

## Pensions, Relief

## CHAPTER 422

## RETIREMENT ALLOWANCES, CITIES FIRST CLASS

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**422.01 DEFINITIONS.** Subdivision 1. **Terms.** For the purposes of this chapter the terms defined in subdivisions 4 to 22 shall have the meanings ascribed to them.

Subd. 2. [Renumbered 422.011]

Subd. 4. **Service allowance.** "Service allowance" means the allowance to which an employee may be entitled who retires from the city service after having attained the minimum established age for retirement.

Subd. 5. **Disability allowance.** "Disability allowance" means the allowance to which an employee may be entitled who retires from the city service as a result of disability before having attained the minimum established age for retirement.

Subd. 6. **Retirement allowance.** "Retirement allowance" means either a service allowance or a disability allowance.

Subd. 7. **Annuity.** "Annuity" means payments for life derived from contributions made by an employee, as provided in this chapter.

Subd. 8. **Pension.** "Pension" means payments for life derived from credits allowed and appropriations made by the city, as provided in this chapter.

Subd. 9. **Supplementary allowance.** "Supplementary allowance" means the allowance which may be granted to a present incumbent, division "B" in addition to a pension and an annuity.

Subd. 10. **Present incumbent.** "Present incumbent" means an employee who is in the service of the city at the date the provisions of this chapter become effective therein, who elects to become a beneficiary of the fund created by this chapter and to comply with the provisions of this chapter relative thereto, and who is not in the non-contributing class.

Subd. 11. **Future entrant.** "Future entrant" means an employee who enters the service of a city at a date subsequent to the date when this chapter becomes effective therein, who becomes a contributor to the retirement fund.

Subd. 12. **Actuarial equivalent.** "Actuarial equivalent" means the annual amount, determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

Subd. 13. **Accumulated amount.** "Accumulated amount" means the amount which any given instalments or periodic instalments of money would accumulate when increased by interest additions compounded at regular intervals.

Subd. 14. **Net accumulated credits.** "Net accumulated credits" means the amount standing to the credit of any employee in the contributing class after deducting all amounts debited the account of such employee from the gross credits to such account.

Subd. 15. **Established age.** "Established age" means the minimum age for retirement on a service allowance as specified by the rules of the retirement board.

Subd. 16. **Separation refund.** "Separation refund" means the amount returned to an employee who is separated from the service of the city prior to having become entitled to a retirement allowance, or to his heirs, executors, or assigns.

Subd. 17. **Present worth.** "Present worth" of an annuity, pension, or retirement allowance means the value or cost price thereof to the date of retirement or other date, when specified.

Subd. 18. **Actuarial deficit or surplus.** "Actuarial deficit or surplus" of an allowance or of allowances means the difference between the estimated cost of the allowance or allowances and the actual cost thereof.

Subd. 19. **Employee.** "Employee" means each and every person not an elective officer of the 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, or of any public corporation now or hereafter created in and for any two or more contiguous cities of the first class, the funds of which public corporation are in whole or in part raised by taxation upon the property in any such cities, and each and all of the employees 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 the privileges conferred by this chapter to the same extent as persons employed directly by the municipality.

Subd. 20. **Dependent.** "Dependent" means a spouse, child, or any person actually dependent upon and receiving his principal support from such employee.

Subd. 21. **Elective officer, elective position.** "Elective officer" means and includes only an officer elected by direct vote of the people, and "elective position" means a position filled by direct vote of the people.

Subd. 22. **Conditional present incumbent.** "Conditional present incumbent" means any employee of the city at the time this chapter 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 those sections, except employees of 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.

Subd. 23. [Repealed, 1947 c 84 s 1]

Subd. 24. [Renumbered 422.063, subd. 1]

Subd. 25. [Renumbered 422.063, subd. 2]

Subd. 26. [Renumbered 422.063, subd. 3]

Subd. 27. [Renumbered 422.063, subd. 4]

Subd. 28. [Renumbered 422.063, subd. 5]

Subd. 29. [Renumbered 422.063, subd. 6]

Subd. 30. [Repealed, 1947 c 84 s 1]

Subd. 31. [Renumbered 422.063, subd. 7]

Subd. 32. [Renumbered 422.063, subd. 8]

Subd. 33. **Adjustable fixed-benefit annuity.** Adjustable fixed-benefit annuity means all retirement and disability payments made by the fund under the terms of chapter 422, except retirement allowance increases provided under Minnesota Statutes 1967, Section 422.54, and any subsequently granted increases that are not accompanied by provisions for funding such increases by a single sum. For the purposes of the adjustable fixed-benefit fund, the term annuity means adjustable fixed-benefit annuity.

[1919 c 522 s 3; 1933 c 328 s 1; 1945 c 181 s 2; 1969 c 914 s 1] (1442-13)

**422.011 RETIREMENT FUND.** Subdivision 1. **Creation; divisions of fund.** For the purposes of this chapter there shall be a municipal employees retirement fund, hereafter referred to as the retirement fund. The retirement fund, effective July 1, 1969, shall be subdivided into (1) a deposit accumulation fund, (2) a participating share in the Minnesota adjustable fixed-benefit fund, and (3) a survivor

benefit fund. Expense of administration of the retirement fund shall be paid from the deposit accumulation fund, less such amount as the municipal employees retirement board may charge against income from investments as the cost of handling the investments of the retirement fund.

Subd. 2. **Actuarial valuations required.** As of July 1, 1969 and at the end of each class year thereafter an actuarial valuation of the retirement fund shall be prepared and filed in conformance with the provisions and requirements of Minnesota Statutes 1967, Sections 356.21 to 356.23 as amended. Actuarial valuations shall be included in actuarial surveys at such times as an actuarial survey is required by statute or is ordered by the board.

Subd. 3. **Deposit accumulation fund.** (a) The deposit accumulation fund shall consist of the assets held in such fund on July 1, 1969, increased by amounts contributed by or for employees, amounts contributed by the city, amounts contributed by municipal activities supported in whole or in part by revenues other than taxes and amounts contributed by any public corporation operating in and for two or more contiguous cities of the first class, and by income from investments. There shall be paid from such fund the amounts required to be transferred to the Minnesota adjustable fixed-benefit fund, refunds of contributions, death benefits payable on death before retirement not payable from the survivors' benefit fund, retirement allowances granted pursuant to Laws 1965, Chapter 688, and expenses of administration.

(b) Each actuarial valuation shall determine the accrued liabilities due to service of members of the retirement fund who have not retired. The funding ratio of the deposit accumulation fund shall be the ratio of assets in such fund to the accrued liabilities. The tax levy each year shall, in addition to other requirements, include an amount calculated to be sufficient when added to the other receipts to cause the funding ratio to be increased by three percentage points by the end of the fiscal year until such ratio becomes one hundred percent.

Subd. 4. **Participation in the Minnesota adjustable fixed-benefit fund.** The municipal employees retirement association (Minneapolis) shall participate in the Minnesota adjustable fixed-benefit fund. In that fund there shall be deposited the amounts provided in subdivision 5.

Subd. 5. **Valuation of assets — adjustments of benefits.** (a) As of July 1, 1969, the present value of all annuities in force on that date, excluding any amounts payable from the survivors' benefit fund and retirement allowance granted pursuant to Minnesota Statutes 1967, Section 422.54, and subsequently granted unfunded increases be determined in accordance with the 1937 standard annuity table set back two years and calculated separately as to sex with an interest assumption of three and one-half percent, and assets representing the required reserves for these annuities shall be transferred to the Minnesota adjustable fixed-benefit fund, during a period of one year in accordance with procedures specified in section 11.25. The Minnesota state board of investment shall make all determinations as to which assets are to be transferred to the Minnesota adjustable fixed-benefit fund and shall determine all calculations as to valuations and yield which shall apply to the assets transferred. These determinations shall be based on the quality, maturity, and marketability of various assets transferred. The state board of investment is hereby authorized to retain in the Minnesota adjustable fixed-benefit fund any assets so transferred even though such securities may not qualify for purchase by the fund.

(b) Effective July 1, 1969, for those members retiring pursuant to this chapter, assets equal to the required reserves shall be transferred to the Minnesota adjustable fixed-benefit fund except for any amounts payable from the survivor benefit fund, as of the date of retirement.

(c) Annually as of July 1 of each year commencing in 1971, the annuity payments to be made from the Minnesota adjustable fixed-benefit fund in the year beginning after the following December 31, shall be determined in accordance with the following procedures. A determination shall be made of the present value of all retirement allowances payable from the Minnesota adjustable fixed-benefit fund calculated in accordance with the mortality and interest assumptions then in effect. The ratio of the admitted value determined as set forth in this section to such present value of annuities shall be determined and stated as a percentage of the total present value to the last full .5 of one percent. If such ratio is greater than 98 percent and less than 102 percent, no adjustment of annuities will be made. If the ratio is equal to or greater than 102 percent or is equal to or less than 98 percent, the annuity payments currently payable shall be increased or decreased in the ratio so determined

for the 12-month period beginning with the first payment due after December 31 next succeeding the valuation date, provided that the annuity payment to any annuitant shall never be an amount less than the amount originally determined on the date of retirement or on July 1, 1969 whichever is later but not including retirement allowances granted pursuant to Minnesota Statutes 1967, Section 422.54 and subsequently granted unfunded increases. For the purpose of calculating the adjustments provided herein, all persons subject to chapter 422, retiring during any class year shall be deemed to have retired in the same class as of July 1 preceding their date of retirement and all annuitants in such class are equally entitled to any adjustment of annuity payments. All annuitants retired prior to July 1, 1969 shall be in the same class as those retiring between July 1, 1969 and June 30, 1970. If the value in the Minnesota adjustable fixed-benefit fund goes below the value of the reserves required to support the amount of annuity originally determined on the date of retirement or on July 1, 1969, whichever is later but not including retirement allowances granted pursuant to section 422.54, and subsequently granted unfunded increases for any annuitant or class of annuitants, the excess of the amount paid over the amount which the reserves would support must be recovered by withholding the amount of any future increases in annuity payments to which the annuitant or class of annuitants would be otherwise entitled until the sum of the amounts withheld equals such accumulated excess. After any deficiency is recovered in full the annuity will be increased on the basis of the cumulative ratio of assets to reserves currently applicable to such annuitant or class of annuitants. Exact procedures to be followed in making determination as to the amounts to be received by persons commencing to receive benefits during the various class years shall be determined by the board in accordance with accepted actuarial and accounting practices.

(d) Notwithstanding section 356.18, increases in annuity payments pursuant to this section will be made automatically unless written notice is filed by the annuitant with the municipal employees retirement association (Minneapolis).

(e) Increases in annuity payments pursuant to this section will be made automatically unless written notice on a form prescribed by the board is filed with the municipal employees retirement board requesting that the increase shall not be made.

**Subd. 6. Survivor's benefit fund.** The survivor's benefit fund shall consist of the amount held on July 1, 1969, for survivor benefits, increased by contributions for survivor benefits made by and for employees, including contributions made by the employer, by any municipal activity supported in whole or in part by revenue other than taxes or by any public corporation operating in and for two or more contiguous cities of the first class, and by income on investments of such fund. There shall be paid from such fund the survivor benefits specified in section 422.09 except that the refund of net accumulated deductions from the salary of a contributing member shall upon his death in service be paid from the deposit accumulation fund.

[1919 c 522 s 2; 1945 c 181 s 1; 1955 c 317 s 2; 1969 c 914 s 2] (1442-12)

**422.02 RETIREMENT ALLOWANCES TO EMPLOYEES.** Each city of the state now or hereafter having over 50,000 inhabitants, in addition to other powers by it possessed, is hereby authorized and empowered to adopt a plan and to pay retirement allowances to retired employees thereof as hereinafter specified.

[1919 c. 522 s. 1; 1925 c. 335 s. 1] (1442-11)

**422.03** [Renumbered 422.011]

**422.04 RETIREMENT ALLOWANCES, WHEN PAID.** Any person who shall have been employed by the city to which this chapter applies and who shall have fulfilled the conditions therein specified shall be entitled to receive a retirement allowance therefrom, as set forth in the provisions thereof. 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 chapter becomes effective therein.

Any conditional present incumbent shall be entitled to participate in the benefits provided by this chapter upon submitting to the retirement board a written notice of desire to accept the provisions of this chapter and of such evidence of the right to so participate as the board may require; provided that any such employee who is less than 30 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 30 at that date shall make written application for participation in the benefits of the retirement fund within 90 days after such date. Before receiving said retirement allowance, such conditional present incumbent shall

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contribute to the fund herein provided for an amount which shall be equal to the amount of the contributions to said fund which said conditional present incumbent would have made had he been a contributor to said fund since January 1, 1922, in accordance with the method of contribution herein provided for, plus four percent compound interest. 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. 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 chapter, any employee in the contributing class who shall have been employed by the city for ten or more years and shall have attained the established age for retirement, or shall have been employed by the city for 30 or more years all as determined by the retirement board, shall be entitled to retire, and any such employee who shall remain in the service thereafter shall be retired upon reaching the age of 65 regardless of the provisions of the veterans preference act and receive a service allowance as specified in this chapter, provided, however, that the ten year service requirement herein provided for shall not apply to employees who are contributing members of the fund on July 1, 1959.

[1919 c 522 s 4; 1925 c 335 s 1; 1935 c 93 s 1; 1943 c 62 s 1; 1955 c 98 s 1; 1955 c 461 s 1; 1959 c 503 s 1] (1442-14)

**422.05 CLASSIFICATION OF EMPLOYEES.** Subdivision 1. Employees of the city shall be divided into a contributing class, a non-contributing class, and an exempt class.

Subd. 2. The contributing class shall consist of all employees not included in either of the other two classes, and shall be subdivided into present incumbents, employees in the service of the city at the date this chapter becomes effective therein, who elect to become contributors to and prospective beneficiaries of the fund created by this chapter, and future entrants, employees who enter the service of the city subsequent to the date this chapter becomes effective therein.

Any employee in the service of any public corporation now or hereafter created in and for any two or more contiguous cities, the funds of which public corporation are in whole or in part raised by taxation on the property in such cities, may become a member of the contributing class by giving a written notice to the retirement board of his acceptance of and his desire to avail himself of the provisions of this chapter, within six months from the date of the passage of Laws 1945, Chapter 181, or of his employment, whichever is the later date.

A member of the contributing class who is granted a leave of absence without pay by his employer to serve as an employee or agent of a labor union primarily representing members of the contributing class may continue as a member of the contributing class during the period of such leave of absence by depositing each month with the fund the amount of the contribution of both the employee and employer for such month as required by this chapter which amount shall be the normal cost of retirement allowances. An individual who on July 1, 1969 is a member of the contributing class or is on leave of absence to serve as an employee or agent of a labor union primarily representing members of the contributing class may receive credit as a member of the contributing class for such previous periods as an employee or agent of such labor union by giving a written notice to the retirement board prior to August 1, 1969, of his election to receive such credit and by paying into the fund not later than July 1, 1971 the amounts, including accrued interest, required to pay for both the employee and employer contributions for such previous periods as such labor union employee or agent, which amount shall be the current normal cost of retirement allowances. The contributions referred to in this paragraph shall be based on the salary for the position or its equivalent held by the member immediately prior to such leave of absence subject to any adjustment thereof during the period of such leave.

Subd. 3. The non-contributing class shall consist of all employees, including common laborers, whose individual pay or compensations do not exceed \$750 per annum; provided, that when the compensation of an employee who is paid on a monthly

basis equals or exceeds \$62.50 per month on a 12-month basis, such employee shall be classified as a contributor and shall from and after such time contribute to the fund and assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, specifically set forth in this chapter.

From and after the end of the calendar year in which the average annual compensation of an employee who is paid on a day basis equals or exceeds \$750 per calendar year during his period of service with the city, such employee from and after such date shall be classified as a contributor and shall assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as specifically set forth in this chapter.

Any employee in the non-contributing class may, upon written application filed with the retirement board prior to attaining the age of 50 years, elect to become a member of the contributing class, and shall then assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as specifically set forth in this chapter.

Subd. 4. The exempt class shall consist of:

(1) Employees who are members of an organization or association of such city on behalf of which a tax is levied by the city for the purpose of paying retirement allowances to disabled or superannuated employees.

(2) Persons filling elective position. Provided that any elective officer holding an elective position, as those terms are defined herein, including judges of a municipal court, shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance, which shall be granted only upon completion of 10 or more years of service. All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, as in this act defined, or member of an executive board or commission or any combination thereof. Persons who have served in elective positions which qualified them for membership in the fund prior to July 1, 1967, and who immediately thereafter hold elective office, first being appointed to that elective office in a county containing the city of the first class or other employing jurisdiction in which they served as an elected official, may retain or resume membership in the fund as an elective officer of the county. The county shall collect and pay to the retirement fund the employee contribution. The employer cost of allowances and benefits credited to an elected officer as set forth above shall be paid from the county revenue fund of such county by the proper county officials upon certification of such costs by the retirement board in the same manner as prescribed in section 422.13 for the payment of costs by public corporations. A tax shall be levied by such county to defray the cost of such retirement allowances which may be in addition to all other taxes levied by such county. Before receiving a retirement allowance, or any other benefit, any person who claims credit for service under this section shall contribute to the fund herein provided for an amount which shall be equal to the amount of contributions to the fund which such person would have made had he been a contributor to the fund since January 1, 1922, or date of first becoming eligible for membership in the fund, whichever is later, in accordance with the method of contribution herein provided for, plus four percent compound interest.

Any person receiving retirement benefits from the fund as a result of service as an elected official pursuant to the provisions of clause (2) shall waive such retirement benefits while subsequently receiving a salary or compensation from the city for service in an appointive or elective position.

Any pension due and payable to an elective officer who claims credit for service as a member of an executive board or commission shall not exceed \$200 per month computed under the single life plan but subject to the option selections provided for in section 422.08;

(3) Persons serving without pay;

(4) Persons serving on executive boards. Provided that any person serving on an executive board or commission shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance which shall be granted only upon completion of 20 or more years of service.

All retirement allowances shall be computed, determined and paid for in the same manner as for employees, as provided herein, except that in determining the number of years of service, credit shall be given for time served as a member of an executive board or commission, employee, or elective officer, or any combination thereof.

Before receiving this retirement allowance, or any other benefit, the person who claims credit for service under this section shall contribute to the fund an amount which shall be equal to the amount of contributions to the fund which would have been made had he been a contributor to the fund since January 1, 1922, or date of becoming a member of an executive board or commission or elective officer or employee whichever is later, in accordance with the method of contribution in this chapter provided, plus four percent compound interest.

Said service shall include periods of service at different times and service for one or more executive boards or commissions, but periods of separation from the service shall not be included.

Any pension due and payable to any person who claims credit for service as a member of an executive board or commission shall not exceed \$100 per month computed under the single life plan but subject to the option selections provided for in section 422.08.

(5) Nurses, pupil nurses, internes and staff physicians employed at the city hospitals; provided that any nurse employed by the city at a city hospital who is not otherwise prohibited from membership may make application to become a contributing member of the fund, such application to be final and irrevocable, and thereafter the provisions of this chapter shall fully apply to said nurse upon the contribution to the fund by said nurse of six percent of all salaries, wages or other compensation paid to him or her by the city from the date of his or her original employment by the city as a nurse to the date said application is made plus the further payment to the fund by said nurse of interest compounded annually at four percent on such delayed contribution. Provided that the provisions of this subsection shall not apply to nurses who are presently contributing members of the fund.

(6) Employees in the service of the city at the time this chapter is adopted, who, after such adoption, have not given written notice of a desire to accept the provisions of this chapter;

(7) Persons not citizens of the United States;

(8a) Persons employed after July 1, 1959, who have attained the age of 56, unless such person was previously employed by the city or any of its boards, departments or commissions or by a public corporation whose employees are members of or eligible to be members of a fund operating under the provisions of chapter 422, and was a contributing member of the fund at the time of separation from the service, and unless the service rendered by such employee after July 1, 1959 when added to the service rendered by the employee prior to July 1, 1959 will equal or exceed 10 years, as determined by the retirement board, regardless of the provisions of the veterans preference act or any law, rule or bylaw to the contrary.

(8b) Persons employed after July 1, 1959 on a temporary basis, including persons employed on permits issued by a civil service commission; doorkeepers, ticket takers, and attendants at a municipal auditorium, park recreation facilities, or like activities, employed less than 1000 hours, or its equivalent if employed on any other basis than an hourly basis, in any calendar year from January 1 to December 31, inclusive, provided that employees who are contributing members of the fund on July 1, 1959 shall not be affected by the exclusions contained in this section.

(8c) Any person who is employed by the city or any of its boards, departments, commissions or a public corporation, as herein outlined, and is excluded from participation in the fund by section 422.05-8a, 8b shall be separated from the service upon reaching the age of 65 regardless of the provision of the veterans preference act.

(9) Employees of a public corporation now or hereafter created in and for two or more contiguous cities of the first class, who do not within six months from the date of the passage of Laws 1945, Chapter 181, or the date when they enter the service of said corporation, whichever is later, give written notice to the retirement board of the acceptance of and desire to avail themselves of the provisions of this chapter. Any such employee who failed to give notice to the retirement board within the six months here required may by written application to the retirement board made within 60 days after the passage of Laws 1953, Chapter 681, become a contributing member of the retirement fund.

Any employee who makes an application as herein provided shall receive credit

for service in such public corporation only upon contribution to the retirement fund of the amount which would have been contributed to such fund at the required percentage rate, plus four percent compound interest, had such application been made within the time prescribed by Laws 1945, Chapter 181, and only upon approval of the governing board or commission of such public corporation.

[1919 c 522 s 5; 1925 c 335 s 1; 1933 c 328 s 1; Ex1935 c 20; 1937 c 171 s 1; 1939 c 288; 1945 c 181 s 3; 1947 c 85 s 1; 1953 c 681 s 1; 1957 c 727 s 1; 1959 c 503 s 2; 1963 c 374 s 1; 1967 c 722 s 2; 1969 c 914 s 3] (1442-15)

**422.06 RETIREMENT ALLOWANCE FOR NON-CONTRIBUTING EMPLOYEES.** A retirement allowance, payable in equal monthly instalments shall be granted to any laborer or other employee 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 instalments of \$12.50 throughout the period of service of the retiring employee, accumulated to the date of retirement at four percent compound interest; provided that no such allowance shall exceed \$500 per annum, nor be less than \$360 per annum.

Upon receipt of proof of death of any common laborer or other employee in the non-contributing class who has fulfilled the minimum age and service requirements for retirement on an allowance, (1) who is employed by the city, or (2) who is temporarily separated from the service of the city, or (3) who has been retired on an allowance, there shall be paid to the heir or heirs of such employee or to such trustee or trustees as the retirement board may select, the sum of \$150.

In order to be entitled to retirement allowance, a common laborer or other employee 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.

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 this retirement shall, upon notification by the retirement board, reemploy the beneficiary.

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.

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

[1919 c. 522 s. 6; 1933 c. 328 s. 1; 1937 c. 53 s. 1] (1442-16)

**422.063 SERVICE ALLOWANCE; CONTRIBUTING EMPLOYEES.** Subdivision 1. **Service allowance for present incumbent.** The service allowance for a present incumbent in the contributing class shall consist of an "annuity," a "pension," and a "supplementary allowance."

Subd. 2. **Service allowance for future entrant.** The service allowance for a future entrant in the contributing class shall consist of an "annuity" and a "pension."

Subd. 3. **Annuity for future entrant.** The annuity shall be the actuarial equivalent of the net accumulated contributions of the retiring employee, calculated at his age at the date of retirement.

Subd. 4. **Pension of future entrant.** The pension shall be the actuarial equivalent of the accumulated amount of such annual instalments as may be now or hereafter fixed and designated by law throughout the period of service of the



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retiring employee, not to exceed 25 years, accumulated to the date of retirement at four per cent compound interest.

**Subd. 5. Supplementary allowance for persons in contributing class.** The supplementary allowance shall be the actuarial equivalent of the difference between:

(1) The net accumulated amount at the time of retirement of the contributions which such employee would have been required to make during the period for which credit is claimed, had the provisions of this chapter been in force throughout such period, and

(2) The net accumulated amount of the contributions made and to be made by the retiring employee for all periods of service for the city subsequent to the adoption of this chapter therein, not exceeding 30 years.

**Subd. 6. Minimum retirement allowance, additional allowance.** All contributing members who, at the time of retirement, shall have fulfilled the conditions necessary to enable them to retire, shall be entitled to a combined minimum pension and supplementary allowance of \$2 per month for each year of service, which pension and supplementary allowance shall be in addition to the annuity as defined in the pension act.

The pension and supplementary allowance provided for herein shall be the actuarial equivalent of the accumulated annual installments and supplementary allowance credits, now designated by law to be now defined as normal earned credits, plus such extra credit to be furnished by the city as will produce such minimum pension and supplementary allowance of \$2 per month for each year of service. Said sum of \$2 shall be computed under the single life plan, as defined in said pension act, and subject to the same option selections as set forth in said act.

The extra credit herein provided for shall be used only for the purpose of producing such minimum pension and supplementary allowance and shall not in any other way inure to the benefit of the contributing member or his beneficiaries.

The pension, supplementary allowance and annuity provided for herein shall be first paid from the contributing member's own contributions and normal earned credits, plus interest, until such credits are exhausted, and from and after such time shall be paid from the extra credit provided for herein.

In addition to the pension, supplementary allowance and annuity provided for in: Minnesota Statutes 1961, Chapter 422, and section 422.52, there shall be paid to each retired employee who retired or will retire subsequent to January 1, 1943, an additional pension equal to 25 percent of such pension, supplementary allowance and annuity, provided, that the additional pension herein provided for shall not exceed \$25 per month; and for each retired employee who retired prior to January 1, 1943, 40 percent of such pension, supplementary allowance and annuity, provided, that the additional pension shall not exceed \$25 per month. The additional pensions provided for in this paragraph shall be retroactive to January 1, 1955.

Provided, however, that in lieu of the pension, supplementary allowance, annuity and additional pension herein provided for, each employee who is eligible and who ceases to be employed and who retires subsequent to July 1, 1954 shall have the option of electing to receive what shall be known as a "formula pension and annuity" equal to 1/60th of his arithmetic average annual salary, wages or compensation from the city for any five calendar years out of the last ten calendar years of service which may include the year in which the employee retires, as selected by the employee, multiplied by his years of service with the city, the option to become effective July 1, 1955.

Provided also, however, that in lieu of the pension, supplementary allowance, annuity and additional pension herein provided for, each employee who is eligible and who retired between July 1, 1952 and July 1, 1954 having served in the employment of the city for forty or more years shall have the option of electing to receive what shall be known as a "formula pension and annuity" equal to 1/60th of his arithmetic average annual salary, wages or compensation from the city for any five calendar years out of the last ten calendar years which may include the year in which the employee retires, as selected by the employee, multiplied by his years of service with the city, the option to become effective July 1, 1967.

The formula pension and annuity shall be computed on the single life plan but subject to the option selections provided for in section 422.08.

In order to be entitled to the formula pension and annuity herein provided for, the retiring employee at the time of cessation of employment and of actual retirement must have attained the age of 60 years or have been employed by the

city not less than 30 years, and must in addition thereto have contributed to the retirement fund at the percentage rate prescribed by the retirement law prior to the passage of this act on all salaries, wages, or compensation received from the city from January 1, 1922 to July 1, 1955, and at the percentage rate of six percent on all salaries, wages or compensation received from the city subsequent to July 1, 1955.

The years of service to be applied in the formula pension and annuity shall be found and determined by the retirement board.

Voluntary additions to the employee's deposits made by the employee under the provisions of section 422.10 may be withdrawn by the retiring employee or, with the approval of the retirement board, applied to the purchase of an additional annuity computed and determined by the retirement board.

**Subd. 7. Service calculated.** Except as otherwise provided in sections 422.01 to 422.23, the service of each "present incumbent" shall be calculated from the date in service from which said employee elects to claim credit and the amount of service of each future entrant shall be calculated from the date of original appointment. Said service shall include periods of service at different times and service for one or more departments, branches or independent boards of the municipality. It is further provided that in computing length of service of contributing employees for the purpose of sections 422.01 to 422.23, periods of separations from the service shall not be included, provided, that any contributing employee who has heretofore been employed by the Works Progress Administration of the United States government or heretofore or hereafter shall serve as a duly elected member of the Minnesota state legislature and who at the time of entrance into either of the services herein outlined was a contributing member of the retirement fund, shall receive credit for the time spent in such services as though actually employed by such city.

In order to receive credit as herein outlined, such employee shall contribute to the retirement fund the amount that would have been contributed by him if actually employed by the city.

The amount of salary, wages or compensation received by the employee immediately prior to entering the services herein set forth, shall be the dollar amount used in determining the contributions to be made to the retirement fund, and also the amount to be used in determining the arithmetical average annual compensation otherwise provided for in sections 422.01 to 422.23.

**Subd. 8. Payment of retirement allowances.** Retirement allowances as herein provided shall be paid in monthly instalments and checks shall be issued and mailed to the last known address of each beneficiary on the first business day of the month succeeding the month in which his or her allowance is authorized; provided, that where a beneficiary is laboring under legal disabilities said monthly instalments in such cases may be paid to the duly appointed guardian.

[1919 c 522 s 7; 1925 c 335 s 1; 1937 c 51 s 1; 1943 c 62 s 2; 1955 c 211 s 1; 1955 c 317 s 1; 1959 c 503 s 3; 1967 c 722 s 3] (1442-17)

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

Disability of an employee 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 employee 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 the employee retires on such disability allowance of the net amount to which the contributions already made by the employee and the credits allowed or contributions already made by the city on his behalf would accumulate if allowed to remain at four percent 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

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when an employee retires on such disability allowance of the net amount which would be accumulated to the credit of the employee if his 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 four percent 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 when a disability beneficiary shall have attained the minimum age for retirement on a service allowance the disability allowance shall be discontinued only as provided by the terms of the option selected.

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

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, the examination to be made at the place of residence of the 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 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, reemploy the beneficiary at a rate of salary not less than the amount of his 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.

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 allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his rights in and to any retirement or disability allowance shall be forfeited.

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

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 employee.

Should any disability beneficiary while under the established age of retirement on a service pension, resume a gainful occupation and his earnings are less than his salary or wages at the date the disability allowance became effective, the board shall continue paying the disability allowance in an amount which when added to his earnings does not exceed his salary or wages at the date the disability allowance became effective or the salary currently paid for similar positions, whichever is lower.

The board shall establish rules and regulations for the determination of earnings.

[1919 c 522 s 8; 1925 c 335 s 1; 1933 c 328 s 1; 1963 c 374 s 2] (1442-18)

**422.08 RETIREMENT ALLOWANCE; OPTIONS.** At the time of his retirement any employee who is eligible to receive a service allowance may elect to receive his benefits in a retirement allowance payable throughout life or may on retirement elect to receive the actuarial equivalent at that time of his annuity, pension, or retirement allowance in a lesser annuity, or a lesser pension, or a lesser retirement allowance, payable throughout life, with the provisions that:

Option I. If the beneficiary dies before receiving in payments the present value of his annuity, pension, or retirement allowance, as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person, having an insurable interest in his life, as the beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

**Option II.** Upon the death of the beneficiary, his annuity, pension, or retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as the beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

**Option III.** Upon death of the beneficiary one-half of his annuity, pension, or retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as the beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

**Option IV.** Other benefits shall be paid the beneficiary or such other persons as the beneficiary shall nominate, provided such other benefits shall be certified by the executive secretary of the retirement board to be of equivalent actuarial value and approved by the retirement board.

[1919 c. 522 s. 9; 1925 c. 335 s. 1] (1442-19)

**422.09 REFUNDS.** If an employee to whom this chapter applies becomes absolutely separated from the service prior to attaining the minimum retirement age established in section 422.04, the net accumulated amount of deduction 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 employee, with interest.

Any contributing employee who is absolutely separated from the service of the city after attaining the minimum retirement age established in section 422.04, who has five years or less of creditable service, as determined by the retirement board, shall have the option of accepting a refund of the net accumulated amount of deductions from his or her salary, pay, or compensation, to his or her credit, and if said employee accepts said refund all present and future rights to a retirement allowance shall be forfeited.

Any contributing employee who separates from a department, board or commission of a city whose employees are covered by a fund organized under this chapter, and becomes an employee of a department or board of the same city, whose employees are covered by a retirement fund or relief association by whatever name known, organized under any other law and supported in whole or in part by taxes on the same city, shall have the option of:

1. Retaining their membership in the fund organized under this chapter, regardless of the provisions of any law, rule, bylaw or other action requiring membership in any other retirement fund or relief association however organized.

2. Transferring to the fund or association covering the employees of the department or board to which they are transferring, providing they are eligible for membership therein.

Any contributing employee who elects to transfer to another fund or association as herein provided, shall make such election within one year from the date of separation from the city service covered by this fund or the passage of this section, whichever applies.

If the contributing employee elects to transfer to another fund as herein provided, a refund of the net accumulated contributions made by such employee to the fund organized under this chapter, shall be returned to the employee with interest.

Any person who has had 15 years or more of service as a member of the contributing class prior to July 1, 1967, and who separates from his then employment and becomes an employee or an elected or appointed official of a county containing a city which has adopted a pension or retirement system pursuant to the provisions of this chapter, shall have the option of resuming or retaining his membership in this fund regardless of the provisions of any law which would otherwise require membership in some other retirement fund, or of taking any retirement allowance or refund to which he would otherwise be entitled upon such separation. The election of such contributing member to so resume or retain his membership in this fund shall be made within three years from the date of such separation by giving a written notice of such election to the retirement board and a copy thereof to the employing county, and provided further that such person who has separated from his employment with the city must have commenced his employment with such county within 30 days after such separation from employment with the city. The employer cost of the retirement allowances and all other benefits inuring to such member subsequent to his entering the service of said county shall be an obligation of

and paid by the said county to the retirement fund upon certification of such costs by the retirement board in the same manner as provided in section 422.13 for the payment of such costs by public corporations referred to therein. Any person who so elects to remain in this fund shall be entitled to all the benefits and subject to all the restrictions of this chapter 422.

Any employee in any city to which this act applies shall waive the pension benefits under this act while holding non-elective employment in any other governmental subdivision for which they receive compensation, provided that this provision shall not apply to any person so employed at the time this act takes effect.

No employee in any city to which this act applies shall be eligible to be a member of or receive benefits from more than one fund or association of such city by whatever name known, supported in whole or in part by taxes levied by such city, provided that this prohibition shall not apply so as to prevent employees who are contributing members under this chapter from receiving survivors benefits, as widows, from any such other fund or association of such city.

Upon the death of a contributing member while still in the service of the city, and before reaching the compulsory age of retirement there shall be paid to such person or persons as he or she shall have nominated by written designation filed with the retirement board, in such form as the retirement board shall require, the net accumulated amount of deductions from his or her salary, pay or compensation, to his or her credit on date of death.

If the employee fails to make a designation, or if the person or persons designated by such employee pre-deceases such employee, the net accumulated amount of deductions from his or her salary, pay, or compensation, to the credit of such employee on date of death shall be paid to such employee's estate.

If a contributing member dies after having been in the service ten or more years, and before actual retirement, as determined by the retirement board, the present worth of the city's annual installments of \$60 then to the credit of the contributing member, and the supplementary allowance, as defined in this act, shall be paid to a beneficiary designated by such contributing member in such form as the retirement board shall require, who shall be the surviving spouse, or surviving child, or children of such member, if there be no surviving spouse, or surviving child or children then to a person actually dependent on and receiving principal support from such member or surviving mother or father, or surviving brother or sister, or surviving children of the deceased brother or sister of such member.

If the beneficiary designated by the member is not one of the class of persons named in the preceding sentence, such benefit from the accumulation of city deposits shall be paid in the following order: (1) to the surviving spouse, the whole thereof; (2) if there be no surviving spouse, to the surviving children, share and share alike; (3) if there be no surviving spouse or child or children, to the dependent or dependents as those terms are herein defined, of the member, share and share alike; (4) if there be no surviving spouse, child or children, or dependents, to the surviving mother and father, share and share alike; (5) if there be no surviving mother and father, to the surviving brothers and sisters of the member, in equal shares; (6) and if there be no surviving brothers and sisters, to the surviving children of the deceased brothers and sisters of the member, in equal shares; (7) and if there is no person named in the preceding sentence who survives the member, the accumulation of the city deposits shall be cancelled.

Upon the death of a contributing member after having been in the city service not less than 18 months but before the effective date of retirement, such board shall in lieu of the settlement hereinbefore provided pay to the surviving dependent spouse and/or dependent children under the age of 18 or under the age of 22 if a full time student at an accredited school, college or university, and is single, the following monthly benefit:

- (a) Surviving widow or widower \$100 per month.
- (b) Each dependent child \$65 per month.

Payments for the benefit of any dependent child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit shall not exceed \$300 for any one family.

The widow of a deceased member, who has not remarried and was living with and dependent upon the member at the time of his death, shall be entitled to the monthly benefit herein provided unless such widow has an income in excess of \$2400 for a 12-month period commencing with the first day of the month following the month in

which the employee died, in which case all income in excess of \$2400 for the previous 12-month period shall be prorated over the succeeding 12-month period and deducted from the surviving spouse benefit herein provided. This process shall be continued for each succeeding 12-month period. The widow's survivors benefits above referred to shall be suspended when there are no dependent children qualified to receive the \$65 monthly allowance, said suspension of benefits to said widow to continue until the widow reaches age 62 when payments shall again commence if the widow has not been remarried; provided, however, (1) that the suspension shall not apply to a widow who is totally and permanently disabled as certified by the Medical Board, (2) that this provision for suspension shall apply only to widows of employees who first become contributing members of this fund subsequent to July 1, 1967, and (3) that in any event the widow shall receive the monthly allowance for one year after the contributor's death.

The widower of a deceased member, if such widower has not remarried and was living with the deceased member at the time of her death, and was receiving at least one-half of his support from the deceased member at the time of her death and has attained the age of 65 or is totally and permanently disabled, shall be entitled to the monthly benefit herein provided.

Benefits herein provided shall commence with the first day of the month following the month in which the employee dies and shall end with the last day of the month preceding the month in which eligibility ceases.

Eligibility for the benefits herein provided shall be determined by the retirement board and its determination shall be final. Each beneficiary or parent or guardian of a dependent child or legal representative shall furnish such information as the board may deem necessary to determine eligibility for the benefits provided by this section, and failure to furnish such information shall be sufficient grounds for the discontinuance of such benefits.

If the widow or widower of the deceased member becomes entitled to a retirement allowance by reason of his or her membership in this fund, such widow or widower shall have the option of either receiving such retirement allowance or to continue receiving the widow's or widower's benefit.

The cost of all monthly survivor's benefits provided in this section shall be an obligation of the members and of the city and any of its boards, departments, commissions or public corporations as hereinafter provided.

The retirement board shall increase the contribution rate to the fund of each member provided by one-fourth of one percent, such additional contribution to be credited to a reserve for survivor's benefit account, which shall remain a separate account from which shall be paid on an actuarial basis all such survivor benefits due and payable. Any deficiency in such account shall be an obligation of the city, and any of its boards, departments, commissions or public corporations and shall be paid for in the same manner as other benefits. Any surplus in the survivor's account shall inure to the credit of the retirement fund.

The retirement board shall cause an annual actuarial valuation of the survivor's benefit account to be made by the board's actuary.

The retirement board shall reduce or increase the contribution rate of one-fourth of one percent if and when it is actuarially determined that such rate is in excess of or less than the amount necessary to pay for 50 percent of the cost of the survivor benefits herein provided.

The additional member contribution provided for herein shall commence as of July 1, 1959.

If the contributing member dies after having been in the service of the city 20 or more years, and before the effective date of retirement, as determined by the retirement board, such board shall pay a monthly allowance under the option 4-five year certain life income plan of retirement, as adopted by the board, to the designated beneficiary of such employee, providing such employee prior to the date of his death filed a written request therefor with the board on forms provided by such board. The monthly allowance herein provided for shall be the actuarial equivalent of a single life retirement allowance which would have been payable to the employee on the date of his death had he been eligible to retire and retired.

The beneficiary designated by the employee shall be the surviving spouse of such employee. If there is no surviving spouse, the designated beneficiary may be a dependent surviving child or dependent parent of such employee as dependency is defined in this chapter. If the beneficiary designated by the employee is not of the class of persons provided for in this paragraph, or if the designated beneficiary pre-

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deceases the employee, a refund shall be made as provided for in section 422.09, in lieu of a life income under the option 4-five year certain plan.

If the employee does not elect to designate a beneficiary to receive a life income under the option 4-five year certain plan, as herein provided, the designated beneficiary, if of the class of persons set forth in the preceding paragraph, may elect within 60 days after the date of death of the employee to receive a life income computed and determined as though the employee had retired on the date of his death under the option 2 plan of retirement, as provided for in this act, and had designated such person as his beneficiary.

If any employee who has contributed to the survivor's benefit account as herein provided dies before the effective date of retirement on a service or disability pension and is not survived by a beneficiary eligible to receive a monthly allowance as herein provided, there shall be paid from the survivor's benefit account to a beneficiary designated by the employee a death benefit of \$500 if death occurs prior to the end of the employee's tenth year of service or of \$1000 if the employee had prior to his death completed 10 or more calendar years of service.

Upon reinstatement of a former employee 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 sections 422.01 to 422.23 become effective.

[1919 c 522 s 10; 1925 c 335 s 1; 1933 c 328 s 1; 1947 c 83 s 1; 1955 c 317 s 4; 1957 c 133 s 1; 1959 c 402 s 1; 1963 c 374 s 3; 1965 c 575 s 1; 1967 c 722 s 1; 1969 c 914 s 4] (1442-20)

**422.10 SALARY DEDUCTIONS.** Beginning on the first day of July 1963, and thereafter throughout the period of employment, there shall be deducted and withheld from the basic salary, pay or compensation of each employee in the contributing class, six percent of such salary, pay, or compensation, except as hereinafter provided.

The retirement board is authorized to increase the percentage rate of contribution to the retirement fund of any employee or employees for the purpose of establishing and maintaining on an actuarial basis a plan of insurance, survivors' benefits, or other type of benefit or benefits, the cost of which shall be paid out of such extra percentage so authorized and deducted from the employee's compensation, except as hereinafter provided.

Any plan or plans so established and placed in operation may be amended from time to time, or may be abandoned, but if abandoned, any surplus remaining from the operation of a plan shall be the property of the fund, and shall be credited to the reserve for loss in investment account.

Any employee who engages in or has engaged in active service in time of war or other emergency declared by proper authority, in any of the military or naval forces of the state or of the United States, shall receive credit for such period of military service as hereinafter provided as though actually employed by such city, provided such employee was a member of the contributing class of the retirement fund at the time of entrance into military service, notwithstanding the provisions of the Veterans Preference Act and/or any other law, rule or by-law providing for credit for military service for pension purposes.

(1) Any contributing member of the fund who was employed by the city at the time of entrance into military service during World War I and who returned to the employment of the city within 90 days following release from such military service, shall receive credit for such military service as though actually employed by the city during such military service but in no case shall credit for such military service exceed 4 years. Credit for World War I service shall be granted as provided herein regardless of whether the employee was a member of the contributing class at the time of entrance into such service.

(2) Credit shall be granted for military service subsequent to January 1, 1922 but prior to July 1, 1959, providing the provisions of this section are complied with.

(3) Credit shall be granted for military service rendered subsequent to July 1, 1959 provided such credit shall not exceed 6 calendar years.

(4) No credit shall be granted for military service rendered subsequent to July 1, 1959 if the military service credit for service prior to July 1, 1959 equals or exceeds 6 calendar years.

(5) If the military service credit for service prior to July 1, 1959 is less than 6 calendar years, credit for service subsequent to July 1, 1959 shall be added to such prior service, but in no case shall such combined service exceed 6 calendar years.

Employees of a public corporation, as defined in subdivision 19, Section 422.01, who were in military service prior to the enactment of Laws 1945, Chapter 181, and who returned to the service of such public corporation and subsequently became members of the contributing class of the retirement fund, shall receive credit for such period of military service as though actually employed by such public corporation during such period of military service.

Employees on leave of absence or lay-off at time of entrance into military service as herein provided shall be considered employees for the purpose of this chapter.

Any employee who was a member of the contributing class of the fund at the time of his entrance into military service and who resigned from the service of the city and received a refund of his personal contribution to the fund and who is re-employed by the city and again becomes a contributing member of the fund shall receive credit for such military service as provided by this section upon repaying to the fund the amount of said refund plus interest thereon at four percent compounded annually until fully paid and the further payment to the fund without interest of the amount his contribution would have totaled had he continued as a contributing member of the fund during the period of such military service. No contribution shall be made by the city to the credit of such employee's account for the period of such military service.

The retirement board shall determine and compute the amount of the contributions which said employee would have made to such fund if his employment had not been interrupted by such military service. The amount so determined and computed by the retirement board shall constitute an obligation of and be paid by the city or public corporation, and shall be credited to the contribution account of such employee. In determining the amount of contributions that the employee would have made if he had not entered military service, consideration shall be given to the employment service of employees who did not enter military service with like classification, seniority rights, length of service, and other factors determining probable time of employment.

In the event that such employee becomes separated from the service, except by retirement or death, prior to the expiration of five years subsequent to the date on which he was reinstated as an employee, such contribution may not be withdrawn by said employee, but shall be canceled and credited to the reserve for annuities account of this fund. If an employee returns to the service after being separated as provided herein, credit shall be granted upon payment of the separation refund required by section 422.09. In determining the five year period, there shall be included only time of actual employment.

Every employee to whom this chapter applies who shall continue in the service after the passage of Laws 1919, Chapter 522, as well as every person to whom this chapter applies 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 reductions, for service, shall be a full and complete discharge and acquittance of all claims and demands for all services rendered by such person during the period covered by such payment; except his claim to the benefits to which he may be entitled under the provisions of this chapter.

Any employee who becomes entitled to a retirement allowance and who retires without having paid into the retirement fund the full amount required by this chapter shall have the option of electing to receive such allowance on the basis of the actuarial equivalent of the net balance of debts and credits to his account at the time, or on the basis of the actuarial equivalent of the total credits at date of retirement, initial and successive installments of the allowance to be applied on any indebtedness of such employee to the retirement fund until such indebtedness is paid, any installments so credited to be treated as if actually paid to the annuitant entitled to such allowance.

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 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 chapter.**

(2) Withdraw from his individual account in the retirement fund the amount in



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excess of the minimum accumulation resulting from the deductions specified in the provisions of this chapter.

[1919 c 522 s 11; 1925 c 335 s 1; 1933 c 328 s 1; Ex1934 c 73 s 1; Ex1935 c 21 s 1; 1945 c 580 s 1; 1947 c 86 s 1; 1951 c 169 s 1; 1957 c 727 s 2; 1959 c 503 s 4; 1963 c 374 s 4] (1442-21)

**422.11 CREDITS, INDIVIDUAL RECORD.** The city comptroller or other person having supervision of the payment of salaries to employees 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 these sums shall be entered to the credit of the various employees from whose salaries deductions have been made. The amount of the deductions shall be deposited with the city treasury and credited to the retirement fund.

At the close of each fiscal year there shall be credited within the deposit accumulation fund to accounts representing contributions by the municipality and to accounts representing the accumulated amount of each contributing employee in proportion to the average balance in each such account during said fiscal year, and computed on the balance at the end of each quarter, the amount of income from investments 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 or purposes specified in this chapter and (2) an amount to be set aside to liquidate actual or to amortize prospective losses on investments. The net balance of the investment earnings to be so distributed shall be distributed at the greatest multiple of one-tenth of one percent of the total of all such accumulated amounts from salary deductions up to and including a maximum of four percent. Any excess then remaining from such investment earnings shall be credited to a reserve fund and be added to and distributed with the investment earnings of the next succeeding year. 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 income 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 employee from whose salary or compensation deductions are made, a credit of \$60 per employee, 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.

[1919 c 522 s 12; 1933 c 328 s 1; 1951 c 293 s 1; 1967 c 554 s 1; 1969 c 914 s 5] (1442-22)

**422.12 CITY TREASURER CUSTODIAN OF FUNDS; DEPOSITORIES.** The city treasurer shall be the custodian of the funds created by this chapter.

For the purpose of meeting disbursements for retirement allowances and other payments in excess of the receipts, there may be kept an available fund, not exceeding ten percent of the total amount in the several funds created by this chapter on deposit in any bank in the city, organized under the laws of the state of Minnesota or under the laws of the United States, or with any trust company incorporated under any law of the state of Minnesota; provided the bank or trust company shall furnish adequate security for the funds and that the sum so deposited in any one bank or trust company shall not exceed 25 percent of the paid-up capital and surplus of the bank or trust company.

Except as herein provided, no trustee or any person connected with the retirement board shall have any interest direct or indirect in the gains or profits of any investment made by the retirement board, nor, as such directly or indirectly receive any pay or amoluments for his services. No trustee or person connected with the retirement board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or person connected with the retirement board become an endorser or surety or become in any manner an obligor, for moneys loaned or borrowed of the retirement board.

[1919 c. 522 s. 13] (1442-23)

**422.13 CITY'S FINANCIAL RESPONSIBILITY; STATEMENT OF REQUIREMENTS; TAX LEVY.** Interest as provided in this chapter and the payment of all pensions, annuities, retirement allowances, refunds and death benefits granted by the retirement board under the provisions of this chapter are hereby made obligations of the city. All income, interest and dividends derived from deposits and investments authorized by this chapter shall be placed to the credit of the retirement fund.

Prior to August 31 of each successive year the retirement board shall prepare an itemized statement of its financial requirements from tax revenue for the succeeding fiscal year.

This statement shall include:

1. An estimate of the administrative expense of the retirement board less:

(a) Such amount as the board may charge against the interest income account of the fund as cost of handling the investment securities of the fund.

(b) The cost of handling the retirement benefits of any city owned public utility, improvement project, or other municipal activities supported in whole or in part by revenues other than taxes.

(c) The cost of handling the retirement benefits of any public corporation and its employees operating in and for two or more contiguous cities of the first class who have availed themselves of the provisions of this section.

2. An estimated amount not to exceed six percent of the salaries and wages of all employees covered by the retirement fund less any amounts contributed for current cost of future retirement benefits by any city owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than taxes, or any public corporation operating in and for two or more contiguous cities of the first class.

3. The estimated amount to meet the requirements of section 422.011, subdivision 3, less any amounts contributed for this purpose by any city-owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than taxes, or any public corporation operating in and for two or more contiguous cities of the first class.

4. The cost of all monthly survivor's benefits provided in section 422.09 as an obligation of the city and any of its boards, departments, commission or public corporations as therein provided, less any amounts contributed for this purpose by any city-owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than taxes, or any public corporation operating in and for two or more contiguous cities of the first class.

5. Such other levies and financing as are required by statute.

6. The total of items 1, 2, and 3 above shall be increased or decreased as the case may be by any deficiency or excess of the amount of tax revenue actually collected within the preceding fiscal year under or over the amount actually determined to meet the financial requirements of the fund of such year. In no event shall the amount requested for levy exceed the total of entry age normal cost, less the amounts contributed by the employees, plus administrative expense, interest on the actuarial deficit at the rate of three and one-half percent per annum, and an amount necessary to reduce the principal amount of the actuarial deficit in equal installments by the year 1997. This limit does not apply to the requirements for survivor benefit provided in section 422.09 nor to any levy which is administered by the retirement board pursuant to special act.

A copy of such statement shall be submitted to the board of estimate and taxation and to the city council, or other chief governing body, prior to September 15 of each successive year for their inspection.

The city council or chief governing body or any board of commission may by proper action provide for the inclusion in the cost of operating any city owned public utility and may include in the cost of any improvement project and other municipal activities supported in whole or in part by revenues other than taxes, the cost of the retirement benefits accruing under this act for employees of such utility or employed on such improvement projects or other activities. Such costs shall be determined by the retirement board and the respective governing bodies having jurisdiction over financing such costs.

The amounts so transferred to the retirement fund shall be deducted from the tax request hereinbefore outlined insofar as such amount shall be applicable to current and accrued requirements. The council or chief governing body is hereby authorized to transfer to the retirement fund all or part of any sums now on hand which have been previously reserved for this purpose.

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Except as herein and in the following paragraph set forth, no appropriation shall be made to pay the cost of retirement allowances or other benefits granted to employees of a public corporation now or hereafter created in and for two or more contiguous cities of the first class who have elected to avail themselves of the benefits of this section. The cost of retirement allowances and other benefits inuring to such employees shall be an obligation of and paid by such public corporation. At such time as the retirement board shall fix and determine, such public corporation shall pay to the retirement fund the amount certified to such corporation by the retirement board as the cost of the retirement allowances and other benefits accrued and owing for the employees of such corporation.

Any employee of a public corporation created in and for the two contiguous cities of the first class, the funds of which public corporation are in whole or in part raised by taxation on the property in such cities, who was an employee as herein defined of a city of the first class prior to his employment by such a public corporation, and who was a member of or had accrued benefits in an organized retirement fund of such city, shall be allowed credit in the retirement fund for such employment with a city in the same manner as though he had continued in the service of such city. The cost of that portion of the retirement allowance or other benefits accrued while such employee was in the service of the city shall be an obligation of the city, and a tax shall be levied and collected to discharge such obligation as herein provided.

Any contributor or retired employee who prior to entering the service of a city of the first class was an employee of a public corporation created in and for two or more contiguous cities of the first class shall be allowed credit in the retirement fund for employment by such public corporation in the same manner as though the service had been rendered to such city.

Before receiving credit for service rendered to a public corporation as herein set forth, the contributing or retired employee shall make application therefor in writing to the retirement board, and shall contribute to the retirement fund the amount which would have been contributed had the employee been a contributing member of the fund during the time such service was rendered to the public corporation, plus four percent compound interest to date of payment or date of retirement, such amount to be found and determined by the retirement board.

The retirement board in charge of operating the system is hereby authorized to recompute the retirement allowance of any retired employee who qualified under the provisions of this act and to pay to the employee the increased pension thereby determined, providing the public corporation which previously employed such employee consents and agrees to pay the cost of the additional benefits gained by such employee as the result of the service rendered to such corporation, such additional cost to be paid in the same manner as other benefits are paid for, as provided in Minnesota Statutes, Chapter 422, authority being hereby granted to such corporation to pay such cost.

It shall be the duty of the city council or other chief governing body of such city, in addition to all other taxes levied by such city, to annually levy a tax for the purposes set forth in this chapter, and such tax when levied shall be extended upon the county lists and collected and enforced in the same manner as other taxes levied by such city are extended, collected and enforced. The proceeds of such taxes shall be paid into the city treasury to the credit of the retirement fund, which shall constitute and remain a special fund and shall be used only for the payment of obligations created pursuant to the provisions of this chapter.

The rate of interest to be used as a basis for calculations, except as otherwise specified, shall be the average rate of interest received from the invested portion of the retirement fund, but not less than the average rate of interest paid by the banks of the city on savings deposits, calculated to the nearest one-fourth percent.

[1919 c 522 s 14; 1945 c 181 s 4; 1955 c 317 s 3; 1957 c 727 s 3; 1959 c 503 s 5; 1969 c 914 s 6] (1442-24)

**422.14 RETIREMENT BOARD; MEMBERS.** A retirement board of five members is hereby constituted which shall consist of the following:

- (1) Mayor;
- (2) The city comptroller or corresponding official;
- (3) The chairman of the ways and means committee of the city council or corresponding member of the chief governing body of the city; and
- (4) Two legally qualified voters of the city, residents thereof for the preceding five years, to be chosen by the employees as defined in this chapter who

are contributors to the retirement fund created by this chapter. The employees are hereby authorized to form an association for that purpose and the employing authorities are authorized to make payroll deductions for the payment of dues to said association. The person first selected shall be chosen to serve for one year from the first of the next succeeding January after his appointment, the second for two years from the first of the next succeeding January after his appointment, after the expiration of which times the respective successors in office shall be appointed to serve for a term of two years, and each shall continue to serve until his successor is duly elected. The first two representatives chosen in any city shall be chosen during the first week of June after this chapter becomes effective therein. Thereafter, such selection shall be made by the employees during the first week of December of each year. Vacancies occurring by death, resignation, or removal of such representative shall be filled by representatives chosen by the employees.

[1919 c 522 s 15; 1967 c 553 s 1] (1442-25)

**422.15 RETIREMENT BOARD; TRUSTEE OF FUNDS.** Subdivision 1. Except as otherwise provided by law the members of the retirement board shall be the trustees of the several funds created by this chapter and shall have exclusive control and management of these funds, and shall have power to invest the same, subject to all the terms, conditions, limitations, and restrictions imposed by law upon savings banks in the making and disposing of their investments, except convertible bonds which may be purchased as to rating but subject to the eligibility limits imposed below for common or preferred stock; and subject to like terms, conditions, limitations, and restrictions, these trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which any of the funds created by this chapter shall have been invested as well as the proceeds of the investments, and of the money belonging to these funds, except that any reserve built up from the city's contributions shall be invested in bonds of that city in preference to other bonds paying an equal or less rate of interest.

Subd. 2. In addition to other investments authorized by law, the board may invest in any one or all of the following:

(1) The preferred stocks of any domestic corporation, provided the net earnings of such corporation available for its fixed charges for five fiscal years next preceding the date of investment shall have averaged per year not less than one and one-half times the sum of its annual fixed interest charges, if any, its annual maximum contingent interest, if any, and its annual preferred dividend requirements; and during either of the last two years of such period, such net earnings shall have been not less than one and one-half times the sum of its fixed interest charges, if any, contingent interest, if any, and preferred dividend requirements for such year.

(2) The common stocks of any domestic corporation, provided such stocks are registered on a national securities exchange, except that the stock of banks, bank holding companies, trust companies and insurance companies need not be so registered, and such corporation shall have earned and paid cash dividends on its common stocks in each year for a period of five fiscal years next preceding the date of investment provided that the aggregate earnings of such corporation available for payment of dividends on the common stock during the last five years must have been at least equal to the aggregate of such cash dividends. No investment shall be made in the common or preferred stock of any corporation with assets of less than ten million dollars.

No investment shall be made by the board in the common or preferred stock of any corporation for the deposit accumulation fund if the total amount so invested by the board exceeds an amount equal to 50 percent of the assets valued at cost. Convertible bonds valued at cost shall be considered common or preferred stock for purposes of this limitation.

No investment shall be made by the board in the common or preferred stock of any corporation for any of the funds if the total common and preferred stock investment in that corporation exceeds (1) in amount, one and one-half percent of the assets of the fund, or (2) in number of shares, one percent of the total issued and outstanding shares of stock of such corporation.

Subd. 3. The board shall have authority:

(1) To make such loans and advances of credits and purchases of obligations, representing loans and advances of credit, as are insured by the federal housing administration, and to obtain such insurance;

(2) To make such loans secured by mortgages on real property, which the federal housing administrator has insured or made a commitment to insure, and to obtain such insurance;

(3) To enter into any and all agency agreements necessary to enable it to invest its funds in loans, advances of credit, and obligations insured by the federal housing administrator, or which he has made a commitment to insure and to enter into any agreement or arrangement with any other of the pension and retirement systems of the city for the joint handling of these securities;

(4) To provide for the prorating of part or all of the cost of making, handling or foreclosing of such mortgages against the earnings of such mortgages and to establish reserve accounts from such earnings to liquidate losses or future losses on such mortgages;

(5) To employ and dismiss agents, attorneys, appraisers, and others necessary for the proper handling or servicing of such mortgages and to fix their compensation or fee on such basis as it may see fit for such services rendered in connection with such mortgages; and

(6) To do any and all things necessary to carry out the provisions of this chapter in the best interest of the funds.

Subd. 4. The board shall, upon request of any contributing employee who has borrowed from the retirement fund under the federal housing administration insured mortgage system, provide for the repayment of such loan by deducting from such employee's monthly compensation.

Subd. 5. All payments from the funds created by this chapter shall be made by the treasurer of the city only upon warrant signed by the executive secretary, or employee or other person appointed by the retirement board, and no warrant shall be drawn except by order of the retirement board duly entered in the record of its proceedings, except that the retirement board is hereby authorized and empowered to create a revolving fund in such amount as may be necessary to be used for the purpose of making expenditures for loans authorized under section 422.46; withdrawals from the fund of excess contributions; refunds to employees upon their separation from the service and for such other purposes as may be determined by the retirement board. The revolving fund herein provided for shall be periodically reimbursed by warrant drawn and signed as set forth herein. It shall be kept in the same bank or trust company as the city treasurer keeps other retirement funds. It shall be subject to withdrawal upon check signed by the executive secretary, or employee or other person appointed by the retirement board. The revolving fund shall be considered funds of the city insofar as it is necessary to bring them within any bond or security furnished by such bank or trust company to protect the city against loss.

Subd. 6. The retirement board is hereby authorized and empowered in carrying out the provisions of this chapter to establish special funds supplementing individual contributions by the employees and to receive, invest, and disburse for such purpose all moneys in the form of donations, gifts, legacies, bequests, or otherwise which may be contributed by private individuals or corporations or organizations for the benefit of the city employees generally, or any special employee or class of employees of the city.

[1919 c 522 s 16; 1939 c 66 s 1; 1945 c 49 s 1; 1953 c 139 s 1; 1961 c 153 s 1; 1963 c 317 s 1; 1965 c 547 s 1; 1967 c 552 s 1; 1969 c 914 s 7] (1442-26)

**422.151 CONTINUING APPROPRIATION.** All money necessary to meet all transfers from account to account, from fund to fund, and from fund to beneficiaries and annuitants provided in chapter 422, are hereby annually and from time to time appropriated.

[1969 c 914 s 8]

**422.16 RETIREMENT BOARD; EXPENSES; REPORTS; RECORDS; POWERS.** The members of the retirement board shall serve without compensation but shall be reimbursed for any necessary expenditures and no employee shall suffer loss of salary or wages through serving on the retirement board.

Every member of the retirement board shall take a similar oath of office as taken by other employees of the city and such oath shall be subscribed to by each member and filed with the clerk of the city.

The retirement board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds and accounts created by this chapter.

The retirement board shall publish annually a report showing the condition of

the various funds created by this chapter, and setting forth such other facts, recommendations, and data as may be of use in the advancement of knowledge concerning employees, pensions, and annuities; and the retirement board shall submit their report to the mayor of the city and file at least one copy thereof with each board or department for the use of its members.

The retirement board shall prepare and keep all needful tables, records and accounts required for carrying out the provisions of this chapter, including data showing the mortality and disability experience of the officers and employees of the service and the date of withdrawal from such service, and any other information that may serve as a guide for future valuations and adjustments of the plan for the retirement of officers and employees.

Mortality tables shall be adopted as a basis of calculation for retirement allowances, which tables may be modified from time to time. Pending the action of the retirement board, McClintock's tables shall constitute the basis for all calculations.

The retirement board shall perform such other functions as are required for the execution of the provisions of this chapter.

For the purposes of this chapter, the retirement board shall possess the powers and privileges of a corporation, and as such may sue and be sued, and shall have the right to issue subpoenas and to compel the attendance of witnesses.

[1929 c. 522 s. 17] (1442-27)

**422.17 RETIREMENT BOARD; MEETINGS; EMPLOYEES; RULES AND REGULATIONS.** The retirement board shall meet on the second Tuesday of each calendar month of each year and may adjourn from time to time. Special meetings may be held upon the call of the president. At the first regular meeting, which shall be held on the first Tuesday of July following the date this chapter becomes effective in any city, or as soon thereafter as practicable, the retirement board shall appoint an executive secretary, who shall have charge of the performance of the duties required by the provisions of this chapter, and shall appoint other necessary clerical help.

The executive secretary and administrative assistant shall be qualified by training and experience in accounting, law, investments and legislative procedures. The executive secretary and administrative assistant appointed by the board shall be appointed from a list of candidates established for each position by the civil service commission following written or oral examination or both held by such commission in the manner established by its rules and regulations commensurate with the responsibilities of the position. It shall be the duty of such commission to hold such examination for each position to be filled and establish such list of candidates within 90 days following the date of receipt of a request by the board for such examination. The board shall appoint the executive secretary within 30 days following the establishment of such list.

The retirement board is authorized to employ the executive secretary appointed by the board following the examination by the civil service commission as provided in this section within the 60 day period prior to the vacating of the position by the incumbent executive secretary, and to fix and pay the salary of such appointee during the period prior to assuming the position of executive secretary.

If the position of executive secretary, as outlined in this section, is vacated at age 65, as required by Section 422.04, Minnesota Statutes, and the position has not been filled, as outlined in this section, the then incumbent executive secretary shall continue in office until a successor has been appointed and qualifies and for not to exceed 60 days thereafter, the 60 day extension period, or any part thereof, to be at the discretion of the retirement board.

The retirement board shall request the civil service commission to hold an examination for the position of executive secretary, as provided in this section, at least six months prior to the compulsory retirement age of an incumbent executive secretary, and within five days if a vacancy occurs in the office of executive secretary due to death, resignation, removal, or failure of an appointee to qualify.

The executive secretary and administrative assistant shall not be subject to any civil service laws, rules or regulations, except as to appointment as herein provided.

The executive secretary may be removed by a four-fifths vote of all members of the board at a meeting called for such purpose. Before exercising the power of removal 15 days written notice shall be given to the executive secretary setting forth

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the cause for removal and stating the time and place where such charges will be heard. The hearing shall be open to the public.

Other employees under the supervision of the board at the time of adoption of Laws 1961, Chapter 694 and employees appointed hereafter except an administrative assistant shall be subject to applicable civil service laws and rules.

An administrative assistant may be removed by the board after hearing, on due notice on the cause for removal and if so removed shall not be eligible for appointment as executive secretary.

The compensation of the executive secretary and the other employees under the supervision of the retirement board shall be fixed by such board.

At the regular meeting in January each year, the board shall elect one of its members as president, one member as vice president, and one member as recording secretary, who shall hold office for one year or until successors have been elected and qualified. The president shall preside at all meetings at which he is present. In the absence of the president the vice president shall preside and have all the powers of the president while acting as such. The recording secretary shall keep a record of all proceedings of the board, which shall be open to public inspection. At least one of the officers of the board shall be one of the representatives elected by the employees of the city to the board.

Subject to the limitations of the law of the state, the retirement board shall from time to time establish rules and regulations for the administration of the fund or funds created by this chapter and for the transaction of its business. Roberts rules of order shall be the rules of order of the retirement board except as otherwise specifically adopted.

For the purpose of administration, except as otherwise herein provided, the executive secretary, under the direction of the retirement board, shall be and is hereby authorized and directed to perform or cause to be performed any and all acts and to make such regulations as may be necessary and proper for the purpose of carrying the provisions of this chapter into full force and effect.

[1919 c 522 s 18; 1961 c 694 s 1; 1963 c 316 s 1] (1442-28)

**422.18 MEMBERSHIP IN INDEPENDENT RETIREMENT FUND ORGANIZATIONS OR RELIEF ASSOCIATIONS.** In the event that the members of any retirement fund organization or relief association, on behalf of which a tax is levied against the city, surrender its charter or other legal right to demand the levy of such tax and cease to receive further contributions from either employees or from the city, then and in that case the trustees of such organization or association or other legally constituted representatives thereof shall transfer the total assets of such organization or association to the retirement fund constituted by this chapter and the city shall thereupon assume and become responsible for the cost of the retirement allowance previously granted by such association or organization. Employees who were members of such organization or association or who were eligible to become members thereof shall thereupon automatically become subject to all the terms imposed by this chapter on contributing employees, except as hereinafter provided.

Any contributor to the retirement fund who theretofore has been a member of and a contributor to any such retirement fund organization or relief association who claims credit for service during the time of such membership, shall be required to pay into the retirement fund an amount equal to the difference between the accumulated amount that would have been contributed under the provisions of this chapter and the accumulated cost of membership in the organization or association, not including permissible refunds.

At the time of retirement of an employee on an allowance, any such employee shall be entitled to receive an allowance, in addition to other allowances, which shall be the actuarial equivalent of the net cost of such former membership.

No employee of any city to which this chapter thereafter applies shall be required to become a member of any retirement fund or relief association or to contribute to any fund established for such purpose except a fund established pursuant to the terms of this chapter.

[1919 c. 522 s. 19] (1442-29)

**422.19 APPLICATION; APPROVAL.** No disability or service allowance shall be granted to any employee who may become eligible for retirement as provided in this chapter until the employee, or one authorized to act in his behalf, shall have filed with the retirement board, in such form as may be prescribed by the

board, an application for such allowance; no instalment of any such allowance shall be paid for any period prior to the effective date of retirement.

The pension board shall be allowed a period of 60 days from and after the filing of the application within which to approve the same and compute the amount of service or disability allowance to which the applicant is entitled. In the event a service or disability allowance is granted the same shall commence with the effective date of the retirement of the person entitled thereto.

[1919 c. 522 s. 20; 1935 c. 146 s. 1] (1442-30)

**422.20 ALLOWANCES NOT ASSIGNABLE OR SUBJECT TO EXECUTION.**

None of the moneys mentioned in this chapter shall be assignable either in law or equity or be subject to execution, levy, attachment, garnishment, or other legal process, nor shall any of the proceeds of payments due under this chapter be subject to the inheritance tax provisions of this state.

[1919 c. 552 s. 21; 1965 c. 754 s. 1] (1442-31)

**422.21 SUPERVISION BY INSURANCE DEPARTMENT.** All organizations in any city in the state to which this chapter applies, existing for the purpose of paying retirement allowances or other benefits to civil employees of such city and all funds from which such allowances are to be paid shall be subject to the supervision of the state department of insurance.

[1919 c. 522 s. 22] (1442-32)

**422.22 ADOPTION OF LAW.** No such pension system shall be effective until it shall have been adopted by three-fifths of the votes of the electors of the city cast at a general or special election.

[1919 c. 522 s. 23; 1925 c. 335 s. 2] (1442-33)

**422.23 CITIES TO WHICH LAW APPLIES.** This chapter shall apply to each city of the state of Minnesota containing more than 50,000 inhabitants, and to each such city in which the people, pursuant to section 422.22, have heretofore adopted or may hereafter adopt and put into operation such pension system.

[1919 c. 522 s. 24; 1925 c. 335 s. 3] (1442-34)

422.24-422.29 [Repealed, 1945 c. 50 s. 1]

**422.30 RETIREMENT OF EMPLOYEES; CREDIT FOR TIME OF SERVICE UNDER DISABILITY.** Where any city of the first class pays a disability allowance to any employee under any provisions of a home rule charter and which provisions require the rendition of services for any specified period immediately preceding the time of retirement to entitle an employee to a retirement allowance, the time during which any such person has heretofore received a disability allowance within such specified period immediately preceding retirement, by reason of any disability arising from an accident occurring in the course of his employment, shall be credited as services with the same force and effect as if he had actually rendered services during such time.

[1927 c. 190 s. 1] (1442-41)

422.31-422.35 [Repealed, 1945 c. 51 s. 1]

422.36 [Repealed, 1945 c. 48 s. 2]

**422.37 RETIREMENT ALLOWANCE; CONTRIBUTING EMPLOYEES; 20-YEAR SERVICE.** Subdivision 1. Any member of the contributing class who becomes permanently separated from the service of any city to which this section applies, after 20 or more years of service for such city may, by an instrument in writing filed with the municipal pension and retirement board within 30 days after such separation becomes permanent, elect to allow his contributions to such fund to the date of separation to remain on deposit in such fund.

Subd. 2. If a member of the contributing class makes the election herein and in subdivision 1 provided for, he, upon attaining the age of 55 years, or someone acting in his behalf, shall make application for such retirement allowance in the manner provided for by section 422.08. In the event such contributing member, after 20 years of service, becomes separated from the city after having attained the age of 55 years, he or someone acting in his behalf shall make the application within the time and in the manner provided for herein. Such retirement allowance shall be the actuarial equivalent of the city's contribution and the member's deposit, as they were on the date the separation becomes permanent, plus interest, as provided for in section 422.11.

Subd. 3. If such contributing member dies before reaching the age of 55 years, or having attained the age of 55 years without having made the election provided for herein, the net accumulated amount of deductions from his or her salary,



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pay or compensation to his or her credit on date of death shall be paid to such person, or persons, as he or she shall have nominated by written designation filed with the retirement board, in such form as the retirement board shall require.

If the employee fails to make a designation, or if the person or persons designated by such employee predeceases such employee, the net accumulated amount of deductions from his or her salary, pay, or compensation, to the credit of such employee on date of death shall be paid to such employee's estate.

The net accumulated city deposits shall be paid to a beneficiary designated by such contributing member in such form as the retirement board shall require, who shall be the surviving spouse, or surviving child, or children of such member; if there be no surviving spouse, or surviving child or children, then to a person actually dependent on and receiving principal support from such member or surviving mother or father, or surviving brother or sister, or surviving children of the deceased brother or sister of such member.

If the beneficiary designated by the member is not one of the class of persons named in the preceding sentence, such benefit from the accumulations of city deposits shall be paid in the following order: (1) to the surviving spouse, the whole thereof; (2) if there be no surviving spouse, to the surviving children, share and share alike; (3) if there be no surviving spouse or child, or children, to the dependent or dependents, as those terms are herein defined, of the member, share and share alike; (4) if there be no surviving spouse, child or children, or dependents, to the surviving mother and father, share and share alike; (5) if there be no surviving mother and father, to the surviving brothers and sisters of the member, in equal shares; (6) and if there be no surviving brothers and sisters, to the surviving children of the deceased brothers and sisters of the member, in equal shares; (7) and if there be no person named in the preceding sentence who survives the member, the accumulation of city deposits shall be canceled. The interest credit accrued from the date of separation to the date of death on such member's deposit shall be withheld and credited to the reserve for loss on investment account.

Subd. 4. Such contributing member may, after electing to receive a retirement allowance as provided herein, make application to withdraw his deposit before reaching the age of 55 years, at which time that portion contributed by the city shall be canceled and one half the interest credited on his deposit on date of separation to date application is made to withdraw such credit shall be withheld and credited to the reserve for loss on investment account of such fund.

Subd. 5. If such deposit is withdrawn before retirement, the retirement rights shall be forfeited unless such employee returns to the service of the city and again becomes a contributing member to the fund and redeposits the amount withdrawn, plus four percent compound interest from date of withdrawal to date of reinstatement to the service of the city.

Subd. 6. If such contributing member, after becoming permanently separated from the service of the city and after electing to receive a retirement allowance as provided herein, becomes totally and permanently disabled for any cause before reaching the age of 55 years, he shall be entitled to receive such retirement allowance before reaching the age of 55 years, upon application to the municipal pension and retirement board and certified by the medical board provided in this chapter. Such retirement allowance shall be the actuarial equivalent of the total credit to his account on the date application for such retirement allowance is made.

[1937 c 52 s 1-6; 1951 c 170 s 1] (1442-51, 1442-52, 1442-53, 1442-54, 1442-55, 1442-56)

422.38 [Renumbered 422.37, subd 2]

422.39 [Renumbered 422.37, subd 3]

422.40 [Renumbered 422.37, subd 4]

422.41 [Renumbered 422.37, subd 5]

422.42 [Renumbered 422.37, subd 6]

**422.422 DISABILITY ALLOWANCES IN CERTAIN CITIES.** In every city of the first class in the state which adopts or has adopted a system of paying pensions or retirement allowances to retired municipal employees pursuant to this chapter, the retirement board in control of such system is hereby authorized to pay a disability allowance to any member of the pension fund who has heretofore made application for disability allowance and, at the time of making application therefor, had reached the age of 61 years, but had not reached the age of 62 years, and who, on such date, had been in the service of the city for 18 years or more,

notwithstanding the employee is unable to procure proof that he is a citizen of the United States, if all of the other conditions necessary to entitle him to the disability allowance have been complied with.

[1941 c 504 s 1]

**422.43 DEATH BENEFITS; DISTRIBUTION.** Subdivision 1. In all cases where the retirement board of any city which has adopted a plan of, and is paying, retirement allowances to employees pursuant to this chapter is required to refund the net accumulated credits of any contributing employee standing to his credit on date of death, or to refund the balance remaining to the credit of a retired employee at the date of his death, who has retired under the Option I plan of retirement, the retirement board shall, at the written request of such employee filed with the retirement board prior to his death, or at the written request of a beneficiary filed with the retirement board after the employee's death, provide for the payment of such credits or balances or any portion thereof in monthly installments until such credits or balances are exhausted; provided that such beneficiary shall be of the class of persons now permitted to receive a sum or sums standing to the credit of the employee at the time of his death.

Subd. 2. The retirement board shall provide for the payment of annual interest on the credits or balances remaining on deposit at the same rate that is paid to contributing employees on accumulated salary deductions.

Subd. 3. Nothing in section 422.43 shall be construed to alter the method of determining the persons entitled to receive such refunds or the amount to be paid.

[1939 c 65 s 1-3] (1442-40a, 1442-40b, 1442-40c)

**422.44** [Renumbered 422.43, subd 2]

**422.45** [Renumbered 422.43, subd 3]

**422.46 LOANS TO CONTRIBUTING MEMBERS.** The retirement board shall have authority to make loans to contributing members of the retirement fund under such rules and regulations as it may adopt, provided, however, that:

1. No loan shall be made to an employee from the date of the adoption of Laws 1959, Chapter 503 to July 1, 1959, which when added to any previous unpaid loan, if any, and the interest and insurance charged thereto, will exceed 50 percent of the employee's accumulated contributions to the retirement fund; provided, that from and after July 1, 1959 to July 1, 1960 no loan as above provided shall exceed 25 percent of the employee's accumulated contributions, and from and after July 1, 1960 no further loans shall be made.

2. No loan shall be made which when added to any previous unpaid loan, if any, and the interest and insurance charged thereto, will require a monthly repayment in excess of ten percent of the borrowing employee's monthly salary in order to repay such loan and the unpaid balance of any previous loan, if any, before the compulsory date of retirement.

3. After the date of the adoption of Laws 1959, Chapter 503, no employee who has made a loan subsequent to March 4, 1955 may make an additional loan until such loan and the unpaid balance of all previous loans and the interest and insurance charged thereto have been paid in full. Thereafter each loan and the interest and insurance charged thereon shall be paid in full before an additional loan may be made.

4. Interest and insurance shall be charged at rates determined by the retirement board for each calendar year, provided such interest rate shall not be less than the rate of interest credited to the employee's deposit accounts at the end of the previous fiscal year, plus one-half of one percent.

5. Repayment of loans shall be made by deduction from the employee's compensation in the same manner and at the same time as deductions are made for credit to the retirement fund, and shall be in addition to such deductions, provided, that the loan deduction shall not be less than the deduction for credit to the retirement fund, subject to being increased as may be required by this act or as may be requested by the borrowing employee.

[1933 c 304 s 1; 1937 c 246 s 1; 1955 c 99 s 1; 1959 c 503 s 6] (1442-49)

**422.47** [Renumbered 423.075]

**422.48 RETIREMENT ALLOWANCES INCREASED.** In any city of the first

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class which has heretofore adopted or which may hereafter adopt a pension system, pursuant to the provisions of this chapter, the retirement board in charge of the operation of such system shall increase the retirement allowances hereafter paid, which have not been increased by legislative act subsequent to January 1, 1949, by 25 percent or \$300 per year, whichever is the lesser.

[1949 c 408 s 1]

## **422.49 METHOD OF COMPUTING AND DETERMINING NOT CHANGED.**

Nothing in sections 422.48 to 422.51 shall be construed to alter the method of computing and determining the amount of the retirement allowances, as provided in this chapter, except that the amount so determined shall be increased by 25 percent or \$300 per year, whichever is the lesser.

[1949 c 408 s 2]

**422.50 COST OF INCREASE DETERMINED IN CONNECTION WITH SECTION 422.13.** The retirement board shall annually determine the amount necessary to defray the cost of such increase and shall include this amount in the statement required by section 422.13, to be submitted to the board of tax levy or other corresponding body, and the council, or other chief governing body of the city, in addition to all other taxes levied by such city, shall annually levy a tax for such purpose. When levied, such tax shall be extended upon the county tax list and collected and enforced in the same manner as other taxes levied by the city are extended, collected, and enforced. The proceeds of such taxes shall be paid into the city treasury to the credit of the retirement fund.

[1949 c 408 s 3]

**422.51 EFFECTIVE TERM OF THIS ACT; REFERENDUM BALLOT.** Subdivision 1. Sections 422.48 to 422.51 shall be effective only from the period of January 1, 1949, to June 30, 1951, except as hereinafter provided, and the increases herein provided shall be effective only in those cities in which the city council or governing body shall approve the increase by a three-fourths vote of all the members of the city council or governing body.

Subd. 2. There shall be submitted to the voters of any city wherein the council or governing body makes increases in accordance with subdivision 1, at the time of the general state election in November, 1950, a green ballot, designated as "Referendum Ballot." Such ballot shall be submitted by such council or governing body, and shall propound the following proposition:

"Shall the increase in the Municipal Employees Pensions granted by the City Council or governing body pursuant to Laws 1949, be continued after June 30, 1951

Yes  
No"

If more than 50 percent of the voters, voting on the proposition, vote in the affirmative, such increase shall continue after June 30, 1951.

[1949 c 408 s 4]

**422.52 RETIREMENT ALLOWANCES INCREASED.** Subdivision 1. **Retirement board shall administer.** In each city of the first class which has heretofore adopted or may hereafter adopt a pension system, pursuant to the provisions of Minnesota Statutes, Chapter 422, and is paying benefits thereunder, the retirement board in charge of the operation of such system shall increase the retirement allowances hereafter paid as follows:

(1) Of those employees on retirement on January 1, 1951, who retired prior to January 1, 1943, by 40 percent, of \$300 per annum, whichever is the lesser;

(2) Of those employees who have retired or shall retire subsequent to January 1, 1943, by 25 percent or \$300 per annum, whichever is the lesser.

Subd. 2. **Limitation of application of certain provisions.** Nothing in this section shall be construed to alter the method of computing and determining the amount of the retirement allowance as provided in Minnesota Statutes, Chapter 422, except the amount provided in subdivision 1 shall be paid in addition to any allowance authorized under chapter 422.

Subd. 3. **Determination of cost of increase.** The retirement board shall an-

nually determine the amount necessary to defray the cost of such percent increase, and shall include the amount so determined in the statement required by section 422.13 to be submitted to the board of tax levy or other corresponding body, and it shall be the duty of the city council, or other chief governing body of such city, in addition to all other taxes levied by such city, to annually levy a tax for such purpose. Such tax, when levied, shall be extended upon the county tax list and collected, and enforced as other taxes levied by such city are extended, collected, and enforced. The proceeds of such taxes shall be paid into the city treasury to the credit of the retirement fund.

Subd. 4. **Retroactive.** The retirement allowances authorized under this section are made retroactive to January 1, 1953.

Subd. 5. **Certain cities affected.** This section shall be effective only as hereinafter provided in those cities where an increase in pensions has been granted as a result of sections 422.48 to 422.51, and the increases provided shall be effective only in those cities in which the city council or governing body shall approve the increase by a two-thirds vote of all members of the governing body.

[1951 c 558 s 1-5; 1953 c 83 s 1-5]

**422.53 MINIMUM AMOUNT WITHHELD, EMPLOYMENT AFTER JULY 1, 1961.** In each city of the first class which has heretofore adopted or may hereafter adopt a pension system pursuant to Minnesota Statutes, Chapter 422, there shall be deducted and withheld from the basic salary, pay, or compensation of each employee becoming a member of the contributing class after July 1, 1961, and thereafter throughout the period of employment a minimum of six percent of such salary, pay, or compensation which sum shall be credited to the employee's account in the retirement fund.

[1961 c 695 s 1]

**422.54 RETIREMENT ALLOWANCES INCREASED.** Subdivision 1. (1) In any city of the first class which has heretofore adopted a retirement allowance system, pursuant to the provisions of Minnesota Statutes, Chapter 422, the retirement board in charge of operating such system shall increase the retirement allowances of employees on retirement on January 1, 1965, by \$1 per month for each year of creditable service, as determined by the retirement board, or \$120 per year, whichever is the lesser, except as hereinafter provided.

(2) The \$1 per month increase provided in this section shall not be paid to any retired employee who, at the time of retirement, was credited by the retirement board with less than 20 years of service.

(3) The \$1 per month increase provided in this section shall not apply to any retired employee whose retirement allowance before the application of the \$1 per month increase provided in this section exceeded \$200 per month, nor shall any retirement allowance when increased by the \$1 per month provided in this section exceed \$200 per month.

(4) The \$1 per month increase provided in this section shall not apply to any retired employee otherwise eligible for the increase if such retired employee is under the age of 65 at the time of adoption of this section unless such retired employee is receiving a disability allowance in accordance with the provisions of Minnesota Statutes, Chapter 422.

Subd. 2. Each eligible retired employee entitled to receive the \$1 per month increase provided for in this section shall make application for such increase in accordance with the provisions of section 356.18. Failure or refusal by any eligible retired employee to make application for the \$1 per month increase provided for in this section shall not be a basis for refusal to pay to such employee any other benefit granted under state or federal law.

Subd. 3. (1) The retirement board shall determine the amount necessary to defray the cost of the increase in retirement allowances provided for in this section and to annually levy a tax therefor. Said levy shall be imposed notwithstanding any law or charter provision imposing a limit on tax levies in such cities. The levy shall be certified to the county auditor of the county in which the retirement system is operating on or before October 30 of each calendar year who shall extend such levy upon the county tax list to be collected and enforced in the same manner as other taxes are extended, collected and enforced.

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(2) The proceeds of such taxes shall be paid into the city treasury of the city in which the system is operating, to the credit of the retirement fund and shall constitute and remain a special fund which shall be used only for the payment of the obligations created by the provisions of this section.

Subd. 4. The payment of the increase in retirement allowances provided for in this section shall be retroactive to January 1, 1965. The retirement board shall be allowed 60 days from the date of the passage of this section to prepare for the payment of the increase in retirement allowances herein provided for.

[1965 c 688 s 1-4]