§ 381. Retirement of members in the division of state police; closed plan. a. Any member in the division of state police in the executive department who elected on or before January first, nineteen hundred forty-nine, to contribute to the New York state employees' retirement system pursuant to the provisions of former section eighty-one of this chapter in force prior to April first, nineteen hundred sixty-seven, shall contribute to the police and fire retirement system on the basis of retirement upon his or her:

1. Completion of twenty-five years of total service in such division, or

2. Attainment of age sixty in the service of such division, if prior thereto,

on an allowance of one-fiftieth of his final average salary for each year of total service in such division not in excess of twenty-five years, provided such election was in writing and duly executed and filed with the comptroller.

b. Every employee who entered or re-entered service in the division on or after April sixteenth, nineteen hundred thirty-eight, and before July first, nineteen hundred fifty-four, shall contribute on the basis provided for by this section. Every employee who entered or re-entered service in such division on or after July first, nineteen hundred fifty-four and before May first, nineteen hundred sixty-one, and who, at such time undertakes employment therein:

1. As a member or officer of the state police shall contribute on the basis provided for by this section and, (in addition to credit pursuant to subdivision g of this section and for service in war after world war I, as defined in section three hundred two of this article, credited as service as such a member or officer), only credit for service as a member or officer of the state police shall be included in computing years of state police service for retirement pursuant to this section.

2. Other than as a member or officer of the state police, shall not contribute on the basis provided for by this section and shall not be

eligible to the benefits of this section on the basis of service so rendered.

c. Subject to the provisions of subdivisions a and b of this section, every employee in the service of such division who is not a member of the police and fire retirement system may elect to become a member. He or she thereupon shall contribute to the retirement system under the provisions of this section and be entitled to benefits as provided in this section. No such employee, however, shall be given credit for service rendered prior to April sixteenth, nineteen hundred thirty-eight, unless he or she became a member of the state employees' retirement system on or before January first, nineteen hundred forty-nine. Any such employee who becomes a member on or before January first, nineteen hundred forty-nine, shall be entitled to credit for past service in the division as if he or she had become a member when first eligible. Such employee, however, shall pay the contributions he or she would have made prior to such date had he or she been a member during such service. The amount of such contributions shall be paid in a lump sum or in such installments as the comptroller shall approve. In lieu of such payment, however, such employee may receive on retirement the benefit otherwise provided by this section, less such annuity as is the actuarial equivalent of such unpaid contributions.

d. A member who elected or is required to contribute in accordance with this section, shall contribute, in lieu of the proportion of compensation as provided in section three hundred twenty-one of this article, a proportion of his compensation similarly determined. Such latter proportion shall be computed to provide, at the time when he shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his final average salary for each year of service as a member rendered after April sixteenth, nineteen hundred thirty-eight, and prior to the attainment of the age when he shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section three hundred seventy-a of this article for such period of time as his employer contributes pursuant to such section toward pensions-providing-for-increased-take-home-pay provided, however,

that such member may by written notice duly acknowledged and filed with the comptroller make an election to waive such reduction as provided by subdivision j of section three hundred twenty-one of this article. One year or more after the filing thereof, a member may withdraw any such election by written notice duly acknowledged and filed with the comptroller. No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service in such division, or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, on retirement, a retirement allowance consisting of:

1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, plus

2. A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may then be entitled, if any, plus

3. A pension of one-one hundredth of his final average salary for each year of service rendered:

(a) Since he last became a member, and

(b) Prior to the completion of twenty-five years of total service in the division, and

(c) Toward which he and his employer have contributed under this section, plus

4. An additional pension of one-fiftieth of his final average salary, multiplied by the number of years of total service in such department prior to April sixteenth, nineteen hundred thirty-eight. This pension shall be payable only if such member has had one or more years of service as a member. The computation of this pension shall be subject to the further conditions that:

(a) The service rendered prior to April sixteenth, nineteen hundred thirty-eight, shall be limited so that the total service in such division used as a basis for pension credit under this paragraph four and paragraph three of this subdivision e shall not exceed twenty-five years, and

(b) The amount of the additional pension payable pursuant to this paragraph four shall not exceed the amount needed to increase the total amount of the benefits provided under paragraphs one and three of this subdivision e to one-half of the final average salary, plus

5. An additional pension equal to the pension for any creditable service rendered while not an employee of the division as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service in the division for which he receives credit under this article, and

(b) Not increase the total allowance to more than he would have received had his total service been rendered in the division.

f. The increased pensions to members of the division, as provided by this section, shall be paid from additional contributions made by the state on account of such members. The actuary of the police and fire retirement system shall compute the additional contribution of each member who elects the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the police and fire retirement system for such extra pensions. Upon approval by the comptroller, such additional contributions shall be certified by him or her to the superintendent of state police. The amount thereof shall be included in the annual appropriation of the state for state police. Such amount shall be paid on the warrant of the comptroller to the pension accumulation fund of the retirement system.

g. In computing the twenty-five years of completed service of a member in the division, full credit shall be given and full allowance shall be

made for service of such member in time of war and service with the American expeditionary forces subsequent to November eleventh, nineteen hundred eighteen, and prior to June thirtieth, nineteen hundred nineteen, of honorably discharged officers, soldiers, sailors, marines and army nurses, who were actual residents of the state at the time of their entry into the military service of the United States, and the service of members of the national guard in the military service of the United States of America pursuant to the call of the president for Mexican border service.

h. The provisions of this section shall be controlling notwithstanding any provision in this chapter to the contrary.

i. Notwithstanding any provisions of subdivision b of this section to the contrary, an employee who is required to contribute in accordance with this section, but is not a member of the state police, may, on or before March thirty-first, nineteen hundred seventy-three, elect to come under the provisions of section seventy-five-h of this chapter. Such election shall be duly executed and filed with the comptroller.