§ 386. Retirement of members in the Westchester county department of public safety services; closed plan. 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." Westchester county.

2. "Department." Prior to July first, nineteen hundred seventy-nine, the Westchester county parkway police force; on or after July first, nineteen hundred seventy-nine, the Westchester county department of public safety services.

3. "Service in such department." Full time police duty as an officer or member of such department, or the police department or police force of any city, town, village or police district in the county, or in the division of state police in the state executive department.

b. Any member in service in such department on January first, nineteen hundred fifty-eight, who elected, on or before July first, nineteen hundred fifty-eight, to contribute to the New York state employees' retirement system pursuant to the provisions of former section eighty-six 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 service in such department, or

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

on all allowance of one-fiftieth of his final average salary for each year of 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. On or after January first, nineteen hundred fifty-eight, but prior to July first, nineteen hundred seventy, employees entering or re-entering service in such department:

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. 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 service as a member rendered on and after January first, nineteen hundred fifty-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 creditable service in such department or upon attainment of age sixty, if prior thereto, by filing an application therefore in a manner similar to that provided in section three hundred seventy of this article. He thereupon shall receive, upon 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 service in such 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 service in such department prior to January first, nineteen hundred fifty-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 shall be limited so that the service in such department 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, two 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 such 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 such 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 such department.

f. The increased pensions to members of such 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 the 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 the Westchester county parkway police force. Such amount shall be paid on the warrant of the county department of finance to the pension accumulation fund of the police and fire retirement system.

g. In computing the twenty-five years of completed service in such department, full credit shall be given and full allowance shall be made for service of such member in war after world war I as defined in section two of this article, provided such member at the time of his entrance into the armed forces was in service in such department, and for service in time of war during world war I 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 and marines who were actual residents of the state at the time of their entry into the military service of the United States.

h. 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 e of this section, may at the option of the member of the time of retirement be withdrawn or used to provide an annuity in addition to the annuity prescribed by this section.

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