§ 31. Participation by public or quasi-public organizations. a. Any public or quasi-public organization created wholly or partly or deriving its powers by the legislature of the state and which organization employs persons engaged in service to the public or any state agency as defined in section fifty-three-a of the state finance law, or the New York state association of town superintendents of highways, inc. or any school board association, by resolution legally adopted by its governing body and approved by the comptroller, may elect to have its officers and employees become eligible to participate in the retirement system. Acceptance of the officers and employees of such an employer for membership in the retirement system shall be optional with the comptroller. If he shall approve their participation, such organization, except as specifically provided in this article to the contrary, shall thereafter be treated as a participating employer. Any election made pursuant to this subdivision by a school board association shall be applicable to current employees of such association.

b. The officers and employees of such organization shall be credited with such periods of prior service as shall be certified by their employer for service rendered to it, or its predecessor, or the state, or in any other capacity approved by such employer and the comptroller. Service for such employer after the date on which it commences to participate in the retirement system and on account of which such employer pays contributions shall be considered as member service. An officer or employee of such employer who, as of the date he is so approved for membership in the retirement system, is already a member thereof, shall not have his total credit reduced by such approval. Any reserve held on account of any such officer or employee in the pension accumulation fund shall be used as an offset against the deficiency contribution payable thereafter by such employer on account of such officer or employee for any prior service credit and any such previous credit. Except as otherwise provided in this article, an officer or employee of such employer who, by reason of this service, is a member of any other governmental retirement system shall not participate in this retirement system on that part of his compensation so covered. The term "governmental retirement system", as used in this subdivision, shall include any retirement system wholly or partly maintained by this state,

by a municipality of this state, by another state or political subdivision thereof, by the United States government, or by any foreign country or political subdivision thereof.

c. An agreement, made by such an employer pursuant to this section, to contribute on account of its officers and employees shall be irrevocable. In the event that such employer for any reason becomes financially unable to make the contributions required on account of its officers and employees, it shall be deemed to be in default. A certificate to such effect thereupon shall be sent by the comptroller to the employer and to the state superintendent of financial services. Every member of the retirement system, who was an officer or employee of such employer at the time of default, upon demand made within ninety days thereafter, shall be entitled to discontinue his membership in the retirement system and to a refund of his accumulated contributions. As of a date ninety days following the date of such certificate of default, the actuary of the retirement system, by actuarial valuation, shall determine the amount of the reserves held on account of each active member and pensioner of such employer. He shall credit to each such member and pensioner the amount of reserve so held. In the event such an active member does not discontinue his membership and thus become entitled to the refund of his accumulated contributions, the reserve so credited, together with the amount of his accumulated contributions shall be used to provide for him a paid up deferred annuity beginning at age sixty. The reserve of each pensioner shall be used in providing such part of his existing pension as the reserve so held will provide, which pension, together with his annuity, shall thereafter be payable to him. The rights and privileges of both active members and pensioners of such employer shall thereupon terminate except as to the payment of the deferred annuities so provided for the previous active members and the annuities and the pensions, or parts thereof, provided for the pensioners.

d. Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions or other benefits on account of the officers, employees or pensioners of any employer under this section, for which reserves have not been previously created from

funds contributed by such employer or its officers or employees for such benefits. This provision shall not apply to any municipality which elected to participate in the retirement system under former section seventy-five-a of this law prior to July first, nineteen hundred forty-eight.

e. 1. Any public organization not participating in the retirement system prior to October first, nineteen hundred fifty-three, and which has not provided old-age and survivors insurance coverage for its employees, may, at the time of making election to participate, exclude from eligibility for membership in the retirement system such class or classes of offices or positions for which membership in the retirement system is not made mandatory by this article, as the public organization may specify in the resolution adopted pursuant to subdivision a of this section. Participation by any such public organization which may exclude from eligibility for membership any class or classes of its offices or positions shall not become effective until such public organization shall have entered into an agreement to provide old-age and survivors insurance coverage for such class or classes of offices or positions in the manner and to the extent provided by article three of this chapter.

2. Any public organization participating in the retirement system prior to October first, nineteen hundred fifty-three, may, by the adoption of a resolution in the manner provided in subdivision a of this section and filed with the comptroller prior to the time such public organization makes an agreement to provide old-age and survivors insurance coverage for its employees, elect to exclude from eligibility for membership in the retirement system any class or classes of offices or positions for which membership in the retirement system is not made mandatory by this article. Public notice of the proposed adoption of any such resolution shall be given at least three months prior to the adoption thereof. Officers and employees holding offices or positions in any such excluded class or classes, however, who are members of the retirement system at the time of the filing of such resolution shall continue to be members of the retirement system. Such resolution providing for such exclusion from eligibility for membership shall not become effective, however, until such public organization shall have

entered into an agreement to provide old-age and survivors insurance coverage for the class or classes of offices or positions so excluded from eligibility for membership in the retirement system in the manner and to the extent provided by article three of this chapter.

3. The power to exclude employees from eligibility for membership in the retirement system pursuant to paragraph one or paragraph two of this subdivision e shall terminate on the day after the modification extending the old-age and survivors insurance system to any position covered by such system and held by an employee of a political subdivision of the state (exclusive of one in a police officer's or firefighter's position) is executed.