

Sec. 6. **Application.**—This Act shall not apply to any city of the fourth class which was operating under a home rule charter prior to the passage of this Act.

Approved April 20, 1933.

CHAPTER 328—H. F. No. 767

An act to amend Laws 1919, Chapter 522, Sections 3, 4, 5, 6, 8, 10, 11, and 12, as amended by Laws 1925, Chapter 335, relating to the payment of retirement allowances to employees of cities of the State of Minnesota having over 50,000 inhabitants.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Law amended.**—That Laws 1919, Chapter 522, Sections 3, 4, 5, 6, 8, 10, 11, and 12, as amended by Laws 1925, Chapter 335, be amended, so as to read as follows:

“Section 3. **Definitions.**—The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

“(a) ‘Service allowance’ shall mean the allowance to which an employe may be entitled who retires from the city service after having attained the minimum established age for retirement.

“(b) ‘Disability allowance’ shall mean the allowance to which an employe may be entitled who retires from the city service as a result of disability before having attained the minimum established age for retirement.

“(c) ‘Retirement allowance’ shall mean either a service allowance or a disability allowance.

“(d) ‘Annuity’ shall mean payments for life derived from contributions made by an employe, as provided in this Act.

“(e) ‘Pension’ shall mean payments for life derived from credits allowed and appropriations made by the city, as provided in this Act.

“(f) ‘Supplementary allowance’ shall mean the allowance which may be granted to a present incumbent, division “B” in addition to a pension and an annuity.

“(g) ‘Present incumbent’ shall mean an employe who is in the service of *the city* at the date the provisions of this Act become effective therein, who elects to become a beneficiary of the fund created by this Act *and to comply with the provisions of the Act relative thereto, and who is not in the non-contributing class.*

“(h) ‘Future entrant’ shall mean an employe who enters the service of *a city* at a date subsequent to the date when the provisions of this Act become effective therein, who becomes a contributor to the retirement fund.

“(i) ‘Actuarial equivalent’ shall mean the annual amount, determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

“(j) ‘Accumulated amount’ shall mean the amount to which any given installments or periodic installments of money would accumulate when increased by interest additions compounded at regular intervals.

“(k) ‘Net accumulated credits’ shall mean the amount standing to the credit of any *employe in the contributing class* after deducting *all amounts debited the account of such employee from the gross credits to such account.*

“(l) ‘Established age’ shall mean the minimum age for retirement on a service allowance as specified by the rules of the retirement board.

“(m) ‘Separation refund’ shall mean the amount returned to an employe who is separated from the service of the city prior to having become entitled to a retirement allowance, or to his or her heirs, executors or assigns.

“(n) ‘Present worth’ of an annuity, pension or retirement allowance shall mean the value or cost price thereof *to the date of retirement or other date, when specified.*

“(o) ‘Actuarial deficit or surplus’ of an allowance or of allowances shall mean the difference between the estimated cost of said allowance or allowances and the actual cost thereof.

“(p) ‘Employe’ as herein used shall mean each and every person not an elective officer of said city, paid by the city or any of its various boards, departments, or commissions, and any person employed by any of the various boards, departments or commissions operating as a department of the city government or independently in care of any of its governmental activities the funds of which board, department, or commission are wholly or in part raised by taxation in such city, and each and all of the employes of such

boards, departments, or commissions, *the funds of which boards, departments, or commissions* are raised wholly or in part by taxation upon the property in such city, shall be entitled to all of the privileges conferred by this Act to the same extent as persons employed directly by the municipality.

"(q) The word 'dependent' as herein used shall mean a spouse, child, or any person actually dependent upon and receiving his principal support from such employee.

"(r) 'Elective officer' as herein used shall mean and include only an officer elected by direct vote of the people, and 'elective position' shall mean a position filled by direct vote of the people.

"(s) 'Conditional present incumbent' shall mean any employee of the city at the time this Act is adopted therein who continues in such employment without having submitted to the retirement board a written notice of a desire to accept the provisions of this Act except employees in the non-contributing class and officers and employees who are included in the exempt class for reasons other than a failure to submit such notice.

"(t) The word 'heir or heirs' wherever used in this Act, shall mean surviving spouse, child, and any person actually dependent upon and receiving his principal support from the employee concerned, provided that this definition shall not apply to any case in which an employee is a member of the pension fund at the time this definition becomes effective.

"Section 4. When effective.—Any person who shall have been employed by the city to which this Act applies, and who shall have fulfilled the conditions herein specified, shall be entitled to receive a retirement allowance therefrom, as set forth in the provisions of this Act; provided, that no retirement allowance shall be paid any retired employee of such city prior to the expiration of the calendar year next succeeding the date this Act becomes effective therein.

"Any conditional present incumbent shall be entitled to participate in the benefits provided by this Act upon submitting to the retirement board a written notice of desire to accept the provisions of the Act and of such evidence of the right to so participate as the board may require; provided that any such employee who is less than sixty-five (65) years of age at the date this provision becomes effective therein shall submit such notice before reaching that age, and any such employee who shall have passed the age of sixty-five (65) at that date shall make written application for participation in the benefits of the retirement fund within ninety (90)

days after such date. All such applications not filed within the time specified herein shall be denied by the retirement board.

"The minimum age for retirement on a service allowance except as otherwise provided, shall be established by the retirement board, may be greater for men than for women, may differ for different classes or grades of employment, but shall not be less than 60 years for men and 58 years for women, nor greater than 65 years for men and 63 years for women. The ages so established by the board shall not be subject to revision prior to the expiration of a five-year period from the establishment thereof, and shall apply to all persons who retire during the continuance thereof.

"Subject to the limitations stated in this Act, any employe in the contributing class who shall have attained the established age for retirement shall be entitled to retire, and any such employe who shall remain in the service of the city for five years thereafter, shall be retired, and receive a service allowance as specified in this Act; provided, that if in not less than 90 days before the arrival of an employe at the age of compulsory retirement, the head of the department, branch or independent board of the municipality in which he or she is employed, certifies to the retirement board that by reason of his or her efficiency and his or her willingness to remain in the service of the municipality the continuance of such an employe therein would be advantageous to the public service, such employe may be retained for a term not exceeding *three* years upon certification by the retirement board, and at the end of the *three* years he or she may, by similar certification, be continued for one additional term not to exceed *two* years.

"Section 5. **Classification of employees.**—Employees of the city shall be divided into a contributing class, a non-contributing class and an exempt class.

"The contributing class shall consist of all employes not included in either of the other two classes, and shall be subdivided into present incumbents, and future entrants, *as defined in Section 3 of this Act.*

"The non-contributing class shall consist of all employes, including common laborers, whose *average* individual salaries, pay or compensations, *over the ten years preceding their retirement date*, do not exceed \$750.00 per annum.

"The exempt class shall consist of:

"(a) Employees who are members of, or who are eligible to become members of, an organization or association on behalf of which a tax is levied against the city for the purpose of paying retirement allowances to disabled or superannuated employes.

"(b) Persons filling elective positions.

"(c) Persons serving without pay.

"(d) Persons serving on executive boards.

"(e) Pupil nurses, internes and staff physicians employed at the city hospitals.

"(f) Employes in the service of the city at the time this Act is adopted, who, after its adoption, have not given written notice of a desire to accept the provisions of this Act.

"(g) Persons not citizens of the United States.

"Section 6. **Retirement allowance for employees in the non-contributing class including common laborers.**—A retirement allowance, payable in equal monthly installments shall be granted to any laborer or other employe in the non-contributing class who satisfies the conditions hereafter specified.

"Such retirement allowance shall be the actuarial equivalent of the accumulated amount of monthly installments of \$12.50 throughout the period of service of the retiring employe, accumulated to the date of retirement at four per cent compound interest; provided, that no such allowance shall exceed \$500.00 per annum.

"Upon receipt of proof of death of any common laborer or other employe in the non-contributing class who has fulfilled the minimum age and service requirements for retirement on an allowance, (a) who is employed by the city, or (b) who is temporarily separated from the service of the city, or (c) who has been retired on an allowance, there shall be paid to the heir or heirs of such employe or to such trustee or trustees as the retirement board may select, the sum of \$150.00.

"In order to be entitled to a retirement allowance, a common laborer or other employe in the non-contributing class shall be a resident of the city, shall have been employed thereby for a period of time which in the aggregate shall equal 20 or more periods of five months each, the last *season* of which shall have immediately preceded the date of retirement, and in addition thereto shall either (1) have attained the age of 55 years and have been declared by the medical board to be incapacitated for further service to the city or (2) shall have attained the age of 70 years:

"(a) The retirement board may require any such beneficiary while still under the age of 70 years, to undergo a medical examination by the medical board once each year. Should the medical board report and certify to the retirement board that such beneficiary is

no longer physically or mentally incapacitated for the performance of duty, such retirement allowance shall cease and the head of the department in which such beneficiary was employed at the time of his retirement shall, upon notification by the retirement board, re-employ said beneficiary.

“(b) Should any such retired beneficiary, while under the age of 70 refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his pension shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his rights, in and to the retirement allowance shall be forfeited.

“(c) Upon application of any such beneficiary under the age of 70, drawing a pension or a retirement allowance under the provisions of this Act, approved by the retirement board, said beneficiary may be restored to active service by the head of the department in which said beneficiary was employed at the time of his retirement. Upon the restoration of a beneficiary to active service, his retirement allowance shall cease.

“Section 8. **Disability allowances.**—Upon the application of the head of the department in which a contributing employe is employed, or upon the application of said contributing employe or of one acting in his behalf, the retirement board shall retire said contributor for disability; provided the medical board, after a medical examination of said contributor made at the place of residence of said contributor or at a place mutually agreed upon, shall certify to the retirement board that said contributor is physically or mentally incapacitated for the performance of further service to the city and that said contributor ought to be retired.

“(a) Disability of an employe resulting from injury received in the performance of the duties of the city service shall be defined as accident disability. Disability incurred as a result of injury not connected with the performance of such service shall be defined as ordinary disability. In order to be entitled to a retirement allowance for ordinary disability an employe shall have rendered ten or more years of service to the city.

“The ordinary disability allowance shall be the actuarial equivalent at the age when an employe retires on such disability allowance of the net amount to which the contributions already made by the employe and the credits allowed or contributions already made by the city on his or her behalf would accumulate if allowed to remain at 4 per cent compound interest until the earliest permissible date for retirement on a service allowance.

"The accident disability allowance shall equal the actuarial equivalent at the age when an employe retires on such disability allowance of the net amount which would be accumulated to the credit of the employe if his or her annual contributions at the time of disability and the annual credits or contributions of the city were continued to the earliest permissible date for retirement on a service allowance, interest for such period being calculated at 4 per cent compound interest.

"Payment of any disability allowance shall continue throughout the full period of the disability *subject to the same optional selections as are provided for service allowances*, provided that whenever a disability beneficiary shall have attained the minimum age for retirement on a service allowance said disability allowance shall be discontinued only *as provided by the terms of the option selected*.

"Any employe eligible to an accident disability allowance who is also entitled to an allowance under a workman's compensation act shall be entitled to receive during the period of such compensation only that portion of the retirement allowance provided by this Act by which such retirement allowance exceeds said workmen's compensation.

"(b) Once each year the retirement board may require any disability beneficiary while still under the established age for retirement to undergo medical examination by a physician or physicians designated by the retirement board, said examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should the medical board report and certify to the retirement board that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, his or her allowance shall be discontinued and the head of the department in which said beneficiary was employed at the time of his retirement shall, upon notification by the retirement board of such report of the medical board, re-employ said beneficiary at a rate of salary not less than the amount of his or her retirement allowance, but after the expiration of five years subsequent to the retirement of such beneficiary his restoration to duty, notwithstanding the recommendation of the medical board, shall be optional with the head of the department.

"(c) Should any disability beneficiary while under the established age for retirement refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his or her allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his or her rights in and to any retirement or disability allowance constituted by this Act shall be forfeited.

“(d) Upon application of any beneficiary under the established age for retirement drawing a pension or a retirement allowance under the provisions of this Act, approved by the retirement board, said beneficiary may be restored to active service by the head of the department in which said beneficiary was employed at the time of his retirement. Upon the restoration of a beneficiary to active service his or her retirement allowance shall cease.

“(e) The medical board shall consist of the city physician, a physician to be selected by the retirement board, and a physician to be selected by the employe.

“Section 10. Refunds.—(a) In case of an employe to whom this Act applies who shall become absolutely separated from the service without being entitled to a retirement allowance the total net accumulated amount of deductions from his or her salary, pay or compensation, made for the purpose of accumulating a fund from which to pay retirement allowances, shall be returned to such employe with accrued interest.

“(b) Upon the death of a contributor before retirement there shall be paid to his or her estate or to such person as he or she shall have nominated, the net accumulated salary deductions standing to his or her credit, *provided that in case of the death of a contributor after ten years of service, there shall be paid to the dependents or heirs of such contributor, the present worth of the city's accumulated annual installments of \$60.00 then standing to the credit of such contributor, in addition to the net accumulated salary deductions as specified above. If there be no dependents or heirs of such contributing surviving him, then only the net accumulated salary deductions shall be paid to the estate of such contributor.*

“(c) Upon reinstatement of a former employe to the service, credit for such past service or for any part thereof shall be granted only upon repayment of the amount of the separation refund, with interest, from the time of separation; provided this provision shall not apply to service rendered prior to the date that this Act becomes effective.

“Section 11. Contribution from employees.—(a) Beginning on the first day of the year next succeeding that in which this Act becomes effective in any city, and thereafter throughout the period of employment, there shall be deducted and withheld from the basic salary, pay or compensation of each employe in the contributing class *except as hereinafter provided* the following percentage of such salary, pay or compensation.

"Employees who enter the service at 20 years of age or younger, 3 per cent of salary, pay or compensation; employees who enter the service at 45 years of age or older, 8 per cent of salary, pay or compensation; employees who enter the service after the age of 20 and prior to age 45, a percentage of salary, pay or compensation, which shall be equal to 3 per cent, plus as many times $\frac{2}{10}$ of 1 per cent as the age of the employee exceeds 20 at the time service begins.

"Every employee to whom this Act applies who shall continue in the service after the passage of this Act, as well as every person to whom this Act applied who may hereafter be appointed to a position or place, shall be deemed to consent and agree to the deductions made and provided for herein, and payment with such deductions, for service, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such person during the period covered by such payment; except his or her claim to the benefits to which he or she may be entitled under the provisions of this Act.

"(b) In the event that any such employee be retired before he or she has paid into the retirement fund the full amount for which said employee is liable under the term of this Act, the installments of the retirement allowance to which such employee would otherwise have been entitled shall be applied to the payment of such sums as are due and payable to the retirement fund, and such employee shall not receive any money as a retirement allowance under the provisions of this Act until all sums due from said employee have been paid in full.

"(c) No employee shall be required to contribute to the retirement fund for a period in excess of 30 years; all contributions made thereafter to said fund shall be voluntary.

"(d) Subject to such terms and conditions and to such rules and regulations as the retirement board may adopt, any contributor, from time to time may:

"(1) Increase or decrease his or her rate of contribution to the retirement fund, but in no event shall the contribution be less than the minimum contribution specified in the provisions of this Act.

"(2) Withdraw from his or her individual account in the retirement fund the amount in excess of the minimum accumulation resulting from the deductions specified in the provisions of this Act.

"(3) Withdraw, after having become eligible for service retirement, such part of his or her net accumulated contributions as shall be in excess of the amount necessary to procure the minimum annuity to which he or she would be entitled at the expiration of 30 years of service."

"Section 12. Individual record of credits required.—The city comptroller or other person having supervision of the payment of salaries to employes shall cause the deductions to be withheld from all specific appropriations for the particular salaries or compensation from which the deductions are made and from all allotments out of lump sum appropriations for payments of such salaries or compensation for each fiscal year; and a record of said sums shall be entered to the credit of the various employes from whose salaries deductions have been made. The amount of said deductions shall be deposited with the city treasury and credited to the retirement fund.

"At the close of each fiscal year there shall be distributed to each contributing employe in proportion to the accumulated amount then to the credit of said employe as accumulated salary deductions the amount of the income from interest earned on the accumulated funds in possession of the board, after having deducted from the total of such income (1) the amounts otherwise required as interest for various allowances and/or purposes specified in the Act, (2) an amount to be set aside to apply on the cost of disability allowances and (3) an amount to be set aside to liquidate actual or to amortize prospective losses on investments. The net balance of said interest earnings to be so distributed shall be distributed at the greatest multiple of one-tenth (1/10) of one per cent of the total of all such accumulated amounts from salary deductions. Any excess then remaining from such interest earnings shall be credited to a reserve fund and be added to and distributed with the interest earnings of the next succeeding year. The amount that shall be deducted from the gross interest earnings to apply on the cost of disability allowances shall be not more than one-half ($\frac{1}{2}$) the cost of disability allowances for contributing employes. The amount that shall be set aside to liquidate past losses on investments or to create a reserve from which to liquidate future losses shall be such amount as the board may deem necessary for such purpose but not in excess of one mill on the dollar of the gross amount received as interest on the cash and investments in the fund."

"At the end of each calendar year and throughout the first 300 months of actual employment there shall be entered to the credit of each employe from whose salary or compensation deductions are made, a credit of \$60.00 per employe, the accumulated amount of which shall be charged to the municipality and payable by the municipality. It shall be the duty of the proper authorities to levy from time to time a sufficient sum in addition to all other sums to be levied by taxation to meet the liabilities against the municipality created thereby."

Sec. 2. This Act shall take effect and be in force from and after its passage.

Approved April 20, 1933.

CHAPTER 329—S. F. No. 842

An act to amend Mason's Minnesota Statutes of 1927, Section 9934, relating to, sentences of convicts, and also to sentences to workhouses.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Sentences of convicts.**—That Mason's Minnesota Statutes of 1927, Section 9934, be amended so as to read as follows:

"9934. Whenever a convict is sentenced to the state prison for more than one year, unless the exact period be fixed by law, the court shall so limit the term that it will expire between the months of March and November. Whenever a sentence may be imprisonment in a county jail, the offender may be sentenced to and imprisoned in a workhouse, if there be one in the county where he is tried or where the offense was committed—and if there be no workhouse in the county where the offender is tried or where the offense was committed, then the offender may be sentenced to and imprisoned in a workhouse in any county in this state; provided that the county board of the county where the offender is tried shall have some agreement for the receipt, maintenance and confinement of the prisoners with the latter county. The place of imprisonment shall be specified in the sentence. But convicts may be removed from one place of confinement to another when so provided by statute."

Approved April 20, 1933.

CHAPTER 330—S. F. No. 1055

An act to amend Mason's Minnesota Statutes of 1927, Section 7831, relating to officers, by-laws, amendment of articles, capital stock and annual report of certain cooperative associations and repealing all Laws and parts of Laws inconsistent herewith.