CHAPTER 238

RETIREMENT SYSTEM FOR SCHOOL TEACHERS

238.01 Definitions.—The following words and phrases as used in this chapter shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Retirement system" shall mean the teachers' retirement system of Florida provided for in §238.02.

(2) "Board of trustees" shall mean the board provided by §238.03 to administer the retirement system.

(3) "Medical board" shall mean the board of physicians provided for in §238.04.

(4) "Teacher" shall mean any member of the teaching or professional staff and any certificated employee of any public free school, of any county school system and vocational school, any member of the teaching or professional staff of the Florida industrial school for boys, Florida industrial school for girls, Florida school for the deaf and the blind, Florida division of corrections and any tax-supported institution of higher learning of the state, and any member and any certified employee of the state department of education, any certified employee of the retirement system, any full-time employee of any nonprofit professional association or corporation of teachers functioning in Florida on a state-wide basis, which seeks to protect and improve public school opportunities for children and advance the professional and welfare status of its members, any person now serving as county superintendent of public instruction, or who was serving as county superintendent of public instruction on July 1, 1939 and any hereafter duly elected or appointed county superintendent of public instruction, who holds a valid Florida teachers' certificate. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined herein.

(5) "Member" shall mean any person included in the membership of the retirement system as provided in §238.05.

(6) "Employer" shall mean the state, or the boards of public instruction of all the counties of the state employing teachers, subject to the provisions of this chapter or other agency of and within the state by which the teacher is paid, or any nonprofit professional association or corporation of teachers as referred to in (4).

(7) "Service" shall mean service as a teacher as described in (4) rendered while a member of the retirement system.

(8) "Prior service" shall mean service as a teacher rendered prior to the date of establishment of the retirement system and for which credit is allowable under §238.06.

(9) "Membership service" shall mean service as a teacher as described in §238.06.

(10) "Creditable service" shall mean prior service plus membership service for which credit is allowable under §238.06.

(11) "Beneficiary" shall mean any person in receipt of a retirement allowance, or other benefit as provided by this chapter.

(12) "Regular interest" shall mean interest at such rate as may be set from time to time by the board of trustees.

(13) "Accumulated contributions" shall mean the sum of all the amounts deducted from the salary of a member and credited to his individual account in the annuity savings fund provided in §238.09(1), together with regular interest on such accounts.

(14) "Earnable compensation" shall mean the full compensation payable to a teacher working the full working time for his position. In respect to plans A, B, C and D only, in cases where compensation includes maintenance the board of trustees shall fix the value of that part of the compensation not paid in money; provided that all members shall from July 1, 1955 make contributions to the retirement system on the basis of "earnable compensation" as defined herein and all persons who are members on July 1, 1955 may, upon application, have their "earnable compensation" for the time during which they have been members prior to that date determined on the basis of "earnable compensation" as defined in this law, upon paying to the retirement system on or before

the date of retirement, a sum equal to the additional contribution with accumulated regular interest thereon they would have made if "earnable compensation" had been defined at the time they became members, as it is now defined.

(15) "Average final compensation," with respect to plans A, B, C and D of §238.07, means the average annual earnable compensation of a member for the ten years of his service as a teacher during which he received his highest salary; and with respect to plan E of §238.07, "average final compensation" means the average annual earnable compensation of a member for ten years during the last fifteen years prior to retirement during which he contributed and in which his annual earnable compensation was highest or the average of his annual earnable compensation since July 1, 1945, if greater. For a teacher who is a member of the legislature, "average final compensation" shall mean the greater of the average annual earnable compensation for ten years during the last fifteen years prior to the beginning of his legislative service during which he contributed and in which his earnable compensation was highest or the average annual earnable compensation for ten years during the last fifteen years prior to retirement during which he contributed and in which his annual earnable compensation was highest or the average of his annual earnable compensation since July 1, 1945, if greater.

(16) "Annuity" shall mean annual payments for life derived as provided in this chapter from the accumulated contributions of a member. All annuities shall be paid in equal monthly installments.

(17) "Pension" shall mean annual payments for life derived as provided in this chapter, from money provided by the state and shall mean, when used in conjunction with plan E, the excess of the retirement allowance as provided by plan E over the annuity as defined above. All pensions shall be paid in equal monthly installments.

(18) "Retirement allowance" shall mean annual payments for life and shall be the sum of the annuity plus the pension except that when used in conjunction with plan E of §238.07, retirement allowance shall mean the total retirement allowance payable under plan E.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed at regular interest upon the basis of the mortality tables adopted by the board of trustees.

(20) The masculine pronoun whenever used shall include the feminine.

History.—§1, ch. 19014, 1939; CGL 1940 Supp. 892(156); §1, ch. 20749, 1941; §1, ch. 22062, 1943; §1, ch. 22693, 1945; §1, ch. 23864, 1947; §1, ch. 25398, 1949; §1, ch. 29942, 1955; §1, ch. 61-362; §1, ch. 61-301; §1, ch. 63-554; §1, ch. 67-140.

238.02 Name and date of establishment.—A retirement system is established and placed under the management of the board of trustees for the purpose of providing retirement allowances and other benefits for teachers of the state. The retirement system shall begin operations as July 1, 1939. It has such powers and privileges of a corporation as may be necessary to carry out effectively the provisions of this chapter and shall be known as the "Teachers' retirement system of the state," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.

History.—§2, ch. 19014, 1939; CGL 1940 Supp. 892(157).

238.021 Teachers' retirement system; plans.—The teachers' retirement system shall be deemed to be divided into five plans, to be designated plans A, B, C, D, and E and §§238.01 to 238.181, inclusive, shall control with respect to plans A through E and membership therein, except as provided for under §238.31.

History.—§4, ch. 61-301; §2, ch. 63-554.

238.03 Administration.—

(1) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this chapter are vested in the board of trustees. Subject to the limitation of this chapter, the board of trustees shall, from time to time, establish rules and regulations for the administration and transaction of the business of the retirement system and shall perform such other functions as are required for the execution of this chapter.

(2) The membership of the board of trustees shall consist of the state board of education and two members who shall be known as teacher members and who shall be appointed by the governor for terms of three years each. These appointees shall be teachers of distinction who shall have taught school for at least five years. The initial terms of the first two teacher members of the board of trustees shall be two and three years, respectively. Following the completion of the initial terms, the terms of office of such members shall be three years.

(3) Until the appointment and qualifying of the two teacher members to be appointed, the other five members are empowered to perform the duties of the board of trustees.

(4) Any vacancy in the board of trustees shall be filled for the unexpired term in the same manner as the office was previously filled.

(5) A majority of the members of the board of trustees shall constitute a quorum.

(6) The members of the board of trustees shall serve without compensation, but shall be reimbursed for traveling expenses as provided in §112.061 from the expense fund provided under §238.09(4).

(7) The board of trustees shall elect from its membership a chairman and vice chairman, and shall appoint a secretary who may be, but need not be, one of its members. The secretary shall give bond in such amount and with such sureties as the board may require. The compensation of all employees of the board of trustees shall be fixed by the board, and all other expenses of the board, necessary for the proper operation of the retirement system, shall be paid at such rates and in such amounts as the board of trustees shall approve.

(8) The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds created by this chapter and for checking the experience of the retirement system.

(9) The attorney general of the state shall be the legal adviser of the board of trustees.

(10) The board of trustees shall employ such agents, servants and employees as in its judgment may be necessary to carry out the terms and provisions of this chapter and shall provide for their compensation. Among the employees of the board shall be an actuary who shall be the technical adviser of the board of trustees on matters regarding the operation of the funds created by the provisions of this chapter and who shall perform such other duties as are required in connection therewith.

(11) In the year 1943 and at least once in each five-year period thereafter, the actuary shall make an actuarial investigation of the mortality, service and salary experience of the members and beneficiaries as defined in this chapter, and shall make a valuation of the various funds created by the chapter, and having regard to such investigation and valuation, the board of trustees shall adopt such mortality and service tables as shall be deemed necessary, and shall certify the rates of contribution payable under the provisions of this chapter.

(12) The actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement system on the basis of the tables adopted by the board of trustees in accordance with the requirements of this section, and shall prepare an annual statement of the amounts to be contributed by the state in accordance with §238.09.

(13) The board of trustees shall publish annually the valuation, as certified by the actuary, of the assets and liabilities of the various funds created by this chapter, a statement as to the receipts and disbursements of the funds, and a statement as to the accumulated cash and securities of the funds.

(14) The board of trustees shall keep a record of all of its proceedings and such record shall be open to inspection by the public.

(15) The board of trustees is authorized to photograph and reduce to microfilm as a permanent record, its ledger sheets showing the salary and contributions of members of the retirement system, also the records of deceased members of the system and thereupon to destroy the documents from which such films are photographed.

History.—§3, ch. 19014, 1939; CGL 1940 Supp. 892(158); (15) n. §1, ch. 28109, 1953; (6), (12) §2, ch. 29942, 1955; (6) §19, ch. 63-400.

238.04 **Medical board.**—

(1) The board of trustees shall employ a medical board of three physicians, not eligible to participate in the retirement system.

(2) The medical board shall arrange for, and shall pass upon, all medical examinations required under the provisions of this chapter, shall investigate all essential health or medical statements, and certificates by or in behalf of a member in connection with his application for disability retirement, and shall report in writing to the board of trustees its conclusions and recommendations upon all the matters referred to it, and perform such other duties as may be required of them by the board of trustees.

History.—§4, ch. 19014, 1939; CGL 1940 Supp. 892(159).

238.05 **Membership.**—

(1) The membership of the retirement system shall consist of the following:

(a) All persons who were teachers at any time during the school years 1936-1937 through 1938-1939, shall become members as of July 1, 1939, unless, prior to December 1, 1939, any such teacher shall file with the board of trustees on a form prescribed by such board a notice of his election not to be covered in the membership of the retirement system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system; provided, that all persons who were not eligible for membership in the retirement system at the time the system became effective and who are now eligible to membership by reason of the redefinition of the word "teacher," and by reason of having served in any of the capacities included in the redefinition of the term during any of the school year 1936-1937 through 1942-1943 shall become members as of July 1, 1943, unless prior to December 1, 1943, any such person shall file with the board of trustees a notice of his election not to be covered in the membership of the retirement system as prescribed above; provided, that all persons who become eligible for membership in the retirement system by reason of the redefinition in §238.01, of the word "teacher," and who served in any of the capacities included in the redefinition of the term during any of the school years 1936-1937 through 1944-1945, shall become members as of July 1, 1945, unless prior to December 1, 1945, any such person shall file with the board of trustees a notice of his election not to be covered in the membership of the retirement system as prescribed above; provided also that all persons who become eligible for membership in the retirement system by reason of the redefinition in subsection (4) of §238.01, of the word "teacher" and who served in any of the capacities included in the redefinition of the term during any of the school years 1936-1937 through 1946-1947 shall become members as of July 1, 1947, unless prior to December 1, 1947, any such person shall file with the board of trustees a notice of his election not to be kept in the membership of the retirement system as prescribed above; provided, however, that any person who has heretofore filed a nonelection waiver blank shall not be required to make another such election; provided, further, that any person who heretofore has elected not to become a member shall until July 1, 1949, have the option of becoming a member.

(b) All persons who became or who become teachers on or after July 1, 1939, except as provided in paragraph (a) hereof, shall become members of the retirement system by virtue of their appointment as teachers; provided that employees who are not members of the teaching or professional staff shall only become members of the retirement system by filing a notice with the board of trustees of their election to become members.

(2) A teacher whose membership in the retirement system is contingent on his own election and who has elected not to become a member, may thereafter apply for and be admitted to membership and receive credit for prior service; provided no such teacher shall receive credit for service prior to such election unless he is admitted to membership as of a date before May 1, 1959. Credit for service rendered prior to July 1, 1939, shall be for continuous employment only except that one period of absence of not more than five years will be allowed in computing such prior service credit, provided, however, that a teacher admitted to membership prior to January 1, 1955, shall receive credit for all prior service and if he has retired, his retirement allowance shall be increased effective July 1, 1961. A teacher admitted to membership under this provision must pay into the annuity savings trust fund prior to his retirement contributions plus regular interest thereon based upon all salary received as a teacher prior to and after July 1, 1939.

(3) Except as otherwise provided in §238.07 (9) membership of any person in the retirement system shall cease if he shall be continuously unemployed as a teacher for a period of more than five consecutive years; or upon the withdrawal by a member of his accumulated contributions as provided in §238.07(13), or upon retirement; or upon death; provided that the adjustments prescribed below are to be made for persons who enter military, naval or other armed services of the nation during a period of war, or national emergency, and for persons who are granted leaves of absence. Any member of the retirement system who within one year before the time of entering the military, naval or other armed services of the nation was a teacher, as defined in §238.01, or was engaged in other public educational work within the state, and member of the teachers' retirement system at the time of induction, or who has been or is granted leave of absence, shall be permitted to elect to continue his membership in the teachers' retirement system and membership service shall be allowed for the period covered by service in the armed forces of the nation or by leave of absence under the following conditions:

(a) A person who has been granted leave of absence shall file with the board of trustees before his next contribution is due an application to continue his membership during the period covered by his leave of absence, and if such application is filed, shall make his contribution to the retirement system on the basis of his last previous annual salary as a teacher, and shall, prior to retirement, pay in full to the system such contributions with accumulated regular interest and such contributions with interest may be paid at one time or in monthly, quarterly, semi-annual or annual payments in his discretion.

(b) A person who enters or who has entered the armed services of the nation may either continue his membership according to the plan outlined under paragraph (a) above or, in lieu thereof, may file with the board of trustees at any time following the close of his military service an application that his membership be continued and that membership service be allowed for not more than five years of his period service in the armed forces of the nation during any period of war or national emergency; provided that any such person shall, prior to retirement, pay in full his contributions with accumulated regular interest to the retirement system for the period for which he is entitled to membership service on the basis of his last previous annual salary as a teacher, such contributions with interest to be paid to the trustees of the retirement system at one time or in monthly, quarterly, semiannual or annual payments in his discretion.

(c) Any person who served in the armed forces of the United States in world war I, or who served as a registered nurse or nurse's aide in service connected with the armed forces of the United States during the period of world war I, who is now a member of the teachers' retirement system and who, at or before the time of entering the armed forces or the service of the care and nursing of members of the armed forces of the United States, was a teacher as defined in §238.01, shall be entitled to prior service and out-of-state prior service credit in the teachers' retirement system for his period of such service.

(4) The board of trustees may in its discretion deny the right to become members to any class of teachers who are serving on a temporary or any other than a per annum basis, and it may also in its discretion make optional with members in any such class their individual entrance into membership.

History.—§5, ch. 19014, 1939; CGL 1940 Supp. 892(160); §2, ch. 20749, 1941; §1, ch. 21971, §2, ch. 22062, 1943; §2, ch. 22693, 1945; §2, ch. 23864, 1947; §7, ch. 24337, 1947; §11, ch. 25035, 1949; §2, ch. 25398, 1949; (3) §1, ch. 28196, 1953; (1)(b), (2), (3) §3, ch. 29942, 1955; (2) §1, ch. 57-357; (2) §1, ch. 61-303; (2) §1, ch. 61-458.

238.06 Membership application, creditable service and time for making contributions.—

(1) Under such rules and regulations as the board of trustees shall adopt, each teacher upon becoming a member shall file with the board of trustees an application showing date of birth and such other necessary information as the board of trustees may require for the proper operation of the retirement system.

Until such application is filed no teacher nor his beneficiary shall be eligible to receive any benefits under this chapter. If a member has been a teacher in Florida, he shall itemize on such application all service as a teacher rendered prior to the date of establishment of the retirement system, including service in a similar capacity in other states rendered by him prior to the first day of July, 1939, for which he claims credit; provided, that persons not eligible to membership in the retirement system as of July 1, 1939, and now eligible to membership shall file with the board of trustees an application and shall meet with all other requirements prescribed above; and provided, further, that all such persons shall be entitled to prior service credit for the years prior to July 1, 1939, as prescribed in subsection (4) of this section; and provided, further, that any person made eligible to membership in the retirement system by provisions of this law may elect:

(a) To make no contributions for the school years between 1939-1940 and 1952-1953, inclusive, and if he so elects, shall be entitled to no membership credit for those years except as otherwise provided in this chapter.

(b) To make contributions with accumulated regular interest to the retirement system on or before the time of retirement of such member for such years after July 1, 1939, as he served as a teacher, at the prescribed rate on the basis of his salary for those years, and if such contributions are made, he shall be entitled to membership service credit for such years.

(2) With respect to plans A, B, C, or D as set forth in §238.07, any member of the retirement system may elect to contribute to the retirement system an amount which shall be equivalent to the difference between the amount such member has contributed and the amount he would have contributed had the provisions of §238.01(14) been in effect July 1, 1939, and such election must be made and the amount paid into the retirement system on or before the time of the retirement of such member.

(3) The board of trustees shall fix and determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in no case shall it allow any credit for a period of absence without pay of more than a month's duration nor shall it allow credit for more than one year of service for all service in any school year.

(4) Subject to the above restriction and to such other rules and regulations as the board of trustees shall adopt, the board of trustees shall verify, as soon as practicable after the filing of the application, the statement of service therein claimed and shall issue to each person who becomes a member or any person with prior teaching service in the state who becomes a member of the retirement system, a prior service certificate certifying the length of service with which he is credited on the basis of his statement of service. Such prior service credit shall include credit for service rendered prior to date of establishment as a teacher within the state or in a similar capacity outside the state but not more than ten years of credit for service outside the state shall be included. Credit for prior service outside the state may be claimed only by a person employed as a teacher in the state prior to July 1, 1939; provided that any person who became a member of the system after July 1, 1939, but prior to July 1, 1955, and remained a member for ten years shall be entitled to receive out-of-state prior service credit for a period not exceeding ten years; provided that any person with out-of-state service who became a member of the system after July 1, 1939, but prior to July 1, 1955, and remained a member for ten years shall be entitled to receive membership service credit for a period of not exceeding ten years, including credit for the period covered by service in the armed forces of the nation during world war II; provided such member was a public school teacher within one year before entering the armed services; and provided he resumed teaching, if such member shall, prior to retirement, make contribution to the retirement system with accumulated regular interest thereon in an amount equal to the contribution he would have made if such service had been rendered in the state subsequent to July 1, 1939; provided that no member who receives, or who is entitled to receive, a pension or annuity from any other state or county or municipality or other taxing district shall receive out-of-state prior service credit or membership service credit as set forth above; provided, however, that the change in this subsection shall not affect the rights of persons who have retired when this amendment to the law takes effect; provided, however, that any person who becomes a member of the system on or after July 1, 1955 and who has moved from another state to Florida, and becoming employed in a category covered by the teachers' retirement system, must teach in the state for five years before being entitled to receive any out-of-state service credit. After having been employed within the state for a period of five years, a teacher may establish and receive credit for one year of out-of-state service for each additional year of service credit within the state, with a maximum of ten years out-of-state credit allowed. In order to establish and receive this out-of-state credit, a teacher, who became a member of the system on or after July 1, 1955, but prior to October 1, 1963, must pay into the retirement system prior to retirement total contributions equal to eight per cent (plus accumulated regular interest thereon), of such out-of-state compensation as the teacher received during those years of out-of-state service for which the teacher receives out-of-state credit. In order to establish and receive this out-of-state credit, a teacher who becomes a member of the retirement system on or after October 1, 1963, must pay into the retirement

system prior to retirement, total contributions which are in addition to the regular membership contributions and which, when accumulated with regular interest thereon, are equal to the actuarial equivalent at the time of retirement of the monthly benefit which becomes payable at retirement on account of out-of-state credit. In the event that such accumulated additional contributions at time of retirement are less than the actuarial equivalent at time of retirement of the monthly benefit attributable to out-of-state credit, the monthly benefit attributable to out-of-state credit shall be reduced by an amount equal to the product of:

(a) The monthly benefit attributable to out-of-state credit, and

(b) The ratio that such deficiency bears to the actuarial equivalent of the monthly benefit attributable to the out-of-state credit.

If such accumulated additional contributions are in excess of the actuarial equivalent at time of retirement of the monthly benefit attributable to out-of-state credit, such excess shall be paid in a lump sum to the member at time of retirement. No person may receive retirement benefits for less than ten years of service credit earned in Florida.

(5) Any person who is a member of the teachers' retirement system, and who has been employed as an employee of any county in Florida or any county board of public instruction of Florida or the state or the United States department of agriculture at Welaka, Florida, shall upon payment of accumulated contributions for the years subsequent to July 1, 1939, receive credit for both prior and membership service for all years in which such person was employed by any county in Florida or any county board of public instruction of Florida or the state or the United States department of agriculture at Welaka, Florida, toward retirement in the teachers' retirement system; provided, such contributions shall be paid on or before the date of the retirement of such member.

(6) So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such prior service credit, unless modified by the board of trustees upon application made by the member within one year after the date of issuance or modification of a prior service certificate or upon the discovery by the board of trustees of error or fraud.

(7) When membership ceases such certificate shall become void; should the teacher again become a member, such teacher shall enter the system as a teacher not entitled to prior service credit, except as provided in §238.07(12)(c); and provided further that if the teacher should so become a member following the first occurrence of cessation of membership, such certificate shall be valid until the membership next ceases.

(8) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership services rendered by him since he last became a member, and also, if he has a prior service certificate which is in full force and effect, the service certified on his prior service certificate.

(9) A public school librarian with credit for less than ten years of public school service in Florida may be permitted to work after age seventy with the approval of his employer and shall be permitted to earn retirement credit for such service in the teachers' retirement system.

(10) Subject to the provisions of subsection (4) of this section, out-of-state service credit shall be allowed for service rendered as a teacher in American overseas dependent schools conducted by the armed forces of the United States for children of citizens of the United States residing in areas outside the continental United States.

History.—§6, ch. 19014, 1939; CGL 1940 Supp. 892(161); §3, ch. 20749, 1941; §3, ch. 22062, 1943; §3, ch. 22693, 1945; §3, ch. 23864; §7, ch. 24337, 1947; §3, ch. 25398, 1949; (1)-(4), (6) §2, ch. 28196, 1953; (1) (b), (2), (4) §4, (5) r. (8) subseq. subsections renum. and former (8) renum. as (7) §5, ch. 29942, §1, ch. 29913, 1955; (10)n. §1, ch. 59-481; (4) §3, ch. 63-554.

238.07 Regular benefits; survivor benefits.—

(1) Any member who attains seventy years of age shall be retired forthwith; provided, however, that with the approval of his employer he may remain in service until the end of the school year following the date on which he attains seventy years of age. If any member retires under the provisions of this subsection, who before his death fails to select one of the optional benefits set forth in §238.08, his executors or administrators shall receive the excess of his accumulated contributions at retirement over the total of all annuity payments made to the member.

(2) The provisions for the retirement of a member are as follows:

(a) To retire at the age of sixty upon the basis of a standard of service of thirty-five years (this provision shall be known and referred to throughout this chapter as plan A); or

(b) To retire at the age of fifty-five upon the basis of a standard of service of thirty-five years (this provision shall be known and referred to throughout this chapter as plan B); or

(c) To retire at the age of fifty-five upon the basis of a standard of service of thirty years (this provision shall be known and referred to throughout this chapter as plan C); or

(d) To retire after twenty-five years of service upon the basis of a standard of service of twenty-five years provided the member has reached age fifty; provided, further, however, that a member electing to retire under this provision shall not be eligible to receive the benefits allowed by (8) and (11) (f) (this provision shall be known and referred to throughout this chapter as plan D); or

(e) To retire:

1. At normal retirement age which shall be age sixty for those persons whose mem-

bership date, or last renewal thereof, occurred prior to July 1, 1963, and age sixty-two for those persons whose membership date, or last renewal thereof, occurred on or after July 1, 1963; or

2. Prior to normal retirement age but at or subsequent to age fifty-five, provided that upon such date the member has completed ten years of creditable service, which shall be the early retirement age; or

3. Subsequent to normal retirement age, which shall be the delayed retirement age; (this provision shall be known and referred to throughout this chapter as plan E).

The manner and time of selecting a plan of retirement are set out elsewhere in this chapter.

(3) Any member who, prior to July 1, 1955, elected to retire under one of plans A, B, C, or D may elect, prior to retirement, to retire under plan E in accordance with the terms hereof. Any person who became a member on or after July 1, 1955, shall retire under plan E, except as provided for under §238.31. With respect to plans A, B, C, or D, any member shall have the right at any time to change to a plan of retirement requiring a lower rate of contribution. The board of trustees shall also notify the member of the rate of contribution such member must make from and after selecting such plan of retirement; provided that any member in service may retire upon reaching the age of retirement formerly selected by him, upon his written application to the board of trustees setting forth at what time, not more than ninety days subsequent to the execution and filing of such application, it is his desire to retire notwithstanding that during such period of notification he may have separated from service. Upon receipt of such application for retirement the board of trustees shall retire such member not more than ninety days thereafter; and provided further that before such member may retire he must file with the board of trustees his written selection of one of the optional benefits provided in §238.08.

(4) Upon service retirement under plans A and B a member shall receive a retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A pension, in addition to this annuity, of one one-hundred-fortieth of his average final compensation, multiplied by the number of his years of membership service since he last became a member; and

(c) If the member has a prior service certificate in full force and effect, an additional pension of one-seventieth of his average final compensation, multiplied by the number of years of service certified on his prior service certificate.

(5) Upon service retirement under plan C a member shall receive a service retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A pension, in addition to his annuity of one one-hundred-twentieth of his average final compensation, multiplied by the number of years of membership service since he last became a member; and

(c) If the member has a prior service certificate in full force and effect, an additional pension of one-sixtieth of his average final compensation, multiplied by the number of years of service certified on his prior service certificate.

(6) Upon service retirement under plan D, a member shall receive a service retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A pension, in addition to his annuity, of one one-hundredth of his average final compensation multiplied by the number of his years of membership service since he last became a member; and

(c) If the member has a prior service certificate in full force and effect, an additional pension of one-fiftieth of his average final compensation multiplied by the number of years of service certified on his prior service certificate.

(7) Upon service retirement under plan E, a member shall receive a service retirement allowance which shall be determined as follows:

(a) At normal retirement age: two per cent of his average final compensation multiplied by the number of years of creditable service.

(b) At early retirement age: Two per cent of his average final compensation multiplied by the number of years of creditable service and adjusted for actuarial equivalents based on completed months by which early retirement precedes normal retirement.

(c) At delayed retirement age: Two per cent of his average final compensation multiplied by the number of years of creditable service.

(8) Any member who has heretofore, or who hereafter, retires after thirty years of creditable service shall receive a retirement allowance of not less than one hundred dollars per month, provided, however that with respect to plans A, B or C, any person with less than thirty but with ten or more years of service shall be entitled to a service retirement allowance which shall be computed on the basis of an average final compensation of twenty-four hundred dollars per year and shall receive a retirement allowance which shall be the equivalent of one-sixtieth of said average final compensation multiplied by the number of years of his creditable service; provided that in no event shall such a member receive a retirement allowance greater than one hundred dollars per month.

(9) Any member who has taught, or who teaches in the public free schools of Florida for not less than an aggregate of ten years and

withdraws or has withdrawn from the system, may elect to leave his accumulated contributions in the system or to repay his withdrawn accumulations to the system, and upon reaching retirement age, he shall receive a retirement allowance based on the number of years of service which he taught in the public schools of Florida before retirement, provided, that a person who has lost his membership and later returns to service shall be allowed the privilege of having credit restored for previous service if he returns to full time teaching service and renders three additional years of continuous service.

(10) Any member in service, who has ten or more years of creditable service, may upon the application of his employer or upon his own application, be retired by the board of trustees not less than thirty nor more than ninety days next following the date of filing such application, on a disability retirement allowance; provided that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

(11) Upon retirement on account of disability, a member shall be paid his service retirement allowance if he is eligible for a service retirement allowance; otherwise, he shall receive a retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

(b) If he is making contributions for retirement under plan A or B, he shall receive a pension which, together with his annuity shall provide a total retirement allowance equal to one-seventieth of his average final compensation multiplied by the number of years of service creditable to him at retirement, if such retirement allowance exceeds twenty-five per cent of his average final compensation; or if such retirement allowance does not exceed twenty-five per cent of his average final compensation, a pension shall be payable which, together with his annuity, shall provide a total retirement allowance of twenty-five per cent of his average final compensation; provided, however that no retirement allowance shall exceed one-seventieth of his average final compensation, multiplied by the number of years of total service which would be credited to the member were his service continued to the minimum age for service retirement.

(c) If he is making contributions for retirement under plan C, he shall receive a pension which, together with his annuity, shall provide a total retirement allowance equal to one-sixtieth of his average final compensation multiplied by the number of years of service creditable to him at retirement, if such retirement allowance exceeds twenty-five per cent of his average final compensation; or if such retirement allowance does not exceed twenty-five per cent of his average final compensation, a pension shall be payable which, together with his annuity, shall provide a total retirement allowance of twenty-five per cent of his average final compensation; provided, however that no retirement allowance shall exceed one-sixtieth of his average final compensation multiplied by the number of years of total service which would be credited to the member were his service continued to the minimum age for service retirement.

(d) If he is making contributions for retirement under plan D, he shall receive a pension, which together with his annuity shall provide a total retirement allowance equal to one-fiftieth of his average final compensation multiplied by the number of years of service creditable to him at retirement, if such retirement allowance exceeds twenty-five per cent of his average final compensation; or if such retirement allowance does not exceed twenty-five per cent of his average final compensation, a pension shall be payable which, together with his annuity, shall provide a total retirement allowance of twenty-five per cent of his average final compensation, provided, however that no retirement allowance shall exceed one-fiftieth of his average final compensation multiplied by the number of years of total service which would be creditable to the member were his service continued to the minimum age of service retirement; provided, however that when a member has taught the standard number of years required for retirement under any of the several retirement plans provided by this section and elected by such member, and such member shall retire on account of disability prior to attainment of the minimum required age under the plan elected, then such member so retired shall receive the same benefits as if he had retired on service retirement under the plan elected.

(e) If he is making contributions for retirement under plan E, he shall receive a retirement allowance which shall consist of one hundred per cent of the retirement allowance to which he would be entitled if his date of disability retirement were his otherwise normal retirement date; provided, however that the retirement allowance payable upon disability retirement shall not be less than the twenty-five per cent of average final compensation nor, if disability retirement occurs prior to the date on which the member is first eligible for service retirement, shall it be greater than the service retirement allowance to which the member would be entitled if he continued in active service to such date at the same rate of compensation effective on the date of disability retirement.

(f) With respect to plans A, B or C, the average final compensation under this subsection shall be computed on the actual average final compensation, or upon the basis of an average final compensation of twenty-four hundred dollars per year, whichever is the greater.

(g) Notwithstanding the minimum disability retirement allowance set out in paragraphs (a) through (f) of this subsection any member who retired prior to July 1, 1957 on account of disability, shall, on and after July 1, 1957, receive as a minimum disability retirement allowance seventy-five dollars per month, or an annual sum equal to forty multiplied by the number of years of his creditable service whichever is the greater, and any person who retires on and after July 1, 1957, shall, from the date of his retirement, receive as a minimum disability retirement allowance seventy-five dollars per month, or an annual sum equal to forty multiplied by the number of years of creditable service, whichever is the greater.

(12) (a) Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the board of trustees may require any disability beneficiary who has not yet attained his minimum service retirement age to undergo a medical examination by the medical board or a physician or physicians designated by the medical board, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should a disability beneficiary, who has not yet attained his minimum service retirement age, refuse to submit to any such medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights in and to his pension shall be forfeited.

(b) Should the medical board report and certify to the board of trustees that such disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his disability retirement allowance and his average final compensation, and should the board of trustees concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity later be changed, the amount of his pension may be further modified; provided that the pension so modified shall not exceed the amount of the pension allowable under (11) of this section, at the time of retirement, nor an amount which, when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system at that time.

(c) Should a disability beneficiary under his minimum service retirement age be at any time in service at a salary equal to or greater than his average final compensation upon the basis of which he was retired, his disability retirement allowance shall cease and he shall again become a member of the retirement system and shall contribute thereafter at the same rate at which he paid prior to disability. Any prior service certificate, on the basis of which his allowance was computed at the time of his disability retirement, shall be restored to full force and effect; and, in addition, upon his subsequent retirement he shall be credited with all his membership service on the basis of which his allowance was computed at the time of his disability retirement.

(13) Should a member cease to be a teacher except by death or by retirement under the provisions of this chapter, he shall be paid the amount of his accumulated contributions. Should a member die before retirement, the amount of his accumulated contributions shall be paid to such person, if any, as he shall have nominated by written designation duly executed and filed with the board of trustees; otherwise, to his executors or administrators.

(14) Any member who retires on or after July 1, 1954, who at the time of his retirement has not served as a teacher in Florida for ten years shall not be eligible to receive and shall not be paid any service retirement allowance.

(15) Any member of the teachers' retirement system who has heretofore, or who hereafter, retires and who has passed his sixty-fifth birthday and whose retirement allowance is less than one hundred fifty dollars shall have his retirement allowance redetermined and shall be entitled to a service retirement allowance which shall be computed on the basis of an average final compensation of twenty-four hundred dollars per year and shall receive a retirement allowance which shall be the equivalent of one-sixtieth of said average final compensation multiplied by the number of years of his creditable service; provided, that in no event shall such redetermination entitle the member to receive a retirement allowance greater than one hundred fifty dollars.

(15A) (a) Any member of the teachers' retirement system who has heretofore, or who hereafter, retires with no less than ten years of creditable service and who has passed his sixty-fifth birthday, may, upon application to the board of trustees, have his retirement allowance redetermined and thereupon shall be entitled to a monthly service retirement allowance which shall be equal to four dollars multiplied by the number of years of his creditable service which shall be payable monthly during his retirement; provided, that the amount of retirement allowance as determined hereunder, shall be reduced by an amount equal to

1. Any social security benefits received by the member, and
2. Any social security benefits that the member is eligible to receive by reason of his own right or through his spouse.

(b) No payment shall be made to a member of the teachers' retirement system under this act, until the board of trustees has determined the social security status of such member.

(c) Eligibility of a member of the teachers' retirement system shall be determined under the social security laws and regulations, provided however, that a member shall be considered eligible if he or his spouse has reached sixty-five years of age and would draw social security if he or his spouse were not engaged in activity that results in his or his spouse receiving income that would make him or her ineligible to receive social security benefits. A member of the teachers' retirement system shall be deemed to be eligible for social security benefits if he has this eligibility in his own right or through his spouse.

(d) The board of trustees shall review, at least annually, the social security status of all members of the teachers' retirement system receiving payment under this act and shall increase or decrease payments to such members as shall be necessary to carry out the intent of this act.

(e) No member of the teachers' retirement system shall have his retirement allowance reduced or any of his rights impaired by reason of this act.

(f) This subsection shall take effect on January 1, 1962.

(16) (a) Definitions under survivor benefits are:

1. A dependent is a child, widow, widower or parent of the deceased member who was receiving not less than one half of his support from the deceased member at the time of the death of such member.

2. A child is a natural or legally adopted child of a member, under eighteen years of age, or eighteen years of age or older who is physically or mentally incapable of self-support, and such mental and physical incapacity occurred prior to such child obtaining the age of eighteen years; provided, that such person shall cease to be regarded as a child upon the termination of such physical or mental disability, and provided, further, that the determination as to such physical or mental incapability shall be vested in the board of trustees. No person shall be considered a child whenever such child has married; such child has been legally adopted by someone other than the widow or widower of a deceased member; or such child becomes eighteen years of age except as to a child who is physically or mentally incapable of self-support as hereinbefore set forth.

3. A parent is a natural parent of a member and includes a lawful spouse of a natural parent.

4. A beneficiary is a person who is entitled to benefits under this subsection by reason of his relation to a deceased member during the lifetime of such member.

(b) In addition to all other benefits to which a member in service on or after July 1, 1957, shall, subject to the conditions set out below, be entitled, the beneficiary of such member shall, upon the death of such member, receive the following benefits:

Minimum period of paid service of member in Florida as regular full-time teacher	Beneficiaries of deceased member	Benefits
1. One calendar day	Widow or widower who has care of dependent child or children of deceased member.	$190.00 per month for one child. $250.00 per month if more than one child, maximum benefits $250.00 per month.
2. One calendar day	One or more dependent children if there is no surviving widow or widower.	$165.00 per month per child; maximum benefits $250.00 per month.
3. One calendar day	Dependent parents 65 years or older.	For each parent, $100.00 per month for life.
4. One calendar day	Designated beneficiary and if no designated beneficiary, then the executor, or, administrator of deceased member.	$500.00 lump sum death benefits payable only once.
5. One calendar day	Dependent widow or widower 50 years of age and less than 65 years of age.	$100.00 per month for life.
6. Ten years	Widow or widower 65 years of age or older.	$125.00 per month for life.

(c) The payment of survivor benefits shall begin as of the month immediately following the death of the member except where the beneficiary has not reached the age required to receive benefits under paragraph (b) hereof, in which event the payment of survivor benefits shall begin as of the month immediately following the month in which the beneficiary reaches the required age. Provided that if death occurs during the first three years of employment, the payment of survivor benefits shall be reduced by the amount of monthly benefits the member's survivors are entitled to receive under federal social security as either a survivor of the member or as a covered worker under federal social security.

(d) Limitations on rights of beneficiary are:

1. The person named as beneficiary in paragraph (b) shall, in no event, be entitled to receive the benefits set out in such paragraph unless the death of the member under whom such beneficiary claims occurs within the period of time after the member has served in Florida as follows:

Minimum number of years of service in Florida	Period after serving in Florida in which death of member occurs
Three to five	Two years
Six to nine	Five years
Ten or more	Ten years

2. Upon the death of a member, the board shall make a determination of the beneficiary or beneficiaries of the deceased member and shall pay survivor benefits to such beneficiary or beneficiaries beginning one month immediately following the death of the member except where the beneficiary has not reached the age required to receive benefits under paragraph (b) hereof, in which event the payment of survivor benefits shall begin as of the month immediately following the month in which the

beneficiary reaches the required age. When required by the board of trustees, the beneficiary or beneficiaries shall file an application for survivor benefits upon forms prescribed by the board.

3. The beneficiaries of a member to receive survivor benefits are fixed by this subsection, and a member may not buy or otherwise change such benefits. He may, however, designate the beneficiary to receive the five hundred dollars death benefits. If a member fails to make this designation, the five hundred dollars death benefits shall be paid to his executor or administrator.

4. The beneficiary or beneficiaries of a member whose death occurs while he is in service or while he is receiving a disability allowance under §238.07 (11), shall receive survivor benefits under this subsection determined by the years of service in Florida of the deceased member as set out in paragraph (b) of this subsection. The requirement that the death of a member must occur within a certain period of time after service in Florida as set out in subparagraph 1. of paragraph (d) shall not apply to a member receiving a disability benefit at the time of his death.

(17) Any person who hereafter elects to receive retirement benefits under §112.05, shall not be entitled to the retirement benefits of this chapter except for the refund of his accumulated contributions as provided in subsection (13) of this section; likewise any person who elects to receive retirement benefits under this chapter shall thereby become ineligible to receive retirement benefits under §112.05.

History.—§7, ch. 19014, 1939; CGL 1940 Supp. 892(162); §4, ch. 22693, 1945; §4, ch. 23864, 1947; §11, ch. 25035, 1949; §4, ch. 25398, 1949; (3) §1, ch. 28110, (13) n. §3, ch. 28196, 1953; §6, ch. 29942, 1955; (3), (7) §2, (11)(g) n. §4, (16) n. §5, ch. 57-357; (3) §2, ch. 61-458; (7) §2, ch. 61-301; (9) §3, ch. 61-458; (15A) n. §§1-6, ch. 61-333; (16)(a) 2. §4, (16)(b) §5, ch. 61-458; §§4, 5, 7, 12, ch. 63-554; §§1, 2, ch. 65-552; §1, ch. 67-557.

238.08 **Optional benefits.**—A member may elect to receive his benefits under the terms of this chapter according to the provisions of any one of the following options:

(1) Option one. He may elect to receive his benefits in a retirement allowance payable throughout his life, or

(2) Option two. He may elect to receive on retirement the actuarial equivalent (at that time) of his retirement allowance in a reduced retirement allowance payable throughout life, with the provisions that if he dies before he has received in payment of his annuity the amount of his accumulated contributions, as they were at the time of his retirement, the balance shall be paid to such person, if any, as he shall nominate by written designation duly acknowledged and filed with the board of trustees; otherwise, to his executors or administrators.

(3) Option three. He may elect at any time prior to receipt of his or her first monthly installment of retirement compensation, to receive a reduced retirement compensation with the provision that the surviving spouse shall continue to draw such reduced retirement compensation so long as he or she shall live. The amount of such reduced retirement compensation shall be the actuarial equivalent of the amount of such retirement otherwise payable.

(4) Option four. He may elect at any time prior to receipt of his or her first monthly installment of retirement compensation, to receive a reduced retirement compensation with the provision that the surviving spouse shall continue to draw one half of such reduced retirement compensation so long as he or she shall live. The amount of such reduced retirement compensation shall be the actuarial equivalent of the amount of such retirement otherwise payable.

(5) If a member continues in service beyond the date he is first eligible for service retirement and does not, prior to his death, elect options three of four, his spouse may, at the option of the spouse, receive either the accumulated contributions of the member at date of death or the reduced retirement compensation to which the beneficiary would have been entitled under option three, calculated on the assumption that the member retired on his date of death and died immediately subsequent thereto provided that the spouse of any member who died between July 1, 1955 and June 30, 1957, both dates inclusive, is entitled to full benefits under this subsection and further provided that for all persons who become members of the system on or after July 1, 1963, the amount of such retirement allowance otherwise payable to the member at his date of death shall be determined on the basis of his normal retirement age as defined in §238.07.

History.—§8, ch. 19014, 1939; CGL 1940 Supp. 892(163); §7, ch. 22858, 1945; (3),(4) n. §4, ch. 28196, 1953; §7, ch. 29942, 1955; (5) §3, ch. 57-357; (5) §8, ch. 63-554; (5) §3, ch. 65-552.

238.09 **Method of financing.**—All of the assets of the retirement system shall be credited, according to the purposes for which they are held, to one of four funds; namely: the annuity savings trust fund, the pension accumulation trust fund, the expense trust fund and the survivors' benefit trust fund.

(1) The annuity savings trust fund shall be a fund in which shall be accumulated contributions made from the salaries of members under the provisions of (c) or (f). Contribution to, payments from, the annuity savings trust fund shall be made as follows:

(a) With respect to plan A, B, C or D, upon the basis of such tables as the board of trustees shall adopt, and regular interest, the actuary of the retirement system shall determine for each member the proportion of earnable compensation which, when deducted from each payment of his prospective earnable annual compensation prior to his minimum service retirement age, and accumulated at regular interest until such age, shall be computed to provide at such age:

1. An annuity equal to one one-hundred-fortieth of his average final compensation mul-

tiplied by the number of his years of membership in the case of each member electing to retire under the provisions of plan A or B;

2. An annuity equal to one one-hundred-twentieth of his average final compensation multiplied by the number of his years of membership service in the case of each member electing to retire under the provisions of plan C;

3. An annuity equal to one one-hundredth of his average final compensation multiplied by the number of his years of membership service in the case of each member electing to retire under the provisions of plan D.

In the case of any member who has attained his minimum service retirement age prior to becoming a member, the proportion of salary applicable to such member, with respect to plan A, B, C or D, shall be the proportion computed for the age one year younger than his minimum service retirement age.

(b) A member under plan E shall make contribution to the fund of six per cent of his earnable compensation.

(c) The board of trustees shall certify to each employer the proportion of the earnable compensation of each member who is compensated by the employer, and the employer shall cause to be deducted from the salary of each member on each and every payroll for each and every payroll period an amount equal to the proportion of the member's earnable compensation so computed. With respect to plan A, B, C or D, the employer shall not make any deduction for annuity purposes from the compensation of a member who has attained the age of sixty years, if such member elects not to contribute.

(d) In determining the amount earnable by a member in a payroll period, the board of trustees may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify any deduction required of any member by such an amount as shall not exceed one-tenth of one per cent of the annual salary from which said deduction is to be made.

(e) The deductions provided for herein shall be made, notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and shall receipt in full for his salary or compensation; and payment of salary or compensation, less said deductions, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided by this chapter.

(f) In addition to the deduction from salary, as hereinbefore required, any member may, with respect to plan A, B, C or D, subject to the approval of the board of trustees, redeposit in the annuity savings trust fund, by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom, as provided in this chapter, or any part thereof; or any member may deposit in the annuity savings trust fund, by a single payment or by an increased rate of contribution, amounts for the purchase of an additional annuity, but such additional payments shall not exceed the amounts computed to provide, with his prospective retirement allowance, a total retirement allowance of one half of his prospective average final compensation at his minimum service retirement age. Such additional amounts so deposited shall become a part of his accumulated contributions, except that in the case of disability retirement they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension.

(g) A member who elects to retire under plan E shall pay to the annuity savings trust fund prior to retirement or receive from the annuity savings trust fund, as the case may be, the difference between what his contributions, with accumulated interest, would have been under plan E and the actual contributions of the member with accumulated interest.

(h) The accumulated contributions of a member returned to him upon withdrawal, or paid as provided in this chapter to his designated beneficiary, or to his executors or administrators in the event of his death, shall be paid from the annuity savings trust fund.

(i) Upon the retirement of a member, his accumulated contributions shall be transferred from the annuity savings trust fund to the pension accumulation trust fund.

(2) Should a beneficiary, retired on account of disability, again become a member of the retirement system, his accumulated contributions as of the date of retirement not paid as an annuity, shall be transferred from the pension accumulation trust fund to the annuity savings trust fund and credited to his individual account in the annuity savings trust fund.

(3) The pension accumulation trust fund shall be the fund in which shall be accumulated all reserves for the payment of all annuities or benefits in lieu of annuities on retired members and all pensions and other benefits payable from contributions made by the members and by the employers, from which annuities, pensions and benefits in lieu thereof shall be paid.

Contributions to, and payments from, the pension accumulation trust fund, other than as set forth in subsections (2) and (3) herein, shall be made as follows:

(a) On account of each member there shall be paid annually into the pension accumulation trust fund, as provided for in §238.11, on account of the preceding year a certain percentage of his earnable compensation, to be known as the normal contribution, and an additional percentage of his earnable compensation, to be known as the accrued liability contribution. The rates per cent of earnable compensation of such contributions shall be fixed on the basis of the liabilities of the retirement system, as shown by actuarial valuation.

(b) On the basis of regular interest and of such mortality and other tables as shall be adopted by the board of trustees, the actuary engaged by the board of trustees to make each valuation required by this chapter shall, during the period over which the accrued liability contribution is payable, determine, immediately after making such valuation, the uniform and constant percentage of the earnable compensation of the average new entrant, which, if contributed on the basis of his compensation throughout his entire period of service, would be sufficient to provide for the payment of any pension payable by the state on his account. The rate per cent so determined shall be known as the normal contribution rate. After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be the rate per cent of the earnable compensation of all members, obtained by deducting from the total liabilities of the pension accumulation trust fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one per cent of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the board of trustees and on the basis of regular interest. The normal rate of contribution shall be determined and certified to the board of trustees by the actuary after each valuation and shall continue in force until a new valuation and certification are made.

(c) Immediately succeeding the first valuation, the actuary engaged by the board of trustees shall compute the rate per cent of the total earnable compensation of all members which is equivalent to four per cent of the amount of the total liability for pensions on account of all members and beneficiaries and not dischargeable by the present assets of the pension accumulation trust fund and by the aforesaid normal contribution if made on account of such members during the remainder of their active service. The rate per cent, originally so determined, shall be known as the accrued liability contribution rate.

(d) The total amount payable in each year into the pension accumulation trust fund shall be not less than the sum of the rates per cent known as the normal contribution rate and the accrued liability contribution rate, of the total earnable compensation of all members during the preceding year; provided, however that the amount of each annual accrued liability contribution shall be at least three per cent greater than the preceding annual accrued liability contribution; and provided that the aggregate payment into the pension accumulation trust fund shall be sufficient, when combined with the amount then held in the fund, to provide the benefits payable from the fund during the current year.

(e) The accrued liability contribution shall be discontinued as soon as the accumulated reserve in the pension accumulation trust fund shall equal the present value, as actuarially computed and approved by the board of trustees, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate, then in force of the prospective normal contributions to be received on acount of persons who are at that time members.

(4) The expense trust fund shall be the fund to which shall be credited all moneys contributed for the administrative expenses of the retirement system and from which shall be paid all expenses incurred in connection with the administration and operation of the retirement system. Contribution to the expense trust fund shall be made by transfer from interest earnings on investments in the annuity savings trust fund, such transfers shall be regulated by the legislature pursuant to budgets filed in accordance with the provisions of chapter 216.

(5) (a) The survivors' benefit fund shall be the fund in which shall be accumulated all reserves for the payment of all survivor benefits provided for in §238.07(16), except refund of accumulated contributions. There shall be paid into this fund:

1. All contributions by members based on the rate of twenty-five hundredths per cent of their salary as set out in paragraph (b) of this subsection.

2. All contributions by the state to the survivors' benefit trust fund.

3. All transfers from other funds as required by this subsection.

(b) The board of trustees shall annually certify to each employer, at the time it makes the certification to the employer under paragraph (c) of subsection (1), the rate of twenty-five hundredths per cent to be applied by the employer to the salary of each member who is compensated by the employer, and the employer shall cause to be deducted from the salary of each member on each and every payroll for each and every payroll period an amount equal to twenty-five hundredths per cent of the member's salary paid by the employer and the employer shall remit monthly such deducted amounts to the board of trustees who shall place the same in the survivors' benefit trust fund of the teachers' retirement system of the state. The amount of contributions by a member to the survivors' benefit trust fund shall, in no event, be refundable to the member or his beneficiaries.

(c) Beginning July 1, 1959, there shall be paid annually into the survivor's benefit trust fund by the state on account of the preceding year a sum equal to the total amount paid into such fund by the members of the teachers' retirement system of the state.

(d) A member who makes contributions to the survivors' benefit trust fund shall not thereby obtain, prior to July 1, 1959, any vested interest or right to the benefits under §238.07 (16), and these benefits may be altered, changed or repealed by the legislature at its 1959 session, provided that the beneficiaries of members whose deaths occur prior to July 1, 1959 shall have a vested interest in the benefits accruing to such beneficiaries under §238.07 (16), and these rights may not be altered, changed nor repealed by the legislature.

(e) If there is not sufficient money to promptly pay all benefits which become due to each beneficiary during the biennium beginning July 1, 1957 under §238.07(16), the board of trustees shall, from time to time, prorate among all beneficiaries the money available to pay benefits.

History.—§9, ch. 19014, 1939; CGL 1940 Supp. 892(164); §5, ch. 22693, 1945; §7, ch. 22858, 1945; §5, ch. 23864, 1947; §11, ch. 25035, 1949; §8, ch. 29942, 1955; §6, ch. 57-357; (4) §1, ch. 59-330; §2, ch. 61-119; (1)(b) §3, ch. 61-301; (4) §6, ch. 63-554.

238.10 Management of funds.—The board of trustees, annually, shall allow regular interest on the amount for the preceding year to the credit of each of the funds of the retirement system, and to the credit of the individual account therein, if any, with the exception of the expense fund, from the interest and dividends earned from investments.

History.—§10, ch. 19014, 1939; CGL 1940 Supp. 892(165); §4, ch. 20749, 1941; §15, ch. 21989, 1943; §1, ch. 26963, 1951; §9, ch. 29942, 1955; §6, ch. 61-458.
cf.—§340.21 Bonds eligible for investment.
§665.45 Authorized investments for insurance companies.

238.11 Collection of contributions.—

(1) The collection of contributions shall be as follows:

(a) Each employer shall cause to be deducted from each and every payment of salary of a member, for each and every pay roll period, the contribution payable by such member as provided in this chapter. Commencing July 1, 1967, each employer shall also budget and set aside an amount equal to such deductions, which shall be the employer contribution, except with respect to any nonprofit professional association or corporation of teachers for which the employer contribution shall be at least that amount specified in §238.09(3)(a); provided that such amount shall be set aside only if the state makes available to the employer, except for any nonprofit professional association or corporation, the additional funds necessary for such employer contributions.

(b) Each employer shall transmit monthly to the secretary of the board of trustees a warrant for the total amount of such deductions. Commencing July 1, 1967, each employer shall also transmit monthly to the secretary of the board of trustees a warrant for such employer contribution set aside as provided for in paragraph (a) of this subsection. The secretary of the board of trustees, after making records of all such warrants, shall transmit them to the comptroller who shall deliver them to the treasurer of the state who shall collect them.

(c) The state contribution shall be equal to the excess of the contributions specified under §238.09, over the amounts the state makes available for employer contributions under paragraphs (a) and (b) of this subsection.

(2) The collection of the state contribution shall be made as follows:

(a) The amounts required to be paid by the state into the teachers' retirement system in this chapter shall be provided therefor in the biennial general appropriations act; provided, however, that in the event a sufficient amount is not included in the biennial general appropriations act to meet the full amount needed to pay the retirement compensation provided for in this chapter, the additional amount needed for such retirement compensation is hereby appropriated from the general revenue fund as approved by the budget commission.

(b) The board of trustees shall certify one-fourth of the amount so ascertained for each year to the state comptroller on or before the last day of July, October, January and April of each year. The comptroller shall, on or before the first day of August, November, February and May of each year, draw his warrant or warrants, which shall be countersigned by the governor, on the treasurer of the state for the respective amounts due the several funds of the retirement system. On the receipt of the warrant or warrants of the comptroller, the treasurer shall immediately transfer to the several funds of the retirement system the amounts due.

(3) All collection of contributions of nonprofit professional association or corporation of teachers as referred to in §238.01(4) and (6), shall be made by such association or corporation in the following manner:

(a) On April 1 of each year the board of trustees shall certify to any such nonprofit professional association or corporation of teachers the amounts which will become due and payable during the ensuing fiscal year to each of the funds of the retirement system to which such contributions are payable as set forth in this law.

(b) The board of trustees shall certify one-fourth of the amount so ascertained for each year to the nonprofit professional association or corporation of teachers on or before the last day of July, October, January and April of each year. The nonprofit professional association or corporation of teachers shall on or before the first day of August, November, February and May of each year draw its check payable to the secretary of the board of trustees of the teachers' retirement system for the respective amounts due the several funds of the retirement system. Upon receipt of the check the secretary shall immediately transfer to the several funds of the retirement system the amounts due, provided, however that the amounts due the several funds of the retirement system from any such association or corporation for creditable service accruing to any such member before July 1, 1947 shall be paid prior to the retirement of any such member.

History.—§11, ch. 19014, 1939; CGL 1940 Supp. 892(166); §6, ch. 23864, 1947; §10, ch. 29942, 1955; (1) §9, ch. 63-554.

238.12 Duties of employers.—

(1) Each employer shall keep such records and, from time to time, shall furnish such information as the board of trustees may require in the discharge of its duties. Upon the employment of any teacher to whom this chapter may apply, he shall be informed by his employer of his duties and obligations in connection with the retirement system as a condition of his employment. Every teacher accepting employment shall be deemed to consent and agree to any deductions from his compensation required in this chapter and to all other provisions of this chapter.

(2) During September of each year, or at such other time as the board of trustees shall approve, each employer shall certify to the board of trustees the names of all teachers to whom this chapter applies.

(3) Each employer shall, on the first day of each calendar month, or at such less frequent intervals as the board of trustees may approve, notify the board of trustees of the employment of new teachers, removals, withdrawals and changes in salary of members that have occurred during the preceding month, or the period covered since the last notification.

History.—§12, ch. 19014, 1939; CGL 1940 Supp. 892(167).

238.13 Limitation on membership.—

(1) No other provision of law in any other statute which provides wholly or partly at the expense of the state for pensions or for retirement benefits for teachers of the said state, their widows, or other dependents, shall apply to members or beneficiaries of the retirement system established by this chapter, their widows or other dependents. No person who shall become a teacher, as defined herein, after the first day of July, nineteen hundred and thirty-nine, shall be eligible to a pension under any statute heretofore enacted.

(2) No person who is fully covered by a compulsory civil service retirement plan shall be a member of the retirement system under this chapter; provided, however, that any person who is presently a member of the retirement system and is also fully covered by a compulsory civil service retirement plan may continue to be a member of the retirement system or at his option may withdraw from such retirement system and thereupon be entitled to receive all of his accumulation in the annuity savings trust fund together with the interest thereon.

History.—§13, ch. 19014, 1939; CGL 1940 Supp. 892(168); (2) n. §7, ch. 61-458.
cf.—§231.50 Monthly allowance for incapacitated teachers.

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

History.—§14, ch. 19014, 1939; CGL 1940 Supp. 892(169), 8115(6).
cf.—§775.07 Punishment for misdemeanor.

238.15 Exemption of funds from taxation, execution and assignment.—The pensions, annuities or any other benefits accrued or accruing to any person under the provisions of this chapter and the accumulated contributions and cash securities in the funds created under this chapter are exempted from any state, county or municipal tax of the state, and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable, except:

(1) That any teacher who has retired shall have the right and power to authorize in writing the board of trustees to deduct from his monthly retirement allowance money for the payment of the premiums on group insurance for hospital, medical and surgical benefits, under a plan or plans for such benefits approved in writing by the insurance commissioner of the state, and upon receipt of such request the board of trustees shall make the monthly payments as directed; and

(2) As may be otherwise specifically provided for in this chapter.

History.—§15, ch. 19014, 1939; CGL 1940 Supp. 892(170); §11, ch. 29942, 1955.

238.16 Penalties.—Any person subject to the terms and provisions of this chapter, including the individual members of all boards, who shall violate any of the provisions of this chapter or any valid rule or regulation promulgated under authority of the chapter, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding one thousand dollars or by imprisonment in the county jail for not exceeding six months for each such offense, and each day of such violation shall constitute a separate offense.

History.—§16, ch. 19014, 1939; CGL 1940 Supp. 8115(7).
cf.—§775.06 Alternative punishment.

238.17 Employees of nonprofit professional association or corporation of teachers functioning on a statewide basis; intent.—It is the intent of this section to grant to employees of nonprofit professional association or corporation of teachers who are or become members of the teachers' retirement system all the rights, privileges and benefits therefrom as are or may be granted to all other members of the teachers' retirement system, provided, however, that for other than creditable service as a teacher as defined in §238.01(4) rendered to a state, county, municipality or other taxing district by any such employee, the state shall not make any contributions on account of such service.

History.—§7, ch. 23864, 1947.

238.181 Retired member may be substitute teacher; conditions.—

(1) Any member who has retired may be employed, on a substitute basis only, as a substitute teacher in any of the public free schools of this state, and such employment shall not affect the rights of such retired member under the retirement system, including, without limiting the general terms hereof, his right to receive his retirement allowance; provided that a county board of public instruction may employ as a substitute teacher a member who has retired only if the county board is unable to employ for such substitute teaching position, a qualified teacher who has not retired.

(2) A retired teacher may be employed on a part-time basis and receive compensation for services rendered without reducing or in any way affecting his retirement or pension status but in no case shall the part-time employment exceed two hundred hours in any single calendar year.

(3) Any member who hereafter retires and receives a retirement allowance under the provisions of this chapter shall have his retirement allowance suspended during any period of re-employment in any capacity whatsoever by the state or any political subdivision, department, branch, or agency thereof, except as in this chapter specifically provided.

History.—§2, ch. 28110, 1953; §12, ch. 29942, 1955; §1, ch. 57-189.

238.31 Provision for modification of plan E.—Notwithstanding any provision contained herein to the contrary the provisions relating to retirement under §238.07(2)(e) shall be subject to amendment or modification by subsequent legislation and all other provisions of this chapter relating to the administration of plan E, or to the duties, rights, privileges, requirements and benefits of the members of plan E shall be subject to amendment, modification, deletion, or substitution by act of the 1965 legislature of this state and all such legislation shall be applicable retroactively to July 1, 1963, with respect to all those persons who become members of plan E on or after July 1, 1963; provided, however, that such legislation shall not provide for a normal retirement age of members to exceed the age of sixty-five years, nor shall such legislation be applicable to any benefits which become payable to, or with respect to, such members prior to July 1, 1965.

History.—§11, ch. 63-554.

238.32 Service credit in disputed cases.—The board of trustees may in its discretion allow or deny a member service credit in disputed or doubtful cases for employment in Florida and out-of-state schools in order to serve the best interests of the state and the member, subject to the membership dates set forth in §238.06(4).

History.—§4, ch. 65-552.

238.33 Purpose; §§238.33-238.37.—The purpose of §§238.33-238.37 is to provide for the transfer of members of this retirement system electing transfer in accordance with §238.34 to division C of the state and county officers and employees retirement system, as provided in chapter 122.

History.—§1, ch. 67-445.

238.34 Definitions; retirement, division C.— The following words and phrases as used in §§238.33-238.37 shall have the following meaning unless a different meaning is required by the context:

(1) "Unit" shall mean all members of any employer participating in this system.

(2) "Employer" shall mean any agency, branch, department of the state or any university, a public community junior college, or county board of public instruction participating in this retirement system.

(3) "Division C" shall mean division C of the state and county officers and employees retirement system, known as the Florida public officers and employees retirement system.

History.—§1, ch. 67-445.

238.35 Adoption of division C.—

(1) A unit may transfer to division C in the manner and under circumstances as follows:

(a) Upon the written request of five members of the unit to the board of trustees for membership in division C, the board of trustees shall thereupon provide for the holding of a referendum to be participated in by eligible members of the unit in pursuance of attaining membership in division C.

(b) Should the referendum result in an affirmative majority vote of the eligible members, only those members of the unit who elected to transfer to division C shall participate in division C.

(c) The effective date of participation in division C shall be the date that the employer of the unit qualifies for participation of the unit in said division C, in accordance with §122.39.

(2) All employees of the unit hired after the effective date of participation in division C, as such date is established in subsection (1)(c), shall be eligible for participation in division C only.

History.—§1, ch. 67-445.

238.36 Recognition of prior benefit credits and adjustment of member contributions.—Members who elect to transfer membership to division C shall relinquish all rights to benefits under this system, and §122.44 shall govern and control the adjustment of member contributions.

History.—§1, ch. 67-445.

238.37 Amendments.—Reference in §§238.33-238.36 to state and federal laws is intended to include such laws as they now exist or may hereafter be amended.

History.—§1, ch. 67-445.