§ 385. Retirement of members in the Nassau county police department. a. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

1. "County." Nassau county.

2. "Department." The county police department.

3. "Total service in such department." Service in the department, the police department or police force of any town, village or police district in the county, in the office of the sheriff of Nassau county prior to April sixteen, nineteen hundred twenty-five, as a Long Island state park patrolman, or in the division of state police in the state executive department.

b. Any member in the department, including the commissioner of police, who so elected, on or before January first, nineteen hundred forty-eight, to contribute to the New York state and local employees' retirement system pursuant to the provisions of former section eighty-five of this chapter in effect 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 department, or

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

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

c. Every employee who entered or re-entered service in the department on or after May sixth, nineteen hundred forty-six, and before January first, nineteen hundred forty-eight, shall contribute on the basis

provided for by this section. Employees who entered or re-entered service in the department on and after January first, nineteen hundred forty-eight but prior to January first, nineteen hundred sixty-six:

1. As members of the police force shall contribute on the basis provided for by this section.

2. Other than as members of the police force, shall not be eligible to the benefits of this section.

d. Subject to the provisions of subdivisions b and c of this section, every employee in the service of such department 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 police and fire 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 May sixth, nineteen hundred forty-six, unless he or she became a member of the New York state and local employees' retirement system on or before January first, nineteen hundred forty-eight and has subsequently become a member of the police and fire retirement system. Any such employee who became a member of the New York state and local employees' retirement system, on or before January first, nineteen hundred forty-eight, and has subsequently become a member of the police and fire retirement system shall be entitled to credit for past service in the department 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.

e. A member, who elects 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 esrvice as a member rendered after May sixth, nineteen hundred forty-six, 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.

f. 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 department, 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 department, 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 May sixth, nineteen hundred forty-six. 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 May sixth, nineteen hundred forty-six, shall be limited so that the total service in such department used as a basis for pension credit under this paragraph four and paragraph three of this subdivision f 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, two and three of this subdivision f 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 department 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 department 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 department.

6. In the event a member shall continue in service after twenty-five years of total creditable service in the department there shall be added to his pension upon retirement a sum equal to one-sixtieth of his final average salary for each completed additional year of service after twenty-five years.

7. An additional pension, if required, of such amount as shall be necessary to increase the total amount of the benefits provided by paragraphs one, two, three, four and five of this subdivision f, to one-half of his final average salary. The pension provided by this paragraph shall be payable only if a member retires from service prior to attaining age fifty-nine, provided, however, that in the case of any member who has attained the age of fifty-nine on or before September first, nineteen hundred sixty-eight, to be eligible for the additional pension provided by this paragraph, his service shall be terminated and he shall be retired on or before December thirty-first, nineteen hundred sixty-eight. For the purpose of determining the amount of pension provided in this paragraph, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan if it were not increased by the actuarial equivalent of any additional contributions and if it were not reduced by reason of the member's election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

g. The increased pensions to members of the department, as provided by this section, shall be paid from additional contributions made by the county on account of such members. The actuary of the police and fire retirement system shall compute the additional contribution for 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 county executive of the county. The amount thereof shall be included in the annual appropriation of the county for county police. Such amount shall be paid on the warrant of the county comptroller to the pension accumulation fund of the police and fire retirement system. Every member entering or re-entering the department on and after May sixth, nineteen hundred forty-six, shall retire on the first day of the calendar month next succeeding his or her attainment of age fifty-nine.

h. In computing the twenty-five years of completed service of a member in the department, 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 dischargd 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 call of the president for Mexican border service.

i. Upon retirement of any member pursuant to this section, any additional amounts credited to the member's annuity savings account pursuant to subdivision b of section three hundred thirty of this article shall be treated as excess contributions and shall be used to provide an annuity in addition to the annuity prescribed by this section. Any other amounts credited to the member's annuity savings account, except the amounts contributed or required to be contributed under this section and except such amounts as are required to produce the retirement allowance provided by subdivision f of this section, may at the option of the member at the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

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