§ 340. Membership of the police and fire retirement system. a. After the effective date of this article, each person who becomes a member of the New York state and local police and fire retirement system shall file a duly executed application with the comptroller. Such application shall contain:

1. A detailed statement of all such person's service, and

2. A statement that he consents and agrees to membership and to the contributions prescribed by this article.

b. Membership in the police and fire retirement system shall be mandatory for the following:

1. Police officers and firefighters now employed or hereafter appointed by an employer.

2. Police officers and firefighters now employed or hereafter appointed by a participating employer in a position in the classified civil service, other than in a position in the exempt class, and who is not eligible to become a member of a local pension system. The employers of such police officers and firefighters shall pay into the pension accumulation fund the amount required to pay the accrued liability on account of such police officers and firefighters, as computed by the actuary. Such payments shall be made in such installments as the comptroller shall require.

* 3. LIRR police officers as defined in paragraph two of subdivision a of section three hundred eighty-nine of this article who become such on or after the effective date of section three hundred eighty-nine of this article.

* NB Effective the first day of the calendar month following receipt by the comptroller of the election by The Long Island Rail Road Company

4. Fire chief-airport, firefighters-airport, and fire captains-airport, employed by Monroe county who enter such employment after their employer has elected participation in the New York state and local police and fire retirement system.

5. Aircraft rescue firefighters employed by the Niagara frontier transportation authority who enter such employment after their employer has elected participation in the New York state and local police and fire retirement system.

c. The following may become members of the police and fire retirement system:

* 1. Police officers and firefighters in the service of a public or quasi-public organization if their employer has elected to participate as provided in section three hundred thirty-one of this article.

* NB Effective until the first day of the calendar month following receipt by the comptroller of the election by The Long Island Rail Road Company

* 1. Police officers and firefighters in the service of a public or quasi-public organization, if their employer has elected to participate as provided in section three hundred thirty-one of this article, including each LIRR police officer as defined in paragraph two of subdivision a of section three hundred eighty-nine of this article who is such on the effective date of such section three hundred eighty-nine and who files an election with the comptroller in accordance with subdivision a of this section within ninety days after the effective date of section three hundred eighty-nine of this article. Such an election by a LIRR police officer shall be effective as of such effective date and shall be a waiver of any and all rights such officer may have had to benefits under any pension plan sponsored by The Long Island Rail Road Company other than the retirement plan provided for in section three hundred eighty-nine of this article.

* NB Effective the first day of the calendar month following receipt by the comptroller of the election by The Long Island Rail Road Company

2. Officers and employees of the federal government who have at least five years of member service credit at the time they become federal officers or employees may continue as contributing members. The provisions of this paragraph shall not affect the membership of officers and employees of the federal government heretofore commenced or continued hereunder, provided, however, that all memberships hereunder

shall be conditioned upon the receipt by the police and fire retirement system of the payments required by section three hundred forty-two of this article.

2-a. Fire chief-airport, firefighters-airport, and fire captains-airport who are employed with the county of Monroe at the time that their employer elects participation in the New York state and local police and fire retirement system. Such employees shall have one year from the date the employer elects to provide such participation to make application for membership in such retirement system and upon filing such an election shall be transferred to the New York state and local police and fire retirement system notwithstanding the provisions of section three hundred forty-three of this title. Upon request for a transfer of credit, the reserve on such member's benefits shall be determined by the actuary and shall be transferred from the appropriate fund of the first system to the appropriate fund of the second system. Monroe county employees transferred pursuant to this paragraph must serve one year under the new plan before they may receive a greater service retirement benefit than they would have received had they not transferred to such new plan.

2-b. Aircraft rescue firefighters employed by the Niagara frontier transportation authority at the time that their employer elects participation in the New York state and local police and fire retirement system. Such employees shall have one year from the date the employer elects to provide such participation to make application for membership in such retirement system and upon filing such an election shall be transferred to the New York state and local police and fire retirement system notwithstanding the provisions of section three hundred forty-three of this title. Upon request for a transfer of credit, the reserve on such member's benefits shall be determined by the actuary and shall be transferred from the appropriate fund of the first system to the appropriate fund of the second system. Notwithstanding the foregoing provisions of this paragraph, the portion of the reserves from the first system that consists of member contributions and applicable interest shall not be refunded and shall not be considered excess contributions, and such portion shall be used toward payment of any past service costs

arising under this section. Niagara frontier transportation authority employees transferred pursuant to this paragraph must serve one year under the new plan before they may receive a greater service retirement benefit than they would have received had they not transferred to such new plan.

3. Notwithstanding any inconsistent provision of subdivision e of this section, or of this chapter or of any other law, an officer or employee in the service of the state or of a participating employer who, at the time of entering such service, was or is entitled to benefits by any other pension or retirement system maintained by the state or a political subdivision thereof, provided such benefits, exclusive of any annuity based solely on his or her own contributions and interest thereon, are suspended during his or her active membership in the police and fire retirement system. He or she shall contribute to the retirement system as a new member.

d. A member, discontinued from police or fire service because the office in which he was employed was transferred to:

1. The federal government, or

2. Any public authority or public corporation organized pursuant to the laws of this state and which is not a participating employer, may file a written election with the comptroller stating that he or she elects to continue as a member. Such election shall be subject to the approval of the comptroller and such continuance shall be conditioned upon the receipt by the police and fire retirement system of the payments required by section three hundred forty-two of this article.

e. Any person who is or may be entitled to benefits by any other law providing for pensions and annuities for civil service employees, wholly or partly at the expense of the state or of a political subdivision thereof, shall not be a member of the police and fire retirement system. This provision, however, shall not:

1. Affect the membership of any person who was a member of the New

York state and local employees' retirement system on April first, nineteen hundred sixty-seven and who became a member of the police and fire retirement system after such date.

2. Exclude from membership any person paid a salary from two or more sources, each of which entitles him to membership in a retirement system.

3. Exclude from membership any person holding office pursuant to appointment by the governor by and with the advice and consent of the senate, who at the time of such appointment would otherwise be entitled to a retirement allowance wholly or partly at the expense of the state or of a political subdivision thereof.

4. Exclude from membership any person who is or may become eligible for old-age and survivors insurance benefits pursuant to the provisions of this chapter except where his position was or is excluded from eligibility for membership in this retirement system in order to extend old-age and survisors insurance coverage to it and such eligibility shall not have been restored.

f. Termination of membership. Membership in the police and fire retirement system shall cease upon the occurrence of any one of the following conditions:

1. When seven years have elapsed since a member has performed police and/or fire service provided, however, that no part of such seven year period shall run during such time as a member, with at least five years of member service credit, shall serve as an officer or employee of the federal government or the United Nations or other international organizations of which the United States of America is a member.

2. When a member shall die.

3. When a member shall retire.

4. When a member shall have withdrawn all or part of his accumulated

contributions. Acceptance by a member of a refund of excess contributions pursuant to the provisions of any section of this article or borrowing from his fund in the retirement system pursuant to section three hundred fifty of this article shall not terminate his membership. Acceptance of such a refund of excess contributions by a member entitled to a vested retirement allowance pursuant to section three hundred seventy-six of this chapter shall not terminate his right to such vested retirement allowance nor shall acceptance by him of a refund of the amount of his contributions and regular interest thereon which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution terminate his right to such vested retirement allowance.

5. When a member who has not attained eligibility for a retirement allowance or a vested retirement allowance has discontinued service with the state or a participating employer for a period of at least thirty consecutive days and has requested termination of membership on a form prepared by the comptroller for such purpose by filing such form with the comptroller. If such person subsequently rejoins the retirement system within five years from the date he discontinued service with the state or a participating employer, such person shall be entitled to every retirement right, benefit and privilege which would have been available to him had he reentered employment on the date of such discontinuance from service.

g. As to any class of persons whose compensation is only partly paid by the state or a participating employer or who are serving on a temporary or other than per annum basis, the comptroller in his discretion, may:

1. Deny the right to become members, or

2. Make optional the individual entrance of those whose membership otherwise would be mandatory.