§ 321. Members' contributions and their use; annuity savings fund. a. The annuity savings funds shall be the fund in which shall be accumulated all contributions made by members to provide for their annuities and their withdrawal allowances.

b. Upon the basis of tables adopted by the comptroller and regular interest, the actuary shall determine the rate of contribution for each member. Such rate shall be computed as the constant proportion of annual compensation which, when deducted from each payment of such member's prospective earnable compensation until he shall attain age sixty, would provide, at that time, an annuity equal to one-one hundred fortieth of his final average salary for each year of member service for which he shall be entitled to credit. This method of computation of a member's rate of contribution shall be appropriately modified in case of a member for whom such a rate is otherwise fixed pursuant to any other section of this article.

c. The rate of contribution of a member who is over age fifty-nine, at the time of his last becoming a member, shall be the same as if his age were fifty-nine.

d. The comptroller shall certify each member's rate of contribution to his employer. Each employer by whom a member is employed shall deduct from the compensation of such member, on each payroll and for every payroll period, the proportion of such member's compensation based upon his rate of contribution. In determining the amount earnable by a member in a payroll period, the comptroller may consider the rate of annual compensation payable to such member on the first day thereof as continuing throughout such period. If an employee was not a member on the first day of a payroll period, deductions from compensation for such period may be omitted. No deductions shall be made from the compensation of a member over age sixty who has credit for at least thirty-five years of government service and who elects to discontinue his contributions to the annuity savings fund. The contributions herein provided shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby.

e. The chief fiscal officer of each employer promptly shall certify and file a copy of each payroll with the comptroller. Each such payroll and certification shall be in a form approved by the comptroller. The comptroller, in his discretion, may waive the requirements of certification and filing as to any particular payroll.

f. Deductions from the compensation of a member shall constitute his contributions. Such contributions shall be remitted promptly to the comptroller. The comptroller shall deposit them in the annuity savings fund and they shall be credited, together with regular interest thereon, and special interest, if any, to the member's individual account in such fund. Regular interest upon accumulated contributions in the annuity savings fund, and special interest, if any, shall be transferred to such fund from the pension accumulation fund at the close of each fiscal year.

g. If a member shall have deposited in the annuity savings fund of the New York state employees' retirement system, before June thirteenth, nineteen hundred thirty-nine, amounts in addition to the contributions then required by law, the same shall be included in his accumulated contributions. Interest thereon, however, shall be credited only at such rate as in the opinion of the comptroller is the prevailing rate of interest allowed on savings bank deposits. A member, at any time, may withdraw such additional amounts and such interest thereon, in whole or in part. The total of such withdrawn amounts may be redeposited by a single payment at any time. If such additional amounts be not withdrawn before retirement, they thereupon shall be used to purchase an annuity on account of such member. Such annuity shall be in addition to the retirement allowance to which he would otherwise be entitled. It shall be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this article.

h. Valuation of maintenance in certain cases.

1. A member of the police and fire retirement system, whose retirement contributions to the New York state employees' retirement system were determined by fixing the value of his or her maintenance at one-half the

cash compensation received by him or her and whose contributions were subsequently reduced by the fixing of a lower value for the same maintenance theretofore furnished, may elect to have his or her contributions computed on the basis of his or her gross compensation as established prior to such reduction in value of maintenance, provided that:

(a) His retirement contributions prior to October first, nineteen hundred forty-three, were based on such higher value of maintenance as determined by the comptroller and his retirement contributions after such date were reduced because of the fixation of such lower value of maintenance, or

(b) His retirement contributions prior to April sixteenth, nineteen hundred forty-six, were based on such higher value of maintenance as determined by the board of supervisors of the county of Monroe and his retirement contributions after such date were reduced because of the fixation of such lower value of maintenance, or

(c) He was employed by the county of Westchester on March twenty-ninth, nineteen hundred forty-eight, his retirement contributions prior to March thirty-first, nineteen hundred forty-seven, were based on such higher value of maintenance and his retirement contributions after January first, nineteen hundred forty-eight, were reduced because of the fixation of such lower value of maintenance, or

(cc) His retirement contributions prior to the initial fixation of the value of his maintenance pursuant to section two hundred one or section two hundred five of the county law, were based on such higher value of maintenance as determined by the comptroller and his retirement contributions after the date of such fixation were reduced because of the fixation of such lower value of maintenance, or

(d) He was employed by the county of Onondaga on April twelfth, nineteen hundred forty-nine, his retirement contributions prior to December fifteenth, nineteen hundred forty-seven, were based on such higher value of maintenance and his retirement contributions after December fifteenth, nineteen hundred forty-seven, were reduced because of the fixation of such lower value of maintenance, or

(e) He was or shall have been employed in a county or city tuberculosis hospital which was or shall have been transferred to the state pursuant to section twenty-two hundred sixty-eight of the public

health law, his retirement contributions prior to such transfer were or shall have been based on such higher value of maintenance and his retirement contributions after such transfer were or shall have been reduced because of the fixation of such lower value of maintenance.

2. Upon filing such election and paying the additional contributions required thereby, such member shall be entitled to have his pension, retirement allowance or other rights and privileges in the retirement system computed in accordance with such gross compensation, provided that:

(a) In a case covered by subparagraph (a) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before April first, nineteen hundred forty-six, and such additional contributions are paid from and after October first, nineteen hundred forty-three, or

(b) In a case covered by subparagraph (b) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before January first, nineteen hundred forty-eight, and such additional contributions are paid from and after April sixteenth, nineteen hundred forty-six, or

(c) In a case covered by subparagraph (c) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before January first, nineteen hundred forty-nine, and such additional contributions are paid from and after March thirty-first, nineteen hundred forty-seven, or

(cc) In a case covered by subparagraph (cc) of paragraph one of this subdivision h, such election was so filed with the comptroller on or before October first, nineteen hundred fifty-five, and such additional contributions are paid from and after the date of the initial fixation of the value of his maintenance pursuant to such subparagraph, or

(d) In a case covered by subparagraph (d) or paragraph one of this subdivision h, such election was so filed with the county auditor on or before November first, nineteen hundred forty-nine, and such additional contributions are paid from and after December fifteenth, nineteen hundred forty-seven, or

(e) In a case covered by subparagraph (e) of paragraph one of this subdivision h, such election is so filed with the comptroller on or

before April first, nineteen hundred fifty, or within one year after the date of such transfer, whichever is later, and such additional contributions are paid from and after the date of such transfer.

3. The gross compensation of such member shall be the amount established on the basis of such higher value of maintenance. Contributions based on such gross compensation shall continue to be made until such member retires or until such election is terminated as provided in paragraph four of this subdivision h.

4. An election made pursuant to paragraph one of this subdivision h shall be terminated if and when the compensation of the member, including cash and the current value of maintenance, shall equal the gross compensation of such member as fixed on the basis of the higher value of maintenance described in such paragraph one, provided that:

(a) In a case covered by subparagraph (a) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the director of the budget pursuant to section forty-two of the civil service law, or

(b) In a case covered by subparagraph (b) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county of Monroe, or

(c) In a case covered by subparagraph (c) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county of Westchester, or

(cc) In a case covered by subparagraph (cc) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of the county, or

(d) In a case covered by subparagraph (d) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the board of supervisors of Onondaga county, or

(e) In a case covered by subparagraph (e) of paragraph one of this subdivision h, such current value of maintenance shall have been determined by the director of the budget pursuant to section one hundred thirty-five of the civil service law.

i. Additional contributions.

1. Any member of the police and fire retirement system, upon forms prescribed and furnished by the comptroller, may elect to make additional contributions at the rate of fifty per centum of his or her rate of normal contribution for the purpose of purchasing additional annuity.

2. Additional contributions made pursuant to this subdivision i shall be included in the member's accumulated contributions, except that in computing a retirement allowance:

(a) For ordinary disability pursuant to section three hundred sixty-two of this article, or

(b) In any other case under this article where the inclusion of such additional contributions in the computation of an annuity would have the effect of decreasing the amount of a pension that otherwise would be payable,

such additional contributions shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity which otherwise would be payable in such case. Such additional annuity shall be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this article.

3. One year or more after the filing thereof, a member may withdraw his election to make additional contributions pursuant to this subdivision i. Such withdrawal shall be by written notice duly acknowledged and filed with the comptroller.

j. Where a member's rate of contribution is reduced because his or her employer contributes toward pensions-providing-for-increased-take-home-pay pursuant to section three hundred seventy-a of this article, such member may by written notice duly acknowledged and filed with the comptroller within one year after such reduction or within one year after he or she last became a member, whichever is later, elect to waive such reduction. One year or more after the filing thereof, a member may withdraw any such waiver by written notice duly acknowledged and filed with the comptroller. Where a

member makes an election to waive such reduction, he or she shall contribute to the police and fire retirement system as otherwise provided in this article.

k. A member in the employ of the state who retires on or after April first, nineteen hundred seventy-three may elect to withdraw his excess contributions at the time of his retirement; provided, however, in the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only to those who retire prior to July first, nineteen hundred seventy-four. Such election shall be duly executed and filed with the comptroller. The term excess contributions shall mean accumulated contributions in excess of the amount thereof necessary to provide the required pension or retirement allowance specified under the plan applicable to the member. In no case shall such withdrawal of contributions result in an increase in the pension benefit. The provisions of this subdivision shall not apply to a member of the state police in collective negotiating units established pursuant to article fourteen of the civil service law.

l. Voluntary contributions. 1. Any member of the police and fire retirement system who is not otherwise required by law to make contributions may elect to make voluntary contributions for the purpose of purchasing additional annuity.

2. Voluntary contributions made pursuant to this subdivision shall be included in the member's accumulated contributions, except that in computing a retirement allowance:

(a) For ordinary disability pursuant to section three hundred sixty-two of this chapter, or

(b) In any other case under this chapter where the inclusion of such voluntary contributions in the computation of an annuity would have the effect of decreasing the amount of a pension that otherwise would be payable,

such voluntary contributions shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity which otherwise would be payable in such case. Such additional annuity shall

be computed on the basis of regular interest and the mortality tables which are used in computing other annuities under this chapter.

3. Any member electing to make such voluntary contributions shall file such election with the comptroller on a form prescribed for such purpose by the comptroller. Such election shall specify a rate of contribution in a whole number percentage no greater than ten percent of the member's salary, such contributions to be remitted to the comptroller by regular payroll deductions from the compensation of the member. The rate of contribution shall be subject to change by the member only once in any twelve month period. These contributions may be withdrawn by the member in accordance with section three hundred fifty-one of this chapter only once in any twelve month period.

4. Any member electing to make such voluntary contributions may withdraw his election to make such contributions at any time and thereby terminate such contributions, provided, however, that such termination of voluntary contributions shall preclude the member from again electing to make such contributions for a period of twelve months.

5. Any member electing to make such voluntary contributions pursuant to this subdivision shall be deemed by such act to have: (a) withdrawn his election to make additional contributions pursuant to subdivisions i and j of this section, and (b) made all his excess contributions in accordance with this subdivision.