

necessary to conform to and give full force and effect to the provisions of this act.

Sec. 15. Application of act. — Except as hereinbefore otherwise provided, the provisions and limitations of this act shall be applicable to and shall govern each and every department, bureau, commission, board, agency, and institution of the state government, including state teachers' colleges, state hospitals, and other state institutions, wherever located, and all elected or appointed officers, officials, and employes of the state government. No provision of any subsequent act shall be construed as inconsistent with the provisions of this act or shall operate to limit or abrogate the effect of any provisions thereof or to remove any person, officer, or agency from the operation thereof unless and except only so far as it may be expressly provided in such subsequent act that the provisions of this act shall not be applicable, or shall be superseded, modified, amended, or repealed.

Sec. 16. Unexpended funds re-appropriated.—All unexpended funds appropriated to any department or agency for the purposes of any of its functions, powers, or duties which are transferred by this act to another department or agency are hereby transferred to such other department or agency.

Sec. 17. Provisions severable.—In case any section, provision, or part of this act, or any application thereof, shall be declared unconstitutional or invalid, it shall not in any way affect any other section, provision, or part hereof or any other application hereof.

Sec. 18. Act to take effect—When.—Except as otherwise provided herein, this act shall take effect and be in force from and after its passage; provided, that no transfer of functions, rights, powers, duties, or funds made by this act shall take effect until the commissioner or other head of the department or agency to whom the same are transferred shall have been appointed and shall have qualified, and until then the former department or agency vested therewith shall continue to exercise and perform such functions, rights, powers, and duties, and to have charge of such funds.

Approved April 22, 1939.

CHAPTER 432—H. F. No. 1369

An act relating to the state employees retirement fund; providing for deferred annuities upon leaving the service of

the state; providing for contributions by the State of Minnesota to such fund; making appropriations therefor; and to amend the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 254-1, 254-4, 254-9, 254-10, 254-11, and 254-19. Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Law amended.**—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-1, is hereby amended so as to read as follows:

"254-1. **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 meaning:

(a). 'State *Employee*' shall mean any person holding a state office or regularly employed by the state in any capacity whatever and whose salary is paid either by warrant of the state auditor or from the fees or income of any department or agency of the state, excepting *elective state officers*, court commissioners, district judges, *the members of the Tax Appeal Board, the Civil Service Board, and the members of any other State Board or Commission who serve the state intermittently and are paid on a per diem basis*, and the president, deans, professors, and instructors in the state university and in the state teachers' colleges, *and teachers in state institutions who are eligible to membership in the Teachers' Retirement Fund* but shall not include temporary employees or students who secure employment with the state or a state institution, incidental to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees as temporary, permanent, or otherwise, by the head of any department, or any commission or agency of the state notwithstanding.

Employees of the department of education who are eligible to membership in the Teachers' Retirement Fund shall have the option of electing whether to be a member of the State Employees Retirement Association or the Teachers' Retirement Fund, and any employee in the department of education who, prior to the passage of this act, is a member of both the Teachers' Retirement Fund, under Laws 1931, Chapter 406 and Chapter 146, and the State Employees Retirement Association shall elect prior to July 1, 1939, as to which association or fund he or she shall remain a member. Teachers in the state institutions who are eligible to membership in the Teachers' Retirement Fund and employees of the department of education who have elected to remain members of the

Teachers' Retirement Fund, who are members at the time of the passage of this act shall have the option of taking a deferred annuity if they have sufficient state service, or a refundment. Elective state officers who are members at the time of the passage of this act shall have the option of taking a deferred annuity if they have sufficient state service, or a refundment. The option to take a deferred annuity must be exercised on or before January 1, 1940.

(b). 'Head of Department' shall mean the head of any department, institution, or branch of the state service which directly pays salaries out of its income or which prepares, approves and submits salary abstracts of its *employees* to the state auditor and state treasurer.

(c). 'Accumulated Deductions' shall mean the total of the amounts deducted from the salary of a member, and the total amount of assessments paid by a member in lieu of such deductions *prior to July 1, 1939*, and credited to his or her individual account in the retirement fund, without interest.

(d). 'The Retirement Fund' shall mean and include the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, *prior to July 1, 1939*, and all other moneys paid into the state treasury or received by the retirement board pursuant to the provisions of this act, together with all income and profits therefrom and interest thereon, *including contributions on the part of the state as provided for by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-4, Subdivision 1, being Section 2, Subdivision (a), of this act.*

(e) 'Monthly Deductions from Salaries' shall mean the actual receipts received or credited to the fund from salary deductions in any calendar month.

(f) 'Prior Service' shall mean the service of a member rendered before the first day of July, 1929, and shall include the service during the world war of officers, soldiers, sailors, marines, and army nurses who were 'State Employees' at the time of enlisting or being drafted into the military service of the United States, and who returned directly to the service of the state upon returning from the world war.

(g) 'Allowable State Service' shall mean the service a member is entitled to have credit for pursuant to Section 4, Subsection (b) and (c), and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 254-9 and 254-10."

Sec. 2. Law amended.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-4, is hereby amended so as to read as follows:

"254-4. Payments into retirement fund.—(a). *Persons in the employ of the state on July 1, 1929, who exercised their option to become members pursuant to Laws 1929, Chapter 191, Section 2, shall pay into the retirement fund, beginning July 1, 1939, according to their age on July 1, 1929, and persons entering the state service and becoming members of the association after July 1, 1929, shall pay into the retirement fund, beginning July 1, 1939, according to their age at the date of becoming members of the association in accordance with the following schedule: those under 30 years of age, three and one-half per cent; those 30 years of age and under 40 years of age, four per cent; those 40 years of age and under 45 years of age, four and one-half per cent; those 45 years of age and under 50 years of age, five per cent; those 50 years of age and under 55 years of age, five and one-half per cent; and those 55 years of age or over, six per cent of the compensation paid them including compensation for overtime, such payments shall be made by deduction thereof from such salary, provided however, that no deductions shall be made from said salaries on any amount thereof in excess of \$300.00 per month, and provided further that until July 1, 1939, the present deduction of 3½ per cent shall remain in effect. The head of each department is hereby required to cause such deduction to be made from the salary of each member of the retirement association on every payroll abstract and to approve one voucher payable to the state treasurer for the aggregate amount so deducted from the salaries covered by said payroll abstract, provided that deductions from salaries of employees paid direct by any department, institution or agency of the state shall be made by the officer or employee authorized by law to pay such salaries, and remitted by him to the secretary of the retirement association with a statement showing the amount of each of such deductions and the names of the employees on whose account the same have been made.*

Every department, bureau, division, commission, committee or board which functions regularly as a permanent unit of the state government, and which controls the expenditure of its income or revenue shall pay to the state treasurer, for the uses and purposes of the state employees retirement fund, in the manner and at the times hereinafter specified, the amount of money hereinafter provided for, which said payments shall be credited to said retirement fund by the state treasurer.

Every such unit of the state government which is wholly or substantially financially self-sustaining by reason of income or revenue derived from its own activities shall, beginning with the state's fiscal year ending June 30, 1940, and continuing with each fiscal year thereafter, allocate to said state employees retirement fund an amount equal to one-half of the total amount of superannuation annuities paid during the fiscal year to employees who were retired by such unit of the state government, and pay the same to the state treasurer within 60 days after the end of each fiscal year.

After the adoption of this act the state auditor shall within 60 days of the end of each fiscal year credit to the retirement fund from the general revenue fund an amount equal to one-half of the superannuation annuities paid during the preceding fiscal year to employees who were retired by all other units of the state government.

Within 30 days of the close of each fiscal year after the adoption of this act the board of directors of the retirement fund shall certify to each unit of the state government which is wholly or substantially self-sustaining the total sum paid in superannuation annuities during the preceding fiscal year to employees who were retired by such unit of the state government, and the said board of directors shall certify to the state auditor the total sum paid during the preceding fiscal year to the retired employees of all other units of the state government. The moneys necessary to provide for the contributions to said retirement fund by the state from the general revenue fund are hereby appropriated out of any funds in the state treasury not otherwise appropriated.

The moneys necessary to provide for contributions to said retirement fund by the various units of the state government which are wholly or substantially financially self-supporting by reason of income or revenue derived from its own activities are hereby appropriated for such purpose out of any funds derived by such units of government as income or revenue from its own activities.

Provided, if an employee has worked in departments other than the one in which he was last employed, that the portion of the annuity herein provided to be paid by the department, shall be paid by the department where he was last employed.

All such salary deductions and the contributions herein provided by the state shall be credited to a fund to be known as the retirement fund and all interest and other income of said association shall be credited to said fund. The retirement

fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities herein provided upon retirement shall be paid only from such fund. Under the direction of the retirement board the head of each department shall furnish such information and shall keep such records as the board may require for the discharge of its duties.

(b). In computing the length of service of members for retirement purposes, who were required to pay a membership fee as provided by section 2 of this act, full credit shall be given for prior service, and in computing the length of service of those entering the state service after July 1, 1929, who have had service prior to July 1, 1929, full credit shall be given for prior service, but no credit for service rendered prior to the date of becoming a member by reason of being a 'new state employee' shall be given to any person who was a state employee on July 1, 1929, and did not exercise his option to become a member.

(c). No credit for service shall be allowed any member for periods such member may have been a state employee from June 30, 1929, to July 1, 1939, unless deductions shall have been made from the salary of such member or he has made payment in lieu thereof. *From and after July 1, 1939, no credit for service shall be allowed any member for any calendar month in which he receives no salary or wages unless the head of the department gives notice in writing to the secretary of the retirement board within or prior to the calendar month when no salary or wages are received, that the member is on leave, or is on sick leave, or is inactive because of the seasonal nature of his work, as the case may be; or, unless the member's name is carried on the department payroll abstract marked 'on leave,' 'sick leave,' or 'inactive.'* From and after July 1, 1939, no member shall be entitled to make payments in lieu of salary deductions for periods no salary or wages are received; the deductions made from the compensation received shall cover periods of inactivity provided notice is given or the payroll abstract is marked as provided by this subdivision. Salaries paid for a fractional part of any calendar month shall be considered the compensation for the entire calendar month.

(d). No member shall be entitled to credit for former service upon entering the employ of the state after having received a refund from the retirement fund of accumulated deductions from his salary made pursuant to the provisions of this act, unless he shall restore the amount thereof to said

fund as provided by *the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-10.*

(e). The final power to determine the status of any individual in the employ of the state for the purposes of this act is hereby vested in the retirement board."

Sec. 3. Law amended.—Members on retirement may elect settlement.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-9, is hereby amended so as to read as follows:

"Section 9. Whenever any member of said association shall cease to be a state *employee* for any reason other than death or retirement for superannuation, he or she shall be paid, upon making application therefor on blanks furnished by the retirement board, the full amount of the accumulated deductions standing to the credit of his or her individual account, provided that any such member who has been a *member of the retirement association* for not less than ten years may, in lieu thereof, *elect in writing within 90 days from the termination of his or her employment to take a proportional deferred annuity beginning at the date he or she would have been eligible to receive an annuity if his or her state service had not terminated. Any member who elects to take a deferred annuity cannot thereafter make application for refundment unless he shall again become a 'state employee' and his state service shall again terminate. In the event of the death of a member who has so elected to take a deferred annuity, refundment shall be made as is provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-12. The right to such deferred annuity shall be evidenced by a certificate of deferred annuity signed by the chairman and secretary of the retirement board. Members who have elected to take a deferred annuity who again become 'state employees' shall surrender their certificates of deferred annuity and shall be entitled to full credit for the service covered by the surrendered certificate. Contributions to the fund are to be made according to the age at the time of again becoming a 'state employee'.*

Any member who has prior to July 1, 1939, maintained his membership by making payments in lieu of salary deductions shall be given a period of three months from July 1, 1939, in which to elect whether to take a refundment or a deferred annuity, such deferred annuity to be based upon the member's allowable state service plus the period membership has been maintained by the payment of assessments in lieu of deductions, but no payments in lieu of deductions can be made after

June 30, 1939. All deferred annuities provided for by this section shall begin on the first day of the calendar month. The rights of any member who has prior to the passage of this act made application in writing to the retirement board within 60 days from the termination of his or her employment to retain membership in the retirement association shall not be affected hereby."

Sec. 4. Law amended.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-10, is hereby amended so as to read as follows:

"254-10. Annuity rights restored in certain cases.—Whenever a state *employee* who has so withdrawn his accumulated deductions, shall re-enter the employment of the state and shall restore to the retirement fund his or her accumulated deductions that were withdrawn, *with interest from the date of withdrawal to the date of repayment at four per cent per annum compounded annually*, the annuity rights forfeited at that time shall be restored. If the amount so withdrawn is not restored within *one year* from the date of *again becoming a member of the retirement association* the *employee* becomes a member but not entitled to credit for former service. And in the case of a member returning to the service of the state without restoring a *refundment* and again leaving and having a *refundment* and later returning, such member can only restore the last *refundment* and will not be entitled to credit for service prior to that covered by the last *refundment*. *Provided that if any member who has received a refundment from the retirement fund has not repaid it upon again becoming a member, and later becomes eligible to receive an annuity, or a deferred annuity, such annuity or deferred annuity shall be computed on the compensation upon which deductions for the retirement fund were based after June 30, 1929, including that covered by the refundment or refundments, and then reduced in the same proportion as the number of years service covered by the refundment or refundments is to the total service. Should any former member who has received either an annuity or a deferred annuity payment or payments again be employed by the state his annuity payments shall cease during his period of employment and deductions shall be made from his earnings. Upon the termination of his employment annuity payments shall be resumed and there shall be no change in the amount of the annuity or deferred annuity payments because of such employment."*

Sec. 5. Law amended.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-11, is hereby amended so as to read as follows:

"254-11. Retirement age—Annuities. — Whenever any member of the retirement association has been an *employee* of the state for a period of 20 years and has attained the age of 65 years or when any such *employee* has been in the service of the state for a period of 35 years, he shall be eligible for retirement for superannuation, but such retirement shall not be compulsory, provided that in computing such term of service the time during which any member of the association shall have maintained his membership by the payment of assessment *during the period July 1, 1929, to July 1, 1939*, shall be included. Such retirement may be made upon application of the member or of some one acting in his or her behalf, or in case of an *employee* in active service upon the application of the head of the department in which such member is employed. Upon retirement such member shall receive an annuity for the remainder of his or her life equal to 50 per cent of his or her average salary *upon which deductions for the retirement fund have been based while a state employee*; provided that no such retirement annuity shall exceed the sum of \$100.00 per month. If the total of annuities shall during any month become greater in amount than the monthly deductions from salaries *and contributions made by the state*, the board shall proportionally reduce the amount of annuities for said month. *In determining the contributions made by the state in any month, it shall be considered that one-twelfth of the amount appropriated for the fiscal year is the amount of the contributions made by the state for that month, provided such one-twelfth does not exceed 50 per cent of the annuities paid and payable for that month. If such one-twelfth exceeds 50 per cent of the annuities paid and payable for that month, then and in that case 50 per cent of the annuities paid and payable for that month shall be considered the amount of the contributions made by the state for that month. The balance of any annuities heretofore not paid in full by reason of the fact that the total of annuities and refundments were greater than the monthly deductions from salaries, shall be paid proportionally in the first and subsequent months when the salary deductions exceed the total of annuities and refundments. Any annuity payments which may subsequent to July 1, 1939, be proportionally reduced by reason of the fact that annuities exceed the salary deductions and contributions made by the state, shall be paid proportionally in the first and subsequent months when the salary deductions and contributions by the state exceed the annuity payments. In making proportional annuity payments for prior months in which the annuities were not paid in full, full payments shall be made for the first month in which annuities were proportionally reduced before any*

proportional payments shall be made to apply on subsequent months when annuity payments were reduced, and this method shall be followed for each month when only proportional annuity payments were made."

Sec. 6. **Law amended.**—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-19, is hereby amended so as to read as follows:

"254-19. **Donations and gifts to fund.**—The retirement board is hereby authorized and empowered to credit to the fund any moneys received in the form of donations, gifts, appropriations, bequests or otherwise, or derived therefrom.

Sec. 7. **Appropriation for fund.**—There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$50,000 for each year or so much thereof as may be necessary to carry out the provisions of this act, *provided, however, that any amount paid into the state retirement fund by any unit of the state government which is wholly or substantially financially self-sustaining by reason of income or revenue derived from its own activities, shall be deducted from said annual appropriations of \$50,000.*

Approved April 22, 1939.

CHAPTER 433—H. F. No. 1426

An act relating to the supervision and regulation of the transportation of property by motor vehicle on the highways of this state by contract carriers and common carriers not operating over a regular route; and to amend the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 5015-20, Subdivision (g).

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

Section 1. **What are contract carriers.**—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 5015-20, Subdivision (g), is hereby amended so as to read as follows:

"5015-20. (g) The term "contract carrier" means any person engaged in the business of transporting property for hire over the public highways of this state, other than as a common carrier.

The terms "common carrier" and "contract carrier" shall not apply to any person engaged in the business of operating motor vehicles in the transportation of property exclusively