

invalid provision or application and to this end the provisions of this act are declared to be severable.

Approved July 23, 1947.

No. 518, S.]

[Published July 28, 1947.

CHAPTER 440.

AN ACT to repeal and recreate chapter 423, laws of 1923, section 1. 3 (as amended by chapters 359 and 377, laws of 1935) and 13 (a); to amend chapter 423, laws of 1923, section 1. 7 (e), 12 (Introductory paragraph), 16, 19, 21, 24, 48, 50 (c), (f), (g) and (h), 51 (b) and (h) (Introductory paragraph), 53 (a), 59 (e) (1) and (2) and 59 (l) (1); and to create chapter 423, laws of 1923, section 1. 13 (h), (i) and (j), 14 (c), 59 (e) (4), 60 (g), 66 (e) and (f), and 67; relating to the creation, establishment, maintenance and administration of annuity and benefit funds in cities of the first class, for the benefit of firemen employed by such cities, and of the widows and children of such firemen.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Chapter 423, laws of 1923, section 1, 3 (as amended by chapters 359 and 377, laws of 1935) is repealed and recreated to read:

(Chapter 423, Laws of 1923) Section 1. 3 (a) In each such city, a board composed of 7 members shall constitute a board of trustees authorized to carry out the provisions of this section and charged with the duty of administering the annuity and benefit fund herein provided for. Said board of trustees shall be known as the "Retirement Board of the Firemen's Annuity and Benefit Fund of " which board is hereinafter referred to as the "Retirement Board."

(b) The said retirement board shall consist of the following: One member who shall be a person appointed by the mayor of such city; 3 members who shall be firemen employed in such city; 2 members who shall be annuitants or pensioners of the said fund and elected at least 30 days prior to December 1 of each election year by the vote of the annuitants and pensioners of said fund who shall be over the age of 21; and the city treasurer of such city whose alternate shall be his deputy.

(c) Within 30 days from and after the date upon which this section shall come into effect in such city, and also at a time not less than 30 days prior to the end of each succeeding 4-year term thereafter, the mayor of such city shall appoint a person to serve as a member of said retirement board for a period of 4 years and until his successor shall have been appointed and shall have qualified.

(d) Within 30 days from and after the date upon which this section shall come into effect in such city, the mayor of such city shall arrange for and hold an election, at which all firemen employed by such city at the time such election shall be held (including those on vacation and those on leave of absence) and all annuitants of any "firemen's pension fund" in operation, by authority of law, in such city at the time this section shall come into effect in such city, shall have a right to vote, and at which the ballot shall be of secret character, for the election of 3 members of said retirement board who shall be firemen employed by such city. At such election one such fireman shall be elected for a term which shall end on December 1 of the third year after the year in which this section shall come into effect in such city, one for a term which shall end on December 1 of the second year after the year in which this section shall come into effect in such city, and one for a term which shall end on December 1 of the first year after the year in which this section shall come into effect in such city. Thereafter, the retirement board shall conduct regular elections annually, under rules to be adopted by it, at least 30 days prior to the date of expiration of the terms of the elective member whose term shall next expire, for the election of a successor to such member, which successor shall be a fireman employed by such city or a person in receipt of duty disability benefits or ordinary disability benefits from the annuity and benefit fund herein provided for. Each such successor shall be chosen for a term of 3 years. Each member elected as aforesaid shall continue in office until his successor shall have been elected and shall have qualified. At all such elections all firemen employed by such city at the time any such election shall be held (including those on vacation and those on leave of absence) and all persons in receipt of duty disability or ordinary disability benefits from the annuity and benefit fund herein provided for, by authority of law, in such city at the time such election shall be held, shall have a right to vote, and the ballot shall be of secret character.

(e) The annuitant or pensioner members elected by authority of law prior to January 1, 1948, whose terms of office shall not have expired on said day, shall be members of the retirement board for the terms for which they were elected. At least 30 days prior to December 1, 1948, and at least 30 days prior to December 1 of each year thereafter, the retirement board shall arrange for and hold an election for the election of a successor to the member whose terms shall next expire, which successor shall be an annuitant or pensioner of the annuity and benefit fund herein provided for, to be elected by annuitants and pensioners of said fund who are over the age of 21 years. Any person so elected shall hold office for a term of 2 years and until his successor shall be elected and shall have qualified.

(f) Any person appointed or elected as aforesaid shall qualify for the office of member of said retirement board by taking an oath of office. Said oath shall be administered by the city clerk of such city and a copy thereof shall be kept in the office of said city clerk. The said appointive member may be removed from office by the mayor of such city. Any member of said retirement board, elected as aforesaid from among the firemen employed by such city or persons in receipt of duty disability or ordinary disability benefits, who shall leave the fire service of such city, shall automatically cease to be a member of said retirement board.

(g) If a vacancy shall occur in the membership of said retirement board owing to the death, resignation or any other cause, said vacancy shall be filled as follows: In case the vacant membership be that of the appointee of the mayor of such city, the said mayor shall appoint a person to serve during the remainder of the unexpired term. In case the vacant membership be of elective character, a successor of the member whose position shall have become vacant shall be elected to serve during the remainder of the term for which such former member was elected, at a special election which shall be held by the retirement board within 60 days from the date when such vacancy shall occur, and shall be conducted in the same manner with the same classes of voters and the same eligibility for membership on the retirement board as apply in cases of regular annual elections. Any person so appointed and any person so elected shall qualify for office by taking an oath of office, as aforesaid.

SECTION 2. Chapter 423, laws of 1923, section 1, 7 (e) is amended to read:

(Chapter 423, Laws of 1923) Section 1. 7 (e) Invest the moneys of said annuity and benefit fund in interest bearing bonds or notes of the United States, or of the state of Wisconsin, or of any county of the state of Wisconsin, or of any city, village, town or municipal corporation in said state and in tax sale certificates of any city of the first class, in which case the board shall be vested with the same rights as other purchasers. Any bond purchased by the said retirement board shall be registered in the name of the annuity and benefit fund herein provided for. Whenever investment shall be made in tax sale certificates of the city of Milwaukee the city treasurer shall repurchase all certificates which the board may desire to sell upon proper assignment being made. The board may also invest its funds in any short term notes issued by any city of the first class and further has the authority to organize as a redevelopment corporation under sections 66.405 and 66.406 of the Wisconsin statutes and invest therein not more than 10% of its admitted assets.

SECTION 3. Chapter 423, laws of 1923, section 1. 12 (Introductory paragraph) is amended to read:

(Chapter 423, Laws of 1923) Section 1. 12. (Introductory paragraph). Beginning in the year in which this section shall come into effect in such city, the common council of such city shall levy a tax annually, which tax shall be in addition to all other taxes such common council has heretofore been authorized by law to levy, upon all taxable property, real and personal, in such city at the rate on the dollar of the assessed valuation of all such taxable property that will produce a sum which, when added to the amounts deducted from the salaries of the firemen included under the provisions of this section and applied to the annuity and benefit fund herein provided for, will be sufficient for the purposes of said fund in accordance with the provisions of this section. The said annual tax shall be levied and collected at the same time and in the same manner as the other city taxes of such city are levied and collected according to law and shall not exceed * * * *three-fourths* of a mill on the dollar of the assessed valuation of all taxable property in such city.

SECTION 4. Chapter 423, laws of 1923, section 1, 13 (a) is repealed and recreated to read:

(Chapter 423, Laws of 1923) Section 1. 13 (a) "Fireman": Any person who is or shall be employed by the fire department of such city, even though such person does not perform the duties of a fireman and even though the duties of such person are not hazardous. The term "fireman" shall include the terms "member" and "employee" of the fire department. Emergency employes shall not be included. Any person who has been a contributor, participant, member, annuitant or beneficiary in said fund no matter what such person's duties in the fire department heretofore have been, shall be considered a fireman within this definition.

SECTION 5. Chapter 423, laws of 1923, section 1, 13 (h), (i) and (j), are created to read:

(Chapter 423, Laws of 1923) Section 1. 13 (h) "Annuity" shall mean annual payments for life. All annuities shall be paid in equal monthly installments. When the annuity begins after the first day of the month or ends before the last day of the month the pro rata amount shall be paid for that month.

(i) "Accumulated sum" or "sum accumulated" shall mean the total amount credited to a fireman from deductions made from his salary or from sums contributed or to be contributed by the city together with regular interest and held for his benefit to produce annuities in accordance with this act.

(j) "Pensioner": Any person receiving monthly payments in accordance with the provisions of subsection 55 of this chapter.

SECTION 6. Chapter 423, laws of 1923, section 1, 14 (c) is created to read:

(Chapter 423, Laws of 1923) Section 1. 14 (c) At the end of each year the board may, upon advice of the actuary, transfer amounts accumulated in the various funds provided by this act to the annuity payment fund described in subsection 59 (e) to be used for the purposes described in said subsection 59 (e).

SECTION 7. Chapter 423, laws of 1923, section 1, 16 is amended to read:

(Chapter 423, Laws of 1923) Section 1. 16. Annuity to be known as "Age and Service Annuity," shall be provided for future entrants and for present employes. Except as provided

in subsection 61 * * *, any such annuity shall consist of * * * payments for life. * * * *Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13.*

SECTION 8. Chapter 423, laws of 1923, section 1, 19 is amended to read:

(Chapter 423, Laws of 1923) Section 1. 19. Annuity to be known as "Prior Service Annuity" shall be provided for present employes in addition to age and service annuity. Except as provided in subsection 61 * * *, any such annuity shall consist of * * * payments for life. * * * *Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13.*

SECTION 9. Chapter 423, laws of 1923, section 1, 21 is amended to read:

(Chapter 423, Laws of 1923) Section 1. 21. Annuity to be known as "Widow's Annuity," shall be provided for widows of future entrants and of present employes. Subject to the provisions of subsections 41 and 61 * * *, any such annuity shall be a life annuity, and * * * payments thereof shall be made * * * throughout the life of the annuitant from and after the date when the event upon which payment of such annuity shall depend shall occur. * * * *Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13.*

SECTION 10. Chapter 423, laws of 1923, section 1, 24 is amended to read:

(Chapter 423, Laws of 1923) Section 1. 24. Annuity, to be known as "Widow's Prior Service Annuity" shall be provided for the widow of each present employe in addition to widow's annuity. Subject to the provisions of subsections 41 and 61 * * *, any such annuity shall be a life annuity, and * * * payments thereof shall be made * * * throughout the life of the annuitant from and after the date when the event upon which payment of such annuity shall depend shall occur. * * * *Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13.*

SECTION 11. Chapter 423, laws of 1923, section 1, 48 is amended to read:

(Chapter 423, Laws of 1923) Section 1. 48. Annuity to be

known as "child's annuity" shall be provided for children of firemen. Any such annuity shall be payable * * * from and after the date of the death of the fireman parent of any such child until the annuitant shall attain an age of 18 years. * * * *Any such annuity shall be computed and paid in accordance with the provisions relating to "Annuity" in subsection 13.*

SECTION 11A. Chapter 423, laws of 1923, section 1, 50 (c), (f), (g) and (h) are amended to read:

(Chapter 423, Laws of 1923) Section 1. 50. (c) Any fireman less than 57 years of age, and any fireman 57 or more years of age who shall not have completed * * * 25 years of service, who shall become disabled subsequent to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, as the direct result of injury incurred in the performance of one or more specific acts of duty, shall have a right to receive duty disability benefit during the period of such disability of an amount equal to 55 per cent of his salary as it shall be at the time of such injury. Any such fireman shall also have a right to receive child's disability benefit of amounts of \$10 a month on account of each child (the issue of such fireman) less than 18 years of age; provided, the total amount of child's disability benefit which shall be granted or paid to any such fireman shall not exceed 20 per cent of the salary, as aforesaid, of such fireman. Such benefit or benefits shall be paid to such disabled firemen periodically according to rules concerning such benefits to be adopted by the retirement board.

(f) Duty disability benefit shall be paid to any fireman, disabled as aforesaid, during any period of such disability until such disabled fireman shall have become 57 years of age if such fireman shall have completed * * * 25 years of service at that time, or until the end of the * * * 25th year of such fireman's service if such fireman shall not have completed * * * 25 years of service at the time he shall have attained an age of 57 years, and child's disability benefit shall be paid to any such fireman who shall be the parent of any child or children (the issue of such fireman) less than 18 years of age, during all or any part of *any* such period of time until such child or children of such fireman shall attain an age of 18 years.

(g) When any fireman so disabled shall become 57 years of age, or shall complete * * * 25 years of service subsequent to

attainment of such age, as aforesaid, such disability benefit or benefits shall cease and such disabled fireman shall thereafter receive such annuity or annuities as are provided for him in accordance with other provisions of this section.

(h) No fireman who shall have become 57 or more years of age who shall have been in the service * * * 25 or more years shall have a right to receive duty disability benefit or child's disability benefit.

SECTION 12. Chapter 423, laws of 1923, section 1, 51 (b) and (h) (Introductory paragraph) are amended to read:

(Chapter 423, Laws of 1923) Section 1. 51. (b) Any fireman less than 57 years of age, and any fireman 57 years or more of age who shall not have completed * * * 25 years of service, who shall become disabled, subsequent to the first day in the month of January of the first year after the year in which this section shall come into effect in such city, as the result of any cause other than injury incurred in the performance of one or more specific acts of duty, shall have a right to receive ordinary disability benefit during any period or periods of any such disability * * * which shall not extend beyond the date when such fireman shall have completed at least * * * 25 years of service upon attainment of such age or beyond the * * * 25th year of service of such fireman if such fireman shall have completed * * * 25 years of service after attainment of the age of 57 years * * * and which shall not exceed, in the aggregate, throughout the entire period of such fireman's service a period of time equal to one-fourth of the entire period of service rendered by such fireman in the service of such city prior to the time he shall have become so disabled, and which shall not exceed 5 years in any case. In computing any such entire period of service, any period of time during which such fireman shall have received ordinary disability benefit under the provisions of this section shall not be included for the purposes of this section.

(h) (Introductory paragraph). To provide ordinary disability benefit, contributions shall be made by all firemen less than 57 years of age, and all firemen 57 or more years of age who shall not have completed * * * 25 years of service, and by the city as follows:

SECTION 13. Chapter 423, laws of 1923, Section 1, 53 (a) is amended to read:

(Chapter 423, Laws of 1923) Section 1. 53 (a) Notwithstanding any other provisions of this section, whenever any fireman who shall have served * * * less than 20 years, exclusive of any period of disability during which such fireman shall have received ordinary disability benefit under the provisions of this section shall be disabled, as the result of any cause other than injury incurred in the performance of one or more specific acts of duty, for a period or periods of time aggregating in excess of one-fourth of the entire term of such service rendered by such fireman and whenever any fireman who shall have served 20 or more years, exclusive of any period of disability during which such fireman shall have received ordinary disability benefit under the provisions of this section, shall be so disabled for a period or periods of time aggregating in excess of 5 years and such fireman shall resign or be discharged from the service while still so disabled and before he shall have * * * served for a period or periods of time aggregating 20 years exclusive of any period of disability, such fireman shall have the right to receive annuity from and after the date of such resignation or discharge from the service of such amount as can be provided from the sum to the credit of such fireman on the date of such resignation or discharge, for age and service annuity purposes if such fireman shall be a future entrant, or for age and service annuity and prior service annuity purposes if he shall be a present employe. Any such annuity shall be computed as of the age of the fireman concerned on the date of his resignation or discharge from the service.

SECTION 14. Chapter 423, laws of 1923, section 1, 59 (e) (1) and (2) are amended to read:

(Chapter 423, laws of 1923) Section 1. 59 (e) Annuity payment fund:—(1) All amounts of money which shall be taken from the city contribution fund and from the salary deduction fund for the purpose of paying annuities which shall have been fixed, also all amounts which shall be deducted from the salary of any fireman after the amount of age and service annuity for such fireman shall have been fixed, also all amounts which shall be transferred to this fund from *the expense fund, the ordinary disability fund, the investment and interest fund, and under the provisions of subsection 66*, shall be placed in this fund.

(2) All age and service annuities and all widow's annuities shall be paid from this fund. * * *

SECTION 15. Chapter 423, laws of 1923, section 1, 59 (e) (4) is created to read:

(Chapter 423, Laws of 1923) Section 1. 59 (e) (4) If at the end of any calendar year the assets of the annuity payment fund shall be in excess of the amount of liabilities of said fund by 15 per cent of such amount of liabilities, the amount of such excess shall be transferred to the investment and interest fund described in subdivision (1) to be used for the purposes prescribed in said subdivision (1).

SECTION 16. Chapter 423, laws of 1923, section 1, 59 (1) (1) is amended to read:

(Chapter 423, Laws of 1923) Section 1. 59 (1) * * * Investment and interest fund: —(1) All gains from investments and all interest earnings shall be paid into a fund to be known as the investment and interest fund. *Also, all moneys which shall be transferred from the annuity payment fund, described in this subsection, and the moneys which shall be transferred under the provisions of subsection 56 shall be placed in this fund.* All losses from investments shall be charged to this fund. From this fund shall be transferred all amounts due in interest upon balances existing in the city contribution fund, the salary deduction fund, the prior service annuity fund, and the gift fund.

SECTION 17. Chapter 423, laws of 1923, section 1, 60 (g) is created to read:

(Chapter 423, Laws of 1923) Section 1. 60 (g) Notwithstanding the provisions of any other subsection of this section, no fireman who enters the service after age 32 shall receive an annuity amounting to more than 50 per cent of his final 5 year average earnable salary.

SECTION 18. Chapter 423, laws of 1923, section 1, 66 (e) and (f) are created to read:

(Chapter 423, Laws of 1923) Section 1. 66 (e) From and after January 1, 1948 there shall be deducted and contributed to the annuity and benefit fund herein provided for, 3 per cent of each payment of salary of each fireman from whose salary no further age and service annuity deductions are required under the remaining subsections of this section, and one-eighth of one per cent from each payment of the salary of each fire-

man from whose salary no further deductions for expense of administration purposes are required under the remaining subsections of this section. Such deductions shall be made at the times such payments of salary shall be made and shall be continued while such fireman shall be in the service.

(f) Of the amounts deducted from salaries as prescribed in subdivision (e) the 3 per cent deductions required from and after the dates when no further deductions shall be required for age and service annuity purposes shall be placed in the annuity payment fund described in subsection 59 (e) to be used for the purposes described in said subsection 59 (e), and the one-eighth of one per cent deductions required from and after the dates when no further deductions for expense of administration purposes are required shall be placed in the expense fund described in subsection 59 (b) to be used for the purposes described in said subsection 59 (b).

SECTION 19. Chapter 423, laws of 1923, section 1, 67 is created to read:

(Chapter 423, Laws of 1923) Section 1. 67. Firemen and other fire department employes have been attracted to and have remained in service despite ability to receive higher wages and salaries in other employment because of the deferred compensation for their services promised to them in the form of retirement annuities and death benefits in retirement systems of which they have been contributing members. The purpose of creation of this subsection is to strengthen the fire service in cities of the first class by establishing the security of annuities and all other benefits provided by the firemen's annuity and benefit fund in such cities.

(a) All benefits of firemen, whether in service or retired and of beneficiaries, including widows and children of deceased firemen, by or for whom contributions shall have been made to the firemen's annuity and benefit fund of a city of the first class, shall be assured by benefit contracts.

(b) Every fireman and beneficiary shall be deemed to have accepted the provisions hereof and shall by such acceptance have a benefit contract as of the effective date of the creation of this subsection unless, within 30 days thereafter, he files with the retirement board a written notice electing to have no such contract. The annuities and all other benefits in the amounts and on the terms and conditions and in all other re-

spects as provided in chapter 423, laws of 1923, as amended and then in effect in such city shall be obligations of such benefit contract on the part of the city and the retirement board and each fireman and beneficiary having such a benefit contract shall have a vested right to such annuities and other benefits and they shall not be diminished or impaired by subsequent legislation nor by any other means without his consent.

(c) The retirement board may issue to each fireman and beneficiary who shall have such a benefit contract a written or printed contract or may supplement any certificate or other evidence of participation issued to him by indorsement stating that the fireman or beneficiary has a benefit contract according to the terms of this subsection, but the contract shall be in full force and effect whether or not any written or printed evidence thereof shall be so issued.

SECTION 20. This act shall be amendatory of the charters of all cities of the first class in this state, and any provision in any such charter which is in conflict with or inconsistent with this act is superseded by this act. All laws and parts of laws which are in conflict with or inconsistent with this act, or any provision thereof, are superseded by this act. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

Approved July 23, 1947.