**§ 331. Participation by public or quasi-public organizations.** a. Any public or quasi-public organization which heretofore joined the New York state and local employees' retirement system, on behalf of its police officers and firefighters, shall on and after April first, nineteen hundred sixty-seven, participate, on behalf of such police officers and firefighters, in the police and fire retirement system pursuant to the provisions of this article.

b. On and after April first, nineteen hundred sixty-seven, any public or quasi-public organization created wholly or partly or deriving its powers by the legislature of the state and which organization employs police officers and firefighters engaged in service to the public, by resolution legally adopted by its governing body and approved by the comptroller, may elect to have its police officers and firefighters become eligible to participate in the New York state and local police and fire retirement system. Acceptance of the officers and employees of such an employer for membership in the New York state and local police and fire retirement system shall be optional with the comptroller. If he or she shall approve their participation, such organization, except as specifically provided in this article to the contrary, shall thereafter be treated as a participating employer. Notwithstanding the foregoing provisions of this subdivision, The Long Island Rail Road Company, upon its election filed with the comptroller, shall participate in the New York state and local police and fire retirement system with respect to LIRR police officers as defined in paragraph two of subdivision a of section three hundred eighty-nine of this article who are referred to in paragraph three of subdivision b or in paragraph one of subdivision c of section three hundred forty of this article, their benefits to be as provided in or pursuant to such section three hundred eighty-nine, provided that such election may only be made subsequent to the latest date of the enactment of federal legislation or receipt of assurance or relief from the relevant federal agency or agencies for all of the following: removal of such LIRR police officers from coverage under the Federal Employers' Liability Act and the federal Railway Labor Act, removal of such LIRR police officers from coverage under the federal Railroad Retirement Act and the federal Railroad Unemployment Insurance Act and exemption for such LIRR police officers and The Long Island

Railroad Company from liability either for taxes under the federal Railroad Retirement Tax Act or the federal Railroad Unemployment Repayment Tax, and further provided that the authority for such election shall expire and be null and void if each such enactment or receipt is not effected on or before June fifteenth, nineteen hundred ninety-six.

c. 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 police and fire 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 or she is so approved for membership in the police and fire retirement system, is already a member thereof, shall not have his or her 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, a police officer or firefighter of such employer who, by reason of his or her service, is a member of any other governmental retirement system shall not participate in the police and fire retirement system on that part of his or her 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.

The provision in subdivision b of this section limiting participation in the New York state police and fire retirement system by reason of membership in another governmental retirement system shall not diminish or in any other way affect the prior or continual membership in the New York state police and fire retirement system, or any rights or benefits heretofore or hereafter arising therefrom, of any officer or employee of

a public or quasi-public organization who (1) is in the service of such employer at the time this act takes effect, or was in such service prior thereto, and (2) by reason of such service is or was a member of any retirement system maintained by the United States government.

d. 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 police and fire 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 or her membership in the police and fire retirement system and to a refund of his or her accumulated contributions. As of a date ninety days following the date of such certificate of default, the actuary of the police and fire 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 or she 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 or her membership and thus become entitled to the refund of his or her accumulated contributions, the reserve so credited, together with the amount of his or her accumulated contributions shall be used to provide him or her a paid up deferred annuity beginning at age sixty. The reserve of each pensioner shall be used in providing such part of his or her existing pension as the reserve so held will provide, which pension, together with his or her annuity, shall thereafter be payable to him or her. 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.

e. Notwithstanding anything to the contrary, the police and fire

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.