision 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.

(c) In no case, except as provided in par. (d), 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:

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

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

(d) Except as provided in par. (dm) the retirement annuity of a member who elected under s. 42.244 (1) (a) or (b) to become a formula group member shall be the amount determined pursuant to par. (b), (c) or this paragraph, as the member may elect, but if the member fails to make such election, the annuity shall be that sum calculated under said paragraphs which results in the largest initial annuity. The annuity under this paragraph shall be the annuity purchased by applying as a net single premium any one or more of the following, plus any benefit elected by a member to be provided by his accumulated additional deposits:

1. The accumulation from the member's required deposits.

2. The accumulation on June 30, 1966, from state deposits made on behalf of a member, compounded to the end of the last completed calendar quarter year at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year.

3. An amount equal to the accumulation of  $4\frac{1}{2}\%$  of a member's compensation for teach-

ing service in Wisconsin teaching in each fiscal year after June 30, 1966, compounded to the end of the last completed calendar quarter year at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year.

4. 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 at 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. 2 or 3 shall be reduced by the amount of such deficiency.

(dm) The retirement annuity of any formula group member who is a member of the university retirement association or the state colleges retirement association shall be the amount determined pursuant to par. (b), (c) or (d), but the amount under par. (d) 3 with respect to teaching service in Wisconsin teaching in each fiscal year after June 30, 1966, as a member of the university retirement association or the state colleges retirement association shall equal the accumulation from his required deposits with respect to his compensation for such teaching service which would have resulted if all such deposits had been made in the fixed annuity division.

(e) 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 of the optional forms set forth in s. 42.49 (2) (a) to (e). A member may elect to receive an annuity or annuities from his required deposits in one form and an annuity or annuities from the state contribution in another form. He may elect to receive his additional deposits in the fixed annuity division in a lump sum or in the form of an annuity, but additional deposits in the variable annuity division shall be received only in the form of an annuity. The excess of the total annuity to which a member is entitled under this section over the initial amount of the variable annuity provided hereunder, when both are computed in the normal form, will be the annuity payable from the fixed annuity division.

(f) Two annuities shall be deemed to be actuarially equivalent if both require the same net single premium at 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.

(g) This section shall be effective with respect to any retirement annuity provided herein if application therefor is filed after September 11, 1965, and if the beginning date of such annuity is after such 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 11, 1965. As soon as possible after July 1, 1966, each such retirement annuity shall be increased to the amount determined pursuant to this section, 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.

(h) Notwithstanding s. 42.244, an election to become a member of the formula group may be made at any time prior to July 1, 1966, by any member who made a required deposit pursuant to s. 42.40 based on teaching service in the month of May or June, 1965, who was not eligible to make an election to participate in the formula group pursuant to s. 42.244 (1) (a), (b) or (c) or who did not become a member of the formula group pursuant to s. 42.244 (1) (d), 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 adjusted in accordance with par. (g), any provision thereof to the contrary notwithstanding.

(3) DISABILITY ANNUITIES. (a) 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 Wisconsin 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 sub. (2), notwithstanding the age 50 requirement expressed therein.

(b) The amount of a disability annuity under this subsection shall be the greater of the following:

1. The amount of the retirement annuity to which the member would be entitled under sub. (2), notwithstanding the age 50 requirement expressed therein, or,

2. 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 OASDHI 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. 1. 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 OASDHI 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. In addition to a disability annuity a member may elect to receive his additional deposits in the fixed annuity division in a lump sum or in the form of an annuity in any of the optional forms set forth in s. 42.49 (2)



(a) to (e), but additional deposits in the variable annuity division may be received only in the form of an annuity in any of the optional forms set forth in s. 42.243 (7) (g).

(c) Each initial determination of disability under this subsection 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 subsection shall be determined in the same manner.

(d) This subsection shall not be effective as to any disability which occurred prior to July 1, 1966. Payment of a disability annuity under this subsection 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.

(4) SEPARATION BENEFITS. Any formula group member who has ceased to be employed as a teacher in Wisconsin teaching and who is not on authorized leave of absence from a teaching position in Wisconsin teaching, shall be paid the accumulation from the member's required and additional deposits upon filing with the board, before the 50th 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 ss. 42.20 to 42.54.

(5) SUSPENSION OF ANNUITIES WHILE TEACHING. (a) Any retirement annuity, other than an annuity purchased by accumulations from additional deposits, payable to a formula group member who receives compensation which is subject to s. 42.40 shall be suspended as of the last day of the first month for which he is entitled to such compensation.

(b) Payment of any annuity suspended pursuant to par. (a) shall be resumed as of the first day of the month following the last day on which the member is employed in Wisconsin teaching or is on authorized leave of absence from a teaching position in Wisconsin teaching. Any such annuity shall be payable

in the same amount as would be payable if such suspension had not occurred, but if the date such suspension occurred preceded the 65th birthday of the member, the initial amount of the resumed annuity shall be the amount which can be purchased as of the date of such resumption by applying as a net single premium the sum equal to the reserve for the annuity at the date of its suspension compounded to the end of the last completed quarter year preceding the date of its resumption at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year in the case of a fixed annuity, or the respective rates of earnings and capital gains and losses credited to individual accounts in the variable annuity division in the case of a variable annuity; and if the first day of the month following the 65th birthday of the member precedes the date as of which payment of an annuity is resumed, the amount thereof shall be the same amount as would be payable if payment had been resumed on the former date.

(c) If the payment of an annuity of a formula group member is suspended under this subsection and the death of such member occurs prior to the resumption of such payments and if such annuity was in a form which included a provision for payments after the death of the member, such payments shall be made to the beneficiary entitled thereto effective as of the first day of the month following such death. If such payments constitute a continuation of the annuity of the member or of a stated percentage thereof, the amount of such annuity shall be determined as if the payment thereof was resumed as of such effective date. If the annuity included a provision for a continuation of annuity payments after the death of the member only in the event of the survival of specified beneficiaries, such beneficiary designations may not be changed.

(d) This subsection shall not affect any annuity the beginning date of which precedes the date the annuitant first participated as a member of the formula group.

(6) MINIMUM ANNUITY REQUIREMENT. If the retirement annuity in the normal form which could be provided under this section from all available accumulations and credits, other than accumulations from voluntary additional deposits, is less than \$10 monthly, such retirement annuity shall not be paid, but in lieu thereof the then present value of such retirement annuity shall be paid in a single sum.

(7) PARTICIPATION IN VARIABLE ANNUITY PROGRAM. (a) Except as provided in this subsection, s. 42.243 shall be applicable to formula group members.

(b) 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.

(c) Transfers of accumulations under s. 42.243 (3), with respect to members of the formula group, shall be subject to the following:

1. As of June 30, 1966, after the adjustments required by s. 42.243 (5) and (6), there shall be transferred from the required deposit account in the fixed annuity division of each member of the formula group to his required deposit account in the variable annuity division the amount equal to the excess if any of a) the accumulation in his account in the variable annuity division from state deposits, over b) the accumulation in his account in the variable annuity division from required deposits.

2. Any transfer of accumulations on or after July 1, 1966, shall consist of the transfer of equal amounts of required deposit accumulations and state deposit accumulations or contributions, equaling in total the amount of the annual transfer, other than of accumulations from additional deposits, permitted under s. 42.243 (3), but the transfer of state deposit accumulations or contributions shall be to the state accumulation fund of the variable annuity division.

(d) 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 section.

**History:** 1965 c. 242, 250, 407, 581; 1967 [13.93 (1) (e)]; 1967 c. 29 s. 3.

**42.246 Election of formula group benefits by members of separate group.**

(1) Any separate group member who is eligible to elect to participate in the formula group as provided in s. 42.244, 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 separate group member who elects to become a formula group member shall also be subject to the following:

(a) 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.

(b) An election by a separate group member to become a member of the formula group shall constitute a complete waiver and forfeiture of any right of the member to any benefit under s. 42.49 (4), (6) and (7), and shall constitute a modification of his contract of employment.

(c) No such member shall be denied a disability annuity under s. 42.245 (3) by reason of the lack of an initial determination of disability under s. 42.245 (3) (c) if the member's ineligibility by reason of insufficient coverage for OASDHI disability benefits prevents the issuance of such a determination. The reduction required by s. 42.245 (3) (b) shall be effective as to each separate group member who elects to become a formula group member, on the basis established in par. (a).

(d) 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.

(e) 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 11, 1965 elects to become subject to s. 66.99, shall be the amount determined pursuant to s. 42.245 (2) reduced by the annuity in the normal form which could be purchased by:

1. If determined pursuant to s. 42.245 (2) (b), the total amount transferred to pay retroactive social security taxes with respect to such member; or

2. If determined pursuant to s. 42.245 (2) (c), one-half of the amount so transferred; or

3. If determined pursuant to s. 42.245 (2) (d), one-half of the amount so transferred, but excluding any amount by which the accumulation specified in s. 42.245 (2) (d) 3 was reduced by reason of such transfer.

(f) If the amount of the retirement annuity of a member of both the separate and formula groups, as calculated under s. 42.245 (2) (b) 2. a and b is less than the amount to which such member would have been entitled under s. 42.49 (4), (6) or (7), the annuity shall be increased to such amount, and then adjusted as provided under s. 42.245 (2) (b) 1 if such person is a participant in the variable annuity, provided that the annuity shall be so increased only if said member pays into the retirement deposit fund a sum equal to the difference between the amount which said member actually paid into said fund and the amount which he would have paid into said fund if he had not elected to become a member of the formula group, such payment to be made prior to filing an application for a retirement annuity.

**History:** 1965 c. 250; 1967 c. 29, 280.

**42.25 Public school retirement association.** The membership of the public school retirement association consists of all teachers and former teachers in the public schools who are members as defined in s. 42.20 (6r).

**42.27 State colleges retirement association.** The membership of the state colleges retirement association consists of all teachers and former teachers in the state colleges who are members as defined in s. 42.20 (6r).

**42.28 University retirement association.** The membership of the university retirement association consists of all teachers and former teachers in the university who are members as defined in s. 42.20 (6r).

**42.30 Association representatives.** Subject to s. 42.22, the members of each retirement association shall elect their representatives on the board prior to the beginning of

their respective terms in such manner and at such time as shall be prescribed in the bylaws of the respective associations. Any vacancy on the board shall be filled by the governor for the unexpired term.

**History:** 1967 [13.93 (1) (e)]; 1967 c. 26.

**42.32 Custody and disposition of funds.** The board shall receive, hold and pay out according to law, all deposits by the members and by the state and all accretions thereto and other moneys belonging to the several funds of the state teachers retirement system.

The teachers retirement fund could not be required to contribute to the cost of a study of retirement systems by a committee pursuant to a 1955 act. *State Teachers' Retirement Board v. Giessel*, 12 W (2d) 5, 106 NW (2d) 301.

**42.33 Assets, benefits, fund transfers. (1)** The board shall at all times maintain assets:

(a) In the "Annuity Reserve Fund" at least equal to the net present value of the prospective benefit payments according to the basic assumptions for the rates on which benefits have been granted;

(b) In the "Retirement Deposit Fund" equal to the liabilities for member deposits and for state deposits for members of the separate group and the combined group and interest accretions;

(c) In the "Contingent Fund" as follows: The assets held in the contingent fund shall as of June 30 of each year be at least equal to the following ratios to the present value of all future payments of benefits from the contingent fund, namely: The actual percentage of such assets to such present value on June 30, 1922, which percentage shall be increased by  $2\frac{1}{2}\%$  for each year thereafter, so that such assets shall equal such present value in not exceeding 40 years from June 30, 1922.

(d) In the "State Accumulation Fund" equal to the contributions made by the state with respect to members of the formula group, with earnings and capital gains accretions, as adjusted for transfers and payments therefrom. On July 1, 1966, the accumulations from state deposits in the accounts in the fixed annuity division and in the variable annuity division of all members of the formula group shall be transferred to the state accumulation fund. An amount of the state accumulation fund equal to the accumulations from required deposits from members of the formula group included in the variable annuity division shall constitute the state accumulation fund of the variable annuity division, and the remainder of the state accumu-

lation fund shall constitute the state accumulation fund of the fixed annuity division.

(2) The board shall establish and maintain such reserve or surplus funds 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 state teachers retirement system.

(3) For the purpose of determining the actual cost of annuities and other benefits based upon life contingencies, the board shall combine the mortality experience of the contingent fund and the annuity reserve fund, and shall annually apportion, distribute and transfer the cost of such benefits between the said funds in accordance with such combined mortality experience.

(4) The board may from time to time transfer from the contingent fund to the annuity reserve fund amounts not exceeding in the aggregate at any time 5% of the then net present value of the prospective benefit payments then chargeable to the annuity reserve fund; provided, that no distribution of gains and savings shall be made from the annuity reserve fund until all of such sums transferred shall have been repaid to the contingent fund with interest.

**History:** 1965 c. 250; 1967 c. 26.

**42.34 Board to fix annuities.** The board shall make such investigations of the mortality, disability, service and compensation experience of the several funds as are 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. The rates last adopted by the state annuity and investment board shall continue to be the prevailing rates until changed by action of the state teachers retirement board. 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. The board shall from time to time order and make such distribution of gains and savings as it deems equitable including transfers to the state accumulation fund from any surplus in the annuity reserve fund.

**History:** 1965 c. 250; 1967 c. 26.  
If annuity rates are changed effective July 1, 1962, and application is made prior to said date

for annuity to begin on or after such date, such annuity may be granted at the old or new rate at option of applicant. 51 Atty. Gen. 66.

**42.35 Classification, exceptions.** (1)

Members of each retirement association, all of whom shall be members of the state teachers retirement system, are classified as follows:

(a) Class A. All persons who, on the day preceding July 8, 1921, were members of, or entitled to a benefit from, the teachers' insurance and retirement fund.

(b) Class B. Senior teachers employed in the public schools, the state colleges or the university, after July 8, 1921, who prior to said date were teachers in any of said schools but were not members of the teachers' insurance and retirement fund.

(c) Class C. All members not included in Class A or in Class B.

(2) Persons residing outside of the United States and teaching temporarily in this state shall not come under the provisions of the state teachers retirement system.

(3) Persons on leave from an educational institution not under the state teachers retirement system and who are visiting professors, visiting associate professors, visiting assistant professors, or visiting lecturers at the university of Wisconsin or the state colleges shall not come under the provisions of the state teachers retirement system provided their employment at the university or state colleges is for not more than one year. If their employment at the university or state colleges is continued for more than one year they will, at the start of the 2nd year of such employment, come under the state teachers retirement system.

(4) Persons engaged as teachers at the state colleges or the university for summer sessions only, and who are not members of the state teachers retirement system, shall not come under that system.

**History:** 1963 c. 357; 1967 [13.93 (1) (1)].

**42.37 Board, duties.** The board shall:

(1) Determine the age, sex, prior service, compensation and teaching experience of members.

(2) Determine the amounts deposited by members, the amounts to be deposited by the state on account of members, and the benefits payable to members.

(3) Maintain individual records and individual accounts for members.

(4) Beginning with the 1967 fiscal year, 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.

**History:** 1965 c. 247; 1967 c. 26.

**42.38 Court review.** Any order, rule or determination of the board may be reviewed in the manner provided in ch. 227.

**History:** 1967 c. 26.

**42.39 Reports to be furnished board.** Every employer shall furnish to the board such reports and information as the board requires, and the state superintendent of public instruction and the district and city superintendents shall give such aid and co-operation in furnishing or obtaining any such reports or information as may be required by the board.

**History:** 1967 c. 26.

**42.40 Required deposits.** (1) Each teacher who is a member of the separate group shall make a deposit in the retirement deposit fund equal to 6% of all compensation received for teaching service performed by such teacher.

(2) Beginning on the first day of the first calendar quarter which begins after an agreement extending coverage under OASDHI to the members of the combined group under s. 42.241 becomes effective, each teacher who is a member of the combined group shall make a deposit in the retirement deposit fund equal to 4½% of all compensation received for teaching service performed by such teacher.

(3) Any member, or any person on behalf of any member, may make additional deposits whenever said member has any credits in the retirement deposit fund. All amounts deposited by or on behalf of any teacher 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 by ss. 42.20 to 42.54.

(4) No deposit shall be made under sub. (1), (2) or (6) by any part-time teacher at the university below the grade of instructor or any teacher who is or may be entitled to any benefit from the Carnegie Foundation for the advancement of teaching under any plan in force prior to November 17, 1915.

(5) No deposit shall be made under sub. (1), (2) or (6) by any person who was contributing to the employees retirement system of the county of Milwaukee on September 10, 1959, while such person is contributing to such system.

(6) Effective July 1, 1966, each member of the formula group shall make a deposit in the retirement deposit fund equal to 4½% 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 not subject to such contributions, but no deposit shall be required with respect to compensation for teaching service subsequent to the June 30 following or coincident with the 70th birthday of any such member; but each member of the formula group who performs services in connection with an activity carried on co-operatively by the federal government and the state or any political subdivision thereof, which services have been determined not to be subject to s. 66.99, shall for purposes of this subdivision and s. 42.20 (17) be deemed to be subject to s. 66.99 with respect to such services.

(7) No deposit shall be made under sub. (1), (2) or (6) by any part-time teacher at the state colleges below the grade of faculty assistant.

(8) Effective for compensation earned after June 30, 1967, the state shall deposit, in lieu of an equal amount of the deposits required from each member under any other paragraph of this section for teaching service in the classified service of the state, an amount equal to 2% of the compensation earned for teaching service in the classified service of the state. Such deposit by the state shall be credited to the account of each member in the state classified service and shall be available for all retirement fund benefit purposes to the same extent as normal deposits which are deducted from the earnings of such member, except that no such amount paid by the state, or interest credits or gains thereon, shall be paid as a separation benefit under s. 42.242 (5) or 42.245 (4) or withdrawal benefits under s. 42.49 (1). The employer contribution rates for the state determined in accordance with s. 42.46 shall be adjusted by the executive secretary, upon the written recommendation of the actuary, to reflect the difference between the 2% payments by the state as required herein and the equivalent actuarial value thereof. After June 30, 1967, variable annuity segregations related to current required teacher deposits and state payments under this section, shall be made entirely from deposits deducted from the earnings of members. For purposes of computing retirement fund contributions, retirement fund benefits and maintaining accounts, all compensation of members in the state classified service earned, but not paid, prior to July 1, 1967, shall be deemed to have been paid prior to July 1, 1967.

**History:** 1965 c. 250, 482, 581; 1967 c. 29, 43.

**42.41 Deductions from salaries; payroll.**

(1) Every employer shall deduct and withhold from the compensation as a teacher paid by such employer to each teacher on each payroll for each payroll period such per cent of the compensation of each teacher, as such teacher is required to deposit under s. 42.40. Any person or officer whose duty it is to prepare the payroll for the payment of any said teachers may be required by the board, on each such payroll, to furnish all information necessary for the timely and efficient administration of the system. The executive secretary shall provide any such person or officer information as to whether a teacher is a member of the separate group, combined group or formula group.

(2) Whenever deductions are made from compensation on any payroll the employer shall immediately send to the board a copy of such payroll in such form as approved by such board with a remittance payable to the order of the state treasurer for all deductions from the compensation of teachers on such payroll. The remittances may be by draft, money order or check or otherwise according to rule adopted by said board.

(3) The board shall immediately transmit to the state treasurer all payments received and shall audit the payrolls of all employers and shall determine the amount deductible from the compensation of members on each payroll.

(4) The board may provide by rule that the payroll reports under this section be made on a monthly, quarterly, semiannual or annual basis. Such basis may be different for different types of employers.

**History:** 1961 c. 172; 1965 c. 250; 1967 c. 26.

**42.42 Information to board.** (1) **PRIOR CONTRACTS.** Every contract of employment as a teacher made after July 8, 1921, shall specify that it is subject to the provisions of the state teachers retirement law, and give the date of the birth of the teacher, and such other information as the board may require for the identification of the teacher. In any case when such contract was made before July 1, 1947 no deduction without the consent of the teacher shall be made in excess of the deduction authorized when the contract was made.

(2) **EMPLOYER'S STATEMENT TO BOARD.** On or before September 30 in each year, the employer shall mail to the board a statement giving the name, address, and date of birth of all teachers employed for the ensuing school year, and such other information as the board

may require for the identification of such teacher. Any teacher thereafter employed during the school year shall be reported within 30 days after such employment.

(3) **TEACHER'S AFFIDAVIT.** Upon receiving notice of the employment of a teacher for the first time, the board shall immediately mail to the teacher a blank calling for such information as the board may require for the identification of the teacher and the determination of the state deposit and other rights of the teacher, which blank properly filled shall be returned to the board promptly. The state deposit for the fiscal year shall not be made for any teacher unless such information is received on or before July 31 of the following fiscal year.

(4) **CERTIFICATE OF MEMBERSHIP.** The board shall issue to every member a certificate of membership, which shall contain such information as, with the information derived from the payroll, shall be necessary to determine the state deposit on behalf of such member and shall be in such forms as the board shall prescribe.

**History:** 1967 c. 26.

**42.43 Employers' duties as to funds.** Every employer shall be responsible for the payment to the board of the required deposits to be made by every teacher in the service of such employer. No employer shall, without the consent of the member, withhold or deduct from any member's compensation on any payroll any amount in excess of the required deduction for the period covered by such payroll.

**History:** 1961 c. 172; 1967 c. 26.

**42.44 Salary less deductions to be complete payment.** Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation or tenure of any member, payment of such salary, pay or compensation to such member less the required deductions herein provided shall be a full and complete discharge and acquittance of all claims for service rendered by such member during the period covered by such payment.

**42.45 State deposit; basis; military service.** (1) (a) Except as provided in pars. (b), (c), (cn) and (co), the state deposit on behalf of each teacher who is required to make deposits under s. 42.40 (1) or (2) shall be an amount equal to the following percentage upon the required deposit made by such teacher during the fiscal year, namely, to 50% of the required deposit add 5% of the required deposit for each year of teaching ex-

perience excluding the year for which deposit is made, but the total shall not exceed 200% of the required deposit. In computing the state deposit, any amount of required deposit on account of any amount of annual compensation in excess of \$3,000 shall be disregarded in applying the above percentages. If the teacher received compensation for service as a teacher in the public schools, the state colleges or the university, for not less than a school year during the fiscal year, the state deposit shall be increased by \$25.

(b) Beginning on July 1 following the execution of an agreement extending coverage under OASDHI to the members of the combined group under s. 42.241, the state deposit on behalf of each teacher who is a member of the separate group shall be computed in accordance with par. (a) and the state deposit for each other teacher shall be an amount equal to the required deposit made by such teacher under s. 42.40 (2). State contributions for members of the formula group for fiscal years beginning after June 30, 1966, shall be determined under s. 42.46 (3).

(c) For the fiscal year July 1, 1957, to June 30, 1958, the state deposit on behalf of a teacher who becomes a member of the combined group shall be not less than the state deposit would have been if such teacher had remained a member of the separate group.

(cm) For the fiscal year July 1, 1958, to June 30, 1959, the state deposit on behalf of a teacher who, pursuant to s. 42.241 (12a), became a member of the combined group before July 1, 1959, shall be computed in accordance with par. (a).

(cn) For the fiscal year July 1, 1959, to June 30, 1960, the state deposit on behalf of a teacher who, pursuant to s. 42.241 (12a), became a member of the combined group after July 1, 1959, shall be an amount equal to the required deposit made by such teacher under s. 42.40.

(co) For any fiscal year beginning after June 30, 1965, during which a teacher who is not a member of the formula group becomes a member of the combined group pursuant to s. 42.241 (12a), the state deposit on behalf of such teacher shall be equal to the required deposit made by such teacher under s. 42.40, but the state contribution for any fiscal year beginning after June 30, 1966, with respect to a member of the formula group who during such year becomes a member of the combined group pursuant to s. 42.241 (12a) shall be determined under s. 42.46 (3).

(d) All state deposits shall be credited as of June 30 except that whenever, prior to the end of the fiscal year, a member's deposit accumulation is to be paid out as a death benefit pursuant to s. 42.50, or transferred pursuant to s. 42.48 immediately before such payment 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 state teachers retirement system therefor pursuant to s. 42.46.

(2) In computing the state deposit, a member who left the teaching profession to serve, and who served, the United States or any of its allies in World War I or in World War II in or with the army, including the WAACS, in or with the navy, including the WAVES, in or with the marines, including the U. S. marine corps women's reserve, in or with the coast guard, including the SPARS, or in the American field service, or who is called to active duty in the armed forces under P.L. 87-117 shall be credited with teaching experience for the time so served upon proof of such service and honorable discharge therefrom being furnished to the board, or having been furnished to its predecessor. In computing the state deposit, any member who left the teaching profession under agreement with the federal government to take training to teach, and who taught, persons in any of the aforesaid main or auxiliary branches of the United States military service during World War II shall be given like credit for the time spent in such training as well as in such teaching upon proof of such training and teaching being furnished to said board.

(3) Any member who left the teaching profession in Wisconsin from a position in which he was making or in which he had been compelled to make required deposits or in which he would have been compelled to make required deposits if he had been a senior teacher to serve, and who served, the United States or any of its allies in World War I, in World War II, or after June 25, 1950 and during a period of national emergency or under P.L. 87-117, in or with the army, including the WAACS, and WACS, in or with the navy, including the WAVES, in or with the marines, including the U. S. marine corps women's reserve, in or with the coast guard, including the SPARS, or in the American field service who teaches in Wisconsin after August 4, 1951, in a position in which such member is compelled to make required deposits or

in which he would have been compelled to make required deposits if he had been a senior teacher, shall be credited with teaching experience for the time so served, of which not to exceed 4 years shall be credited as teaching experience in the public schools, the state colleges or the university in this state, upon proof of such service and honorable discharge therefrom being furnished to the board, or having been furnished to its predecessor. Any member who left the teaching profession in Wisconsin from a position in which he was making or in which he had been compelled to make required deposits under agreement with the federal government to take training to teach, and who taught persons in any of the aforesaid main or auxiliary branches of the United States military service during World War II, or after June 25, 1950 and during a period of national emergency, and who teaches in Wisconsin after August 4, 1951, in a position in which such member is compelled to make required deposits, shall be given like credit for the time spent in such training as well as in such teaching upon proof of such training and teaching being furnished, or having been furnished to said board. This amendment (1957) is retroactive to August 4, 1951, with respect to members who have retired since that date. The annuities of such members shall be recomputed in accordance with this amendment (1957) and each such member shall be paid the difference between the amounts received and the amounts which would have been paid if this amendment (1957) had taken effect August 4, 1951. Payment for such retroactive period shall be made to members only and not to the beneficiaries, heirs, assigns or estate of any member who has died before August 31, 1957.

(4) Any member who receives credit as teaching experience for military or teaching service as provided in sub. (3), who so elects may make deposits for the period for which he received such credit as teaching experience, and as of the following June 30, such member shall be credited with corresponding state deposits, calculated according to the state deposit formula in effect on June 30, 1947 or on the date he entered on active duty with the armed forces if such date was after August 1, 1961. The deposits which may be made by the member pursuant to such election shall be equal to the required deposits which should have been made by such member for such portion of the period covered by such election during which he would have been a senior teacher had he remained in teaching, computed on the

basis of the monthly salary received during the first fiscal year after such period in which said member returned to teaching in a position in which said member was compelled to make required deposits. Any state deposits which are made pursuant to this subsection shall be forfeited by the member for whom they were made unless he has had at least 4 years of teaching experience under the state teachers retirement system after completion of any of the military service or training and teaching described in sub. (3), except that such state deposits shall not be forfeited if the member has taught for a period at least equal to 50% of the time, not exceeding 8 years, between the date of completion of such military service or training and teaching and the date of his death.

**History:** 1961 c. 660; 1965 c. 250, 407; 1967 c. 26, 29 s. 3.

**42.46 Maintaining status of funds.** (1)

The board shall annually, as soon after June 30 as practicable, ascertain the teaching experience of, and the amount of required deposits made during the year by, each member of the separate group and the combined group, and on the basis thereof determine the deposit to be made by the state in the retirement deposit fund on account of service rendered during the year for each such member. Said board shall also determine annually, as soon after June 30 as practicable, the amount of money which must be placed in the contingent fund to maintain the ratio of assets to liabilities which is required by s. 42.33 (1) (c) and the amount required to be paid into the state accumulation fund pursuant to sub. (3). The amount of the state deposit to the retirement deposit fund shall be credited to the individual accounts of the members for the purpose of providing an annuity or other benefit as provided in ss. 42.20 to 42.54, but for fiscal years beginning after June 30, 1966, such credits shall be made only with respect to the accounts of members of the separate group and the combined group.

(2) (a) The board shall annually, prior to June 30, estimate for each retirement association the per cent of total compensation subject to required deposits which will equal the amount of the deposit to be made by the state pursuant to sub. (1) on account of service to be rendered during the next fiscal year plus any amounts required to adjust the transfers made in preceding fiscal years to the exact amounts which should have been paid under sub. (1). The estimated percentages thus derived shall be the employer contribution rates



for the next fiscal year for the respective retirement associations.

(b) The board shall certify the contribution rates derived in accordance with par. (a) to the department of administration and shall certify the appropriate contribution rate to each state department, board and commission and each public school employing or paying the salaries of teachers. The heads of the respective state departments, boards and commissions and of each public school which make the salary deductions in accordance with s. 42.40 shall at the time that said salary deductions are sent to the board, by applying the appropriate retirement association's employer contribution rate to the appropriate portion of the compensation of the respective employes of that department, board, or commission, or public school determine the amount of the corresponding state contribution to be made from the proper fund and appropriation of the state and shall indicate the amount of such contribution on the payroll report submitted to the system. The system shall transmit summaries of such payroll reports to the department of administration together with a voucher for payment to the state teachers retirement system, from the appropriate state funds and appropriations of the amounts payable thereto as indicated by the payroll reports. Thereupon the department of administration shall approve such voucher for payment and the treasurer shall issue his check therefor to the state teachers retirement system.

(3) For the purpose of providing benefits to members of the formula group, as provided by ss. 42.20 to 42.54, the state shall pay each fiscal year to the state teachers retirement system for credit to the state accumulation fund as provided by subs. (1) and (2), 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 approves, as follows:

(a) 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 of each retirement association 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 ac-

cumulation fund for the benefit of the members of the respective associations. The percentage referred to in the preceding sentence shall be determined as the uniform percentage of the compensation of all such members of each retirement association which if contributed throughout the entire period of the employment of each as a teacher in Wisconsin 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.

(b) 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 of each retirement association 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 of each retirement association, the amount then credited to said fund for the benefit of the members of the respective associations and the present value of future accrued liability contributions of the members of the respective association, and dividing the remainder by the present value of the prospective future compensation of all such members.

**History:** 1965 c. 250, 564; 1967 c. 26, 43.

**42.47 Apportionment of earnings.** As of June 30 of each year the board shall determine the earnings to be apportioned to the several funds. Such earnings shall be apportioned and credited to the several funds at the rates determined by the board, provided that the rate of apportionment to the annuity reserve fund shall be at least equal to the interest rate used in the valuation of the benefits payable from such fund.

**History:** 1967 c. 26.

**42.475 Interest on withdrawals and transfers.** Whenever a member's deposit accumulation, state deposit accumulation or an amount in the state accumulation fund is to be paid out as a death benefit pursuant to s. 42.50, or is transferred to the annuity reserve fund pursuant to s. 42.48, interest shall be credited to the amount to be so paid out or transferred for each 3-month period which has elapsed since the preceding June 30 at one-fourth 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 paid out or transferred with the amount to which it was so credited. Interest credited pursuant to this section shall be excluded from the determination of the excess or deficiency resulting from participation in the variable annuity division as required by s. 42.245 (2) (b) 1 or (d) 4.

**History:** 1965 c. 250, 581.

**42.48 Application for benefits.** A member may apply at any time to the board, on a form furnished by it, for a benefit. The board shall determine the benefit to be paid to the member, which shall be certified by the board to the department of administration. The department of administration shall thereupon issue its warrants upon which the state treasurer shall make payments accordingly. If the benefit applied for is other than a single payment the board shall transfer the amount of the member's individual accumulation covered by the application as so certified, from the retirement deposit fund to the annuity reserve fund, and shall transfer from the state accumulation fund to the annuity reserve fund the additional amount required to provide the benefit if payable to or on account of a member of the formula group, and the benefit shall thereafter be paid from the annuity reserve fund. The state treasurer shall make payment by check to the order of the member or beneficiary and the personal indorsement of the payee shall be sufficient receipt and shall constitute a statement that the payee is entitled to the payment of such benefit in full compliance with the requirements of the law.

**History:** 1965 c. 250; 1967 c. 26.

**42.49 Withdrawals; annuities; disability benefits.** Except as provided otherwise, this section shall apply only to members of the separate group.

(1) **WITHDRAWALS.** Upon the expiration of 6 months after filing application with the board by a member who has ceased to be employed as a teacher in the public schools, state colleges or university in this state, and who is not on a leave of absence from a teaching position in the public schools, state colleges or university in this state, the accumulations from the member's deposits, or any part thereof, may be withdrawn:

(a) In a single payment, or

(b) In such instalments as the board shall approve.

(2) **ANNUITY FROM MEMBER'S DEPOSITS.** When a member has ceased to be employed

as a teacher in the public schools, state colleges or university in this state, and is not on a leave of absence from a teaching position in the public schools, state colleges or university in this state, the accumulation from the member's deposits may be applied by the member as a net single premium at the rate certified by the board, to the purchase of an annuity, 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, which annuity may be:

(a) An annuity payable monthly to the member during life;

(ab) An annuity payable monthly to the member during life, and if the member dies before he has received as annuity, in monthly payments, an aggregate amount equal to the accumulations from such member's deposits at the time of his application for said annuity, the designated beneficiary or beneficiaries of such member shall be entitled to receive an amount equal to the difference between the accumulations from such member's deposits and the amount paid to said member as an annuity during his life.

(b) An 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 shall have been made for 180 consecutive months after such annuity began. Unless prohibited by the member in his designation, any such beneficiary may elect at any time to receive the then present value of his benefit in a single sum. Upon the death of any designated beneficiary after he has become entitled to receive monthly payments hereunder, 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

(ba) An annuity payable monthly to the member during life, with a guarantee 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 monthly payments shall be continued to one beneficiary designated by the member, 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 secondary beneficiary or beneficiaries 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 he has become entitled to receive monthly payments but before he has received all of them, the then present value of the remaining payments shall be paid in a single sum to the estate of the secondary beneficiary; or

(c) An annuity payable monthly to the member during life, and after death of the member, monthly payments of one-half the monthly amounts paid to the member to be continued to such beneficiary during life as the member shall have designated in the original application for a retirement allowance; or

(d) An annuity payable monthly to the member during life, and after the death of the member, the same monthly payment to be continued to such beneficiary during life as the member shall have designated in the original application for a retirement allowance; or

(e) In such 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.

(f) Small amounts remaining in the retirement deposit fund to the credit of a member which may have been omitted in the purchase of an annuity or annuities may, at the discretion of the board, be paid to the member in a single payment in lieu of an adjustment to the annuity or annuities purchased under this subsection.

(3) ANNUITY FROM STATE DEPOSITS. When a member has ceased to be employed as a teacher in the public schools, state colleges or university in this state, and is not on leave

of absence from a teaching position in the public schools, state colleges or university in this state, the accumulations from state deposits may be applied by the member, except as provided in sub. (15), to the purchase of an annuity in the same manner as provided in sub. (2). (a), (b), (c), (d) or (e), except that the first payment cannot be made before the 50th birthday anniversary of the member unless he has qualified for a disability annuity under sub. (9) (a). Small amounts remaining in the retirement deposit fund to the credit of a member which may have been omitted in the purchase of an annuity may, at the discretion of the board, be paid to the member in a single payment in lieu of an adjustment of the annuity purchased under this subsection.

(4) INCREASED ANNUITY BASED ON TOTAL SERVICE; \$2 MINIMUM. (a) When a member who has taught after August 3, 1947, ceases to be employed as a teacher in the public schools, state colleges or university in this state and is not on a leave of absence from a teaching position in the public schools, state colleges or university in this state, and has attained the age of 60 years or more, and has had not less than 30 years of teaching experience of which not less than 20 years were in the public schools, the state colleges or the university in this state, and has applied the entire accumulations from required deposits as provided in sub. (2), and the accumulations from state deposits have been applied by the member to the purchase of an annuity as provided in sub. (3), and when the annuity purchased by such accumulations from state deposits, together with the annuity, if any, provided for the member under s. 42.51 (3), when computed as an annuity payable monthly to the member during life is less than an annuity of \$2 per month for each year of the member's teaching experience, not exceeding 35 years, in the public schools, state colleges or university in this state, the annuity to the member shall be increased so that the member shall be paid an annuity for life equal to such annuity, or the actuarial equivalent of such life annuity. The increase in the annuity shall be paid from the contingent fund.

(b) The increased annuity provided in par. (a) shall not be available for any member who has at any time withdrawn any amount from the retirement deposit fund or received any annuity under ss. 42.20 to 42.54, except that:

1. The increased annuity shall be available for any member who has withdrawn any

amount from the retirement deposit fund if the amount withdrawn, except additional deposit accumulations, is repaid to the retirement deposit fund, with interest at the rate of 3% per annum from the date of withdrawal to the date of repayment, before application is made for an annuity under this section.

2. The increased annuity shall be available for any member who makes the repayment required by subd. 1, who has been an annuitant under ss. 42.20 to 42.54, who returned to teaching and made required deposits prior to August 3, 1947, and who, after July 31, 1949, taught in a position which compelled such member to make required deposits, if when such member makes application for such increased annuity, all of the accumulations, except additional deposit accumulations, then to the credit of such member in the retirement deposit fund shall be used to increase the annuity last granted to such member and the increased annuity must be taken in the form of the annuity so last granted, which shall be decreased by that portion of the annuity or annuities previously granted to such member from his state deposit and prior service accumulations.

(5) CREDIT FOR OUTSIDE TEACHING EXPERIENCE. Any member with years of teaching experience other than in the public schools, the state colleges or the university in this state, who, after July 1, 1951, teaches in a position in which such member is compelled to make required deposits, may have such years of teaching experience counted as the equivalent of years of teaching experience in the public schools, the state colleges or the university in this state for all purposes under sub. (4), subject to the following requirements and limitations:

(a) Any member claiming teaching experience under this subsection shall make written application and certify to the board such information as said board may require concerning such experience and no such teaching experience shall be allowed unless approved by the board.

(b) No member may be allowed years of teaching experience under this subsection, the total of which exceeds two-fifths of the total years of teaching experience both within and without this state. Where the years of teaching experience other than in the public schools, the state colleges or the university in this state shall exceed two-fifths of the total years of teaching experience both within and without this state, the years of such experience

allowed shall be counted in reverse chronological order.

(c) When such teaching experience is approved by the board, it shall be entered upon the member's account as years of teaching experience subject to the payment of deposits and interest as required herein.

(d) No years of teaching experience claimed under this subsection shall be approved unless the member shall certify and furnish such proof as the board may require that the member is not otherwise entitled to the payment of any benefits on account of such teaching experience except the return of the member's contribution either with or without interest.

(e) When a member claiming years of teaching experience under this subsection shall make application for an annuity under sub. (4), such member shall pay into the retirement deposit fund a sum equal to the deposits which would have been required of the teacher had such years of teaching experience been in the public schools, the state colleges or the university in this state at the same times and at the same salaries, together with interest at 3% per annum, calculated on the deposit for each year of such teaching experience from July 1 next following the actual year of teaching experience to July 1 nearest the retirement date.

(f) Nothing in this subsection shall be construed to require any state deposit for any year of teaching experience counted under this subsection.

(6) INCREASED ANNUITY BASED ON LAST 5 YEARS OF SALARY. (a) When a member who, after July 29, 1951, taught in a position which compelled such member to make required deposits, ceases to be employed as a teacher in the public schools, state colleges or university in this state, and is not on a leave of absence from a teaching position in the public schools, state colleges or university in this state, and has attained the age of 60 years or more, and has had not less than 30 years of teaching experience of which not less than 20 years were in the public schools, the state colleges or the university in this state, and has applied the entire accumulation from required deposits as provided in sub. (2) and the accumulation from the state deposits has been applied by the member to the purchase of an annuity as provided in sub. (3):

(b) If the annual amount of the annuity provided under sub. (3), together with the annual amount of the annuity, if any, provided for the member under s. 42.51 when computed as an annuity payable to the mem-

ber during life is less than one-one hundred fortieth of the average annual salary received by the member for the last 5 years of teaching experience in the public schools, the state colleges, or the university in this state, provided that any excess of such average over \$4,800 shall be disregarded, multiplied by the number of years of the member's teaching experience not exceeding 35 years in the public schools, the state colleges, or the university in this state, the said annuity to the member shall be increased so that the member shall be paid an annuity for life equal to such amount, or the actuarial equivalent of such life annuity, and

(c) If the sum of the annual annuity provided in par. (b) and the annual annuity purchased by the accumulation of required deposits when computed as an annuity payable to the member during life is less than one-seventieth of the average annual salary as defined in par. (b), multiplied by the number of years of the member's teaching experience not exceeding 35 years in the public schools, the state colleges, or the university in this state, the annuity to the member shall be increased so that the member shall be paid an annuity for life equal to such amount, or the actuarial equivalent of such life annuity. Any such increases in the annuity shall be paid from the contingent fund. Any increased annuity herein provided shall not be available for any member who has at any time withdrawn any amount from the retirement deposit fund or received any annuity under ss. 42.20 to 42.54, except that

(d) The increased annuity shall be available for any member who has withdrawn any amount from the retirement deposit fund if the amount withdrawn, except accumulations from additional deposits, be repaid to the retirement deposit fund, with interest at the rate of 3% per annum from the date of withdrawal to the date of repayment, before application is made for an annuity under this subsection, and

(e) The increased annuity shall be available for any member who makes the repayment required by par. (d), who has been an annuitant under ss. 42.20 to 42.54, and who returned to teaching and made required deposits prior to July 29, 1951. When such member makes application for such increased annuity, all of the accumulations, except accumulations from additional deposits, then to the credit of such member in the retirement deposit fund shall be used to increase the annuity last granted to such member and the

increased annuity must be taken in the form of the annuity so last granted, which shall be decreased by that portion of the annuity or annuities previously granted to such member from his required deposit, state deposit and prior service accumulations.

(7) INCREASED ANNUITY BASED ON TOTAL SERVICE IN STATE SYSTEM; \$2 MINIMUM. (a) When a member who has taught after July 29, 1951, ceases to be employed as a teacher in the public schools, state colleges or university in this state and is not on a leave of absence from a teaching position in the public schools, state colleges or university in this state, and has attained the age of 60 years or more and has had not less than 25 years of teaching experience in the public schools, the state colleges or the university in this state, or has attained the age of 55 years or more and has had not less than 30 years of teaching experience in the public schools, the state colleges or the university in this state, and has applied the entire accumulation from the member's required deposits as provided in sub. (2), and the accumulations from the state deposits have been applied by the member to the purchase of an annuity as provided in sub. (3), and when the annuity purchased by such accumulations from the state deposits, together with the annuity, if any, provided for the member under s. 42.51 (3), when computed as an annuity payable monthly to the member during life is less than an annuity of \$2 per month for each year of the member's teaching experience, not exceeding 35 years, in the public schools, state colleges or university in this state, the annuity to the member shall be increased so that the member shall be paid an annuity for life equal to such annuity, or the actuarial equivalent of such life annuity. The increase in the annuity shall be paid from the contingent fund.

(b) The increased annuity herein provided shall not be available for any member who has at any time withdrawn any amount from the retirement deposit fund or received any annuity under ss. 42.20 to 42.54, except that:

1. The increased annuity shall be available for any member who has withdrawn any amount from the retirement deposit fund if the amount withdrawn, except accumulations from additional deposits, is repaid to the retirement deposit fund, with interest at the rate of 3% per annum from the date of withdrawal to the date of repayment, before application is made for an annuity under this section.

2. The increased annuity shall be available

for any member who makes the repayment required by subd. 1, who has been an annuitant under ss. 42.20 to 42.54, who returned to teaching and made required deposits prior to July 29, 1951, and who, after such date teaches in a position in which such member is compelled to make required deposits. When such member makes application for such increased annuity, all of the accumulations, except accumulations from additional deposits, then to the credit of such member in the retirement deposit fund shall be used to increase the annuity last granted to such member and the increased annuity must be taken in the form of the annuity so last granted, which shall be decreased by that portion of the annuity or annuities previously granted to such member from his state deposit and prior service accumulations.

(8) **BENEFITS NOT REDUCED BY TEACHING AFTER QUALIFYING FOR ANNUITY.** If any member who meets the requirements of subs. (4), (6) or (7) has attained the age of 60 years or more, and has 35 years or more of teaching experience in the public schools, the state colleges or the university in this state, and selects an annuity in a form other than a life annuity, the total amount of such annuity including the annuity purchased by the member's deposits shall be not less than the annuity of the same form to which the member would have been entitled had he retired immediately upon reaching 60 years of age and completing 35 years of such teaching experience. The amount of any annuity under subs. (4), (6) or (7) for a male member shall not be less than the annuity to which a female member would be entitled upon retiring with like qualifications.

(9) **DISABILITY ANNUITIES.** (a) If, before attaining age 50, a member who has made required deposits for not less than a school year 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 from the contingent fund 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 shall fail 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.

(b) A member who has attained age 50 but who has not attained the minimum age required to qualify for the minimum benefit as provided in s. 42.49 (4) who has made required deposits for not less than a school year 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, and becomes physically or mentally incapacitated as provided in this subsection, and furnishes due proof thereof, and that such disability has then existed for 60 days, shall be entitled to the increased annuity described in sub. (4) upon application therefor to the board if said member has had not less than 20 years of teaching experience in schools, departments or institutions included in the state teachers retirement system, and applies the entire accumulation from the member's required deposits at the time that such disability occurs toward the purchase of an annuity.

(c) The increased annuity herein provided shall not be available for any member who has at any time withdrawn any amount from the retirement deposit fund or received any annuity under ss. 42.20 to 42.54, except that:

1. The increased annuity shall be available for any member who has withdrawn any amount from the retirement deposit fund if the amount withdrawn, except accumulations from additional deposits, be repaid to the retirement deposit fund, with interest at the rate of 3% per annum from the date of withdrawal to the date of repayment, before application is made for an annuity under this section.

2. The increased annuity shall be available for any member who makes the repayment required by subd. 1, who has been an annuitant under ss. 42.20 to 42.54, who returned to teaching and made required deposits prior to July 29, 1951, and who after such date teaches in a position in which such member is compelled to make required deposits. When such member makes application for such increased annuity, all of the accumulations, except accumulations from additional deposits, then to the credit of such member in the retirement deposit fund shall be used to increase the annuity last granted to such member and the increased annuity must be taken in the

form of the annuity so last granted, which shall be decreased by that portion of the annuity or annuities previously granted to such member from his state deposit and prior service accumulations.

(d) The board may at any time not more than once in any year during each of the first 5 years after such disability annuity has been granted require proof of the continuance of such disability and if the member shall fail to furnish satisfactory proof thereof, or if it appears at any time during said 5-year period that the member has become able to engage in teaching, such increase in the annuity shall cease.

(e) This subsection shall apply to members of the separate group, the combined group, and the formula group, but any benefit hereunder to a member of the formula group shall be provided from the state accumulation fund. Persons receiving benefits under s. 42.242 (4) or 42.245 (3) shall not receive benefits under this subsection.

(10) ADJUSTED BENEFITS. (a) Each retired teacher whose application for an annuity under the state teachers retirement system was granted before January 1, 1952, or who has made no required deposits based on compensation for teaching service performed after December 31, 1951, who is 65 years of age or more, whose annuity was not increased under sub. (6), (s. 42.49 (3c), Stats., 1951), and who taught 20 or more years in the public schools, state colleges or university of this state, shall be paid an additional \$1.25 per month for each year of the first 20 years of teaching experience in the public schools, state colleges, or university in this state and \$1 per month for each additional year, but the total additional payment shall not exceed \$45 per month; except that the additional amount so paid shall not exceed an amount which, when added to the annuity otherwise payable from state deposit accumulations and the contingent fund under this section when computed as a straight life annuity, not including any annuity for prior service under s. 42.51 (3), will exceed \$110 per month.

(ab) For the purposes of par. (a), a year of teaching experience includes a year for which a retired teacher was given retirement credit under the statutes of 1911 to 1919 inclusive, relating to the teachers' insurance and retirement fund.

(b) Any person receiving compensation under s. 39.35 (1965 Stats.) for June, 1957, who does not meet the requirements of par. (a) as to age or length of service, or who

would receive a smaller payment under par. (a) than the payment under s. 39.35 (1965 Stats.) as of June, 1957, shall be paid an additional annuity which is not less than the monthly compensation being paid to such person under s. 39.35 (1965 Stats.). Such payment shall be in lieu of payment under par. (a).

(bb) Any person who is receiving a disability annuity of \$25 per month for which such person qualified under sub. (9) (a), or the former sub. (4) [see 42.49 (4), Statutes of 1953 and prior years], before the attainment of age 50, or who is receiving a disability annuity under the teachers insurance and retirement fund, or who has retired from teaching because of disability as defined in sub. (9) (a) and is not eligible for OASDHI primary or disability benefits earned either wholly or partially as a result of OASDHI coverage as a teacher in the public schools, state colleges or university in this state shall be paid an additional \$1.25 per month for each year of the first 20 years of teaching experience in the public schools, state colleges or university in this state and \$1 per month for each additional year of such teaching experience but the total additional payment shall not exceed \$45 per month, provided that no person shall be eligible to receive a benefit under both par. (a) and this paragraph.

(c) The executive secretary of the state teachers retirement system is directed to make the payments under par. (a) or (b) beginning for the month of July, 1957.

(d) If a teacher has received his earliest insured status under the federal OASDHI system solely as a result of having been a participant in the substitute teachers roster under s. 39.35 (1965 Stats.) the benefits received under par. (a) or (b) for any month shall be reduced by an amount equal to any benefits received on account of his insured status under the federal OASDHI system for said month, but such reduction shall not exceed \$30 per month. Each such teacher may be required, as a condition of receiving benefits under this subsection, to authorize the social security administration to provide the state teachers retirement system with information regarding the benefits payable to such teacher from the federal OASDHI system.

(e) The benefits received under this subsection shall not in any way augment or affect the death benefits payable to the beneficiaries of any member of the state teachers retirement system.

(g) This subsection shall apply to members of the combined group with respect to annuities previously paid under this subsection for periods prior to August 1, 1960.

(h) Any person receiving a retirement annuity in accordance with ss. 42.11 (2) and 42.12 (1), 1919 statutes, remaining in force and subject to reference under s. 42.54 shall be granted in addition to all other retirement benefits a disability benefit of \$25 per month as provided by sub. (9) (a).

(i) No payment shall be made pursuant to this subsection, nor shall any right accrue hereunder, for any month for which a member received compensation which is subject to s. 42.40. A person whose benefit is suspended under this paragraph shall be deemed a member of the separate group for the sole purpose of continued eligibility under par. (a), and payment of the benefit determined pursuant thereto shall be resumed after employment as a teacher has ceased. Monthly benefits shall be payable in accordance with this subsection for any period after March 1, 1967, but shall not be payable to any person who became a member of the combined group under s. 42.241 prior to that date.

(13) BENEFITS WITHHELD WHILE MEMBER IS PAID FOR TEACHING. Any benefit payable for any month for which the member receives compensation which is subject to s. 42.40 shall be withheld from the member and be paid into the retirement deposit fund to be accumulated, and to be applied, on the application of the member, as provided in the case of the accumulation from state deposits; provided, that any part of the benefit which is payable from the contingent fund shall be withheld for the benefit of the contingent fund.

(14) LUMP SUM WITHDRAWAL; FORFEITURE. Any member of the separate group, who ceases to be employed as a teacher in the public schools, state colleges or university in this state, and is not on leave of absence from a teaching position in the public schools, state colleges or university in this state, shall be paid the accumulation from all of the member's deposits, on filing with the board a written request therefor and a full and complete discharge and release of all right, interest or claim on the part of such member under the state teachers retirement law.

(15) LUMP SUM PAYMENT OR APPLICATION OF STATE DEPOSITS OF \$2,500 OR LESS. Any member, after attaining the age of 50 years, having ceased to be employed as a teacher in the public schools, state colleges or university in this state, and not being on a leave of ab-

sence from a teaching position in the public schools, state colleges or university in this state, whose accumulation from state deposits does not exceed \$2,500 may apply such accumulation to the purchase of an annuity as provided in sub. (3) or may withdraw such accumulation in a single payment upon filing an application therefor with the board in such form as the board requires, but the payment of said accumulation in a single sum shall be made only with, or after, the withdrawal of all of the accumulation from the member's own deposits in accordance with sub. (1).

(16) SUPPLEMENTAL BENEFIT. (a) Any member of the state teachers retirement system who, having completed not less than 20 years of service as a teacher in Wisconsin teaching prior to June 1, 1965, and having attained the age of 60 years (whether before or after the date of termination of such teaching or November 7, 1965), is not eligible for a retirement annuity computed pursuant to s. 42.245, shall be eligible to receive monthly a supplemental benefit, subject to a continuation of the appropriation made by s. 20.515 (2) (a), determined as follows:

1. \$5 for each year of service as a teacher in Wisconsin teaching (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 system 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, including any annuity which could be provided by member or state deposit accumulations not yet applied to the purchase of an annuity.

b. The monthly amount of any other benefit payable from such system resulting from service as a teacher, including amounts paid to a member as dividends pursuant to action of the board under s. 42.34 and amounts paid pursuant to sub. (10), all adjusted as provided in subd. 1. a.

d. The monthly amount of any OASDHI 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 OASDHI benefit. For purposes of this subsection, OASDHI 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.

e. The monthly amount of any straight life annuity which could have been provided by member deposit accumulations which were withdrawn, computed as of the earliest date any annuity was paid to a member by the system.

(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 s. 42.242 (4). 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 pursuant to sub. (9).

(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. 20.515 (2) (a), 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 in the manner specified in s. 42.48.

(f) No payment shall be made pursuant to this subsection, nor shall any right accrue hereunder, for any month for which a member's annuity or other benefit is withheld pursuant to s. 42.242 (6) or sub. (13).

**History:** 1961 c. 168, 178, 411, 622; 1963 c. 357; 1965 c. 164, 249, 250, 324, 482; 1967 [13.93 (1) (i)]; 1967 c. 26, 29, 92, 280, 291 s. 14.

Discussion of beneficiary when member dies prior to action by board on application which specified date of annuity, such date prior to meeting of board. 52 Atty. Gen. 286.

Benefits provided by (4), (6) and (7) are not available to a member of the combined group of the teachers retirement fund who elected to become a member of the formula group. 55 Atty. Gen. 251.

**42.50 Death benefits, how paid.** (1) Any member may, by written notice to the board, in a form approved by it, designate a sole beneficiary or 2 or more beneficiaries to whom any death benefit payable at the death of the member shall be paid. The member may, by a like written notice, change any such designation. If no beneficiary is named 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. Such death benefit shall be the full amount of the accumulation in the retirement deposit fund to the credit of the member from all member's deposits plus:

(a) In the case of a member of the formula group the accumulation at the date of death if prior to July 1, 1966, and otherwise the accumulation at June 30, 1966, from state deposits made on his behalf, compounded to the end of the last completed calendar quarter year preceding his death at the respective rates of interest credited to individual accounts in the fixed annuity division from year to year, but 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; or

(b) In the case of a member of the separate group or the combined group, the accumulation in the retirement deposit fund from all state deposits made on his behalf.

(2) Such death benefit shall be payable, as the member shall have directed, either:

(a) As an annuity payable monthly during the life of one beneficiary.

(b) As an annuity payable monthly for life to each of 2 or more beneficiaries, with the death benefit used to purchase such annuities divided as specified by the member. If the member does not specify the division of the death benefit, it shall be divided equally in the purchase of the annuities. If one or more of the designated beneficiaries dies before the member, the benefit, if any, which would have been payable to the deceased beneficiary or beneficiaries shall be payable to the surviving beneficiary or beneficiaries in equal shares.

(c) As an annuity payable monthly to one beneficiary during life, 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 one beneficiary or divided equally, or as the member otherwise specified, between 2 or more beneficiaries designated by the member until payments shall have been made for 180 consecutive months after such annuity began. Unless prohibited by the member in his designation, any secondary beneficiary hereunder may elect at any time to receive the then present value of his benefit in a single sum. In the event of the death of the primary beneficiary prior to the death of the

member, then upon the death of the member, the payments shall be made to the secondary beneficiary or beneficiaries designated by the member. Upon the death of the secondary beneficiary after he has become entitled to receive monthly payments hereunder, the then present value of his benefit shall be paid in a single sum to his estate. Upon the death of a secondary beneficiary before he has become entitled to receive any payment hereunder, the amount, if any, to which he would have been entitled, shall be paid to the remaining secondary beneficiary, or to the remaining secondary beneficiaries, in equal shares, if there are 2 or more, with the other payments to said beneficiary or beneficiaries; or

(ca) As an annuity payable monthly to one beneficiary during life, 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 secondary 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 he has become entitled to receive monthly payments but before he has received all of them, the then present value of the remaining payments shall be paid in a single sum to the estate of the secondary beneficiary; or

(d) To one beneficiary, or divided equally or as the member otherwise specified between 2 or more beneficiaries in instalments certain or in a single sum. In the event that any beneficiary dies after he has become entitled to receive part, but has not received all, of the benefit which would be payable to him under this paragraph, the then present value of his benefit shall be paid to his estate in a single sum. If the member does not specify the division of the death benefit, it shall be divided equally in the purchase of the annuities. Where 2 or more beneficiaries are designated hereunder and one or more of the designated beneficiaries dies before the member, the benefit, if any, which would have been payable to the deceased beneficiary or beneficiaries shall be payable to the surviving beneficiary or beneficiaries in equal shares.

(3) In any case under this section where the member has not designated the method of payment of the death benefit, the beneficiary

may elect which of the methods of payment specified in sub. (2) (a), (c) or (d) shall be used, and if the plan specified in par. (c) is selected, he may designate the secondary beneficiary or beneficiaries thereunder, as the member could have. The beneficiary may elect under this subsection to withdraw the accumulation from all the member's deposits in a single payment or any part thereof. In such a case where there are 2 or more beneficiaries, they may elect that the method of payment specified in sub. (2) (b) or (d) shall be used and if said beneficiaries cannot agree upon either one of such methods, the board may make payments in a single sum to each beneficiary upon the expiration of 4 months after the death of the member.

(4) Upon the death after June 30, 1966, of a member age 60 or more of the formula group while employed as a teacher in Wisconsin teaching, or while on authorized leave of absence from a teaching position in Wisconsin teaching, and if such member has not previously been granted an annuity under ss. 42.20 to 42.54, 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 s. 42.49 (2) (d).

(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.

(c) The payment of any death benefit under this subsection shall be subject to subs. (2) and (3).

(5) Upon the death of a member of the formula group receiving a disability annuity under s. 42.245, a death benefit shall be payable to his beneficiary in the amount of the excess, if any, of the accumulations from member required deposits applied to provide the annuity over the aggregate amount of disability annuity payments received by the member. If the beneficiary or beneficiaries to whom a death benefit is payable is or are 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 life annuity (terminating in the case of a minor child at the end of the month in which he reaches the age of 21) of the monthly amount to which such beneficiary would have become entitled under sub. (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 such date. Such present values shall be determined at the rates 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 required deposits applied to provide the annuity over the aggregate amount of disability annuity payments received by the member after his 65th birthday.

History: 1965 c. 250, 482, 581; 1967 [13.93 (1) (e)]; 1967 c. 28, 29.

**42.51 Computation for prior service; credits and retirement.**

(1) As of the close of the fiscal year preceding the date of issue of a certificate of membership to any member of Class A or Class B, the board shall cause a computation to be made separately for such member of the accumulation which would have resulted at such date from state deposits on account of the compensation for prior service as if ss. 42.20 to 42.54 had been in effect during such prior service. In making such computation the board shall credit each teacher with time absent from his profession while serving as a soldier, sailor, marine or nurse in the armed forces of the United States during World War I, upon proof of such service being furnished the board.

(2) In making such computation, the rate of interest assumed shall be 4% per annum, and such averages and other methods of approximation may be employed as shall produce substantially correct results. The amount of such computation shall be carried forward and accumulated at the rate of interest used for deposits in the retirement deposit fund.

(3) When any member of Class A or Class B who has taught at least 25 years in the public schools, the state colleges or the university is paid an annuity under s. 42.242 or 42.49

(3) the annuity shall be increased by the an-

nunity which would be granted at the rates then in force on an accumulation equivalent to the amount of the computation above defined, and such additional annuity shall be paid from the contingent fund. No accumulation from state deposits or transfer of funds shall be required in case of such additional annuity. This section shall not authorize or include any increase in or addition to the death benefit provided in s. 42.50 for any person who did not come within or under ss. 42.20 to 42.54, relating to the state teachers retirement system, prior to July 16, 1923.

(4) Upon the issue of a certificate of membership to any member of Class A, the board shall determine the accumulation as of July 8, 1921, resulting from the payments by such member to the teachers' insurance and retirement fund with interest thereon at the actual rate earned by said fund. The said board shall thereupon transfer the amount of such accumulation to the credit of said member in the retirement deposit fund as of July 8, 1921.

(5) Any member of Class A, having elected to retire before July 8, 1921, shall from said date, be paid the benefits provided under the teachers' insurance and retirement fund law, subject to all the conditions thereof, except the pro rata reduction authorized thereby, as if said law had continued in effect during the payment of such benefits. Such payments shall be made from the contingent fund, except as other provision shall be made therefor.

(6) (a) Any member of Class A who shall have complied with ss. 42.20 to 42.54 and who shall elect to retire after July 8, 1921, may elect to relinquish any other benefits under ss. 42.20 to 42.54 and to receive in lieu thereof the benefits provided under the teachers' insurance and retirement fund law as if said law continued in effect until such benefits are fully paid, subject to all the conditions of said law, except the pro rata reduction authorized thereby; provided, that if the member shall, before such election to retire, have received any benefit derived from required deposits, the amount so received, with interest, shall be repaid by a pro rata reduction of the future benefits so elected by such member. The accumulation to the credit of the member in the retirement deposit fund shall be applied at the rates then in force toward the payment of the benefit so elected and any remaining part of the benefit so elected shall be paid from the contingent fund.

(b) Notwithstanding any other provisions of the statutes, s. 42.49 (4), (6) and (7) relating to an increased annuity apply to a member who retired pursuant to this subsection if after June 24, 1955 such member teaches in a position which requires him to make, and he does make, required deposits; but such increased annuity shall be payable as a monthly annuity for life only and the quarterly annuity portion thereof which was granted pursuant to this subsection shall be converted to a monthly annuity and such increased annuity shall also be decreased by all of that portion of such quarterly annuity which previously was granted to such member from the contingent fund.

(7) Notwithstanding s. 42.54, any member of Class A who, after July 7, 1921, did not teach, and was not under contract to teach, in a position which required such member to make deposits in the state teachers retirement system, and who has not received, and is not eligible to receive, an annuity as a result of the deposits which such members made in the teachers' insurance and retirement fund shall, by making application therefor to the board, be paid in a single sum, and without interest, the amount which such member paid into such fund and did not withdraw heretofore.

(8) Any person receiving an annuity paid on a quarterly basis under ss. 42.01 to 42.18, statutes of 1919, may elect to have such annuity paid on a monthly basis. Such election shall be made in writing on a form furnished by the board.

**History:** 1961 c. 172; 1967 [13.93 (1) (e)]; 1967 c. 26.

**42.52 Exemption of benefits from process; waiver of benefits; recovery of benefits.** The benefits payable to, or other right and interest of any member, beneficiary or distributee of any estate under the state teachers retirement law shall be exempt from any tax levied by the state or any subdivision thereof, and exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassignable except as specifically provided herein. An annuitant may, however, direct the board to deduct premiums for group insurance carried under s. 66.919 and to pay such moneys into the general fund to the credit of s. 20.515 (2) (r). Any member, beneficiary or distributee of any estate under the state teachers retirement law may waive, absolutely and without right of reconsideration or recovery, the right to, or the payment of all or any portion of, any benefit payable or to become payable under that law. The exemption from taxation contained herein

shall not apply with respect to any tax on income.

(2) The board may direct the executive secretary to retain from the appropriate annuity or other benefit such amount as the executive secretary may determine to be required for the purpose of reimbursing the system for any money or moneys paid to any annuitant, member, beneficiary or estate as a result of an inadvertent clerical error, misrepresentation or fraud.

**History:** 1963 c. 267; 1965 c. 433, 605; 1967 c. 26, 280, 291 s. 14.

**42.53 Board, succession.** The board shall succeed to and be vested with all the property, rights, powers and duties, and be subject to all the obligations and liabilities, of the teachers' insurance and retirement fund and of the board of trustees of the teachers' insurance and retirement fund in the administration of said fund and of the state annuity and investment board in the administration of ss. 42.20 to 42.54.

**History:** 1967 c. 26.

**42.531 Mandatory retirement of state employes in classified service.** Any member of the system in the classified service of the state shall be retired at the end of the month in which he attains the age of 65 unless his appointing officer, board or commission specifically authorizes him in writing to continue in employment for a period or periods of not to exceed one year at a time.

**42.54 Repeals and reservations.** Sections 42.01 to 42.18 of the statutes of 1919 are repealed except that any provisions of said sections fixing the amounts and the conditions of payment of any benefits under ss. 42.20 to 42.54 shall remain in force and may be referred to for determining such conditions and benefits until all such benefits have been fully paid.

**History:** 1967 [13.93 (1) (d)].

#### STATE EMPLOYES' RETIREMENT SYSTEM

**42.65 Transfer of state employes' retirement system to executive director of Wisconsin retirement fund.** The state of Wisconsin investment board shall certify to the executive director of the Wisconsin retirement fund the names, addresses, and amount of the monthly annuity payment for each person eligible to receive an annuity under ss. 42.65 to 42.71 (1957 statutes) and shall also transfer to the executive director of the Wisconsin retirement fund all records relating to the state employes' retirement system. Such cer-

tification of eligible annuitants and transfer of records shall be made within 20 days after June 30, 1959. It shall be the responsibility of the state of Wisconsin investment board to see that all records so transferred are complete, accurate and up to date. The executive director of the Wisconsin retirement fund shall pay the said monthly annuities, as provided by s. 20.515 (2) (b), in accordance with the aforesaid certification of the state of Wisconsin investment board. Payment shall be made to the designated beneficiary where such designation under the option elected by the annuitant is on file. It is the intent of this section that each annuity which was being paid in accordance with ss. 42.65 to 42.71 (1957 statutes) shall continue to be paid to the person or persons who would have been entitled thereto under said statutes.

**History:** 1965 c. 433 s. 121; 1967 c. 291 s. 14.

**42.66 Employees' savings fund, escheat, filing claims.** (1) Any person who shall have moneys in the "employees' savings fund" of the state employees' retirement system in accordance with s. 42.68 (1957 statutes) and shall not have dealt therewith between December 31, 1947 and June 30, 1959, and shall not have asserted any claim to such moneys for said period, shall be presumed, unless it be shown to the contrary, to have died intestate, without heirs, or to have abandoned such moneys.

(2) All of the moneys in the employees' savings fund of the state employees' retirement system credited to the individual accounts of members thereof shall escheat and shall be credited to the common school fund and become a part thereof subject to subs. (3) and (4).

(3) On or before July 20, 1959, the state of Wisconsin investment board shall certify to the state treasurer the names of all persons who had an account in the employees' savings fund of the state employees' retirement fund and the amount of money therein to the credit of each such person. Upon the receipt of such certification the state treasurer shall forthwith publish a notice in the official state paper stating the names of such persons, the respective amounts to their credit, the fact that said amounts have escheated to the common school fund and the fact that said amounts will be paid to the respective owners thereof or their respective heirs or legatees, without interest, on proof of such ownership, if applied for within 5 years from the date of publication, except that if any such person shall be an in-

fant or under disability, the period of limitation shall be extended to one year after attaining majority or removal of the disability, whichever the case may be.

(4) Whenever within said period of 5 years any person or persons shall file a claim therefor and shall furnish proof of ownership of any of the aforesaid amounts which shall have escheated to the common school fund sufficient to satisfy the state treasurer, secretary of state and attorney general of the correctness of said claim, such claim shall be paid upon the written approval of said 3 state officers.

**42.67 Benefits and allowances not subject to tax, execution, etc.; exceptions.** All benefits and allowances, and every portion thereof, granted under the state employees' retirement system, both before and after payment to any beneficiary or estate, shall be exempt from any state, county or municipal tax, and from attachment or garnishment process, and shall not be seized, taken, detained or levied upon by virtue of any execution, or any process or proceeding or judgment whatsoever issued out of or by any court of this state for the payment in whole or in part of any debt, claim, damage, demand or judgment against any member, annuitant or beneficiary of the state employees' retirement system, and no such member, annuitant or beneficiary shall have any right to assign his benefit or allowance, or any part thereof, provided that:

(1) The executive director of the Wisconsin retirement fund may retain out of the proper annuity or other benefit such amount as said director may determine to be necessary for the purpose of reimbursing the fund for any money paid to the annuitant, member, beneficiary or estate through misrepresentation, fraud or error.

(2) In all cases in which any amounts become payable to a minor or to a person adjudged insane, or mentally incompetent, the executive director of the Wisconsin retirement fund may waive guardianship proceedings, and pay such amounts to the person providing for, or caring for, such minor, or to the wife, parent, or other person providing for, or caring for, such insane or incompetent person.

**History:** 1967 c. 29.

**42.68 Transfer of assets to general fund.** Except as provided in s. 42.66, all cash, securities and other assets of the state employees' retirement fund shall be transferred to, and become a part of, the general fund.