# FIRE FIGHTERS AND POLICE OFFICERS RETIREMENT ACT

## Act 345 of 1937

AN ACT to provide for the establishment, maintenance, and administration of a system of pensions and retirements for the benefit of the personnel of fire and police departments employed by cities, villages, or municipalities having full paid members in the departments, and for the spouses and children of the members; to provide for the creation of a board of trustees to manage and operate the system; to authorize appropriations and deductions from salaries; to prescribe penalties and provide remedies; and to repeal all acts and parts of acts inconsistent therewith.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951 ;-- Am. 1989, Act 7, Imd. Eff. May 3, 1989 ;-- Am. 1998, Act 200, Eff. Mar. 23, 1999
**Popular Name:** Act 345

*The People of the State of Michigan enact:*

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### 38.551 Fire and police department pension and retirement system; retirement board, members, election, appointment, terms.

Sec. 1.

The retirement board, also referred to in this act as the pension board, created hereunder shall be known as "The retirement board" and shall be a corporate body, consisting of 5 members, which shall consist of:

(1) The treasurer of the city, village or municipality, so affected hereby.

(2) Two additional members, 1 of whom shall be an active member of and elected by a majority vote of the members of the fire department, and 1 of whom shall be an active member of and elected by a majority vote of the members of the police department under such rules and regulations as the retirement board shall adopt to govern such election. Each such member shall serve for a term of 4 years, except that in the first instance, the member elected by the police department shall serve for a term of 2 years. If in the first instance only the fire department or only the police department is included in the retirement plan, the 2 additional members shall be elected from that department and the candidate receiving the highest number of votes shall be elected for the 4-year term and the candidate receiving the second highest number of votes shall be elected for the 2-year term.

(3) Two additional members shall be appointed by the legislative body or another person or body authorized by the city or village charter to appoint administrative officials in any city or village affected by the provisions of this act.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1945, Act 256, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.551 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951 ;-- Am. 1959, Act 105, Eff. Mar. 19, 1960
**Popular Name:** Act 345

### 38.551a Short title.

Sec. 1a.

This act shall be known and may be cited as the "fire fighters and police officers retirement act".

**History:** Add. 1989, Act 7, Imd. Eff. May 3, 1989
**Popular Name:** Act 345

**38.552 Retirement board; powers and duties.**

Sec. 2.

The retirement board created under this act shall perform the following:

(1) Make rules and regulations necessary to the proper conduct of the business of the retirement system.

(2) Retain legal, medical, actuarial, clerical, or other services as may be necessary for the conduct of the affairs of the retirement system and make compensations for the services retained.

(3) Cause amounts as established by law to be deducted from the salaries of active members of the retirement system and be paid into the treasury of the retirement system.

(4) Certify to the governing body of the city, village, or municipality the amount to be contributed by the city, village, or municipality as provided in this act.

(5) Cause the examination of each disability pensioner or beneficiary less than 55 years of age to be made at least once a year for the first 5 years following the pensioner's retirement, and at least once each 3 years after the 5 year period, until the pensioner has reached 55 years of age.

(6) Keep records of its meetings and proceedings. The board shall hold meetings at least once each month. The business which the retirement board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(7) The board shall annually elect a president and secretary from among its members.

(8) Disburse the pensions and other benefits payable under this act.

(9) A member of the board shall not receive additional compensation for services as a board member.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1945, Act 256, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.552 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951 ;-- Am. 1977, Act 209, Imd. Eff. Nov. 17, 1977

**Constitutionality:** The authority delegated to the retirement board by MCL 38.552 of the Michigan Compiled Laws does not constitutionally abrogate the taxation, budgeting, and legislative responsibilities of the township. Retirement Bd v Shelby Twp, 438 Mich 247; 475 NW2d 249 (1991).

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**38.552a Compliance with requirements under protecting local government retirement and benefits act.**

Sec. 2a.

A retirement board under this act, a retirement system under this act, and a city, village, or municipality that is the custodian of funds of a retirement system under this act shall comply with any applicable requirements under the protecting local government retirement and benefits act.

**History:** Add. 2017, Act 211, Imd. Eff. Dec. 20, 2017

**Popular Name:** Act 345

**38.553 Retirement system funds; treasurer as custodian; bond; disbursement of funds; execution of voucher or warrant; authorization.**

Sec. 3.

The treasurer of the city, village, or municipality shall be the custodian of all funds of the retirement system and shall be required to give a good and sufficient bond to the retirement board for the faithful performance of his or her duties and the safekeeping of all money collected under this act. The bond shall be paid by the city, village, or municipality. The treasurer shall issue warrants for the disbursement of the funds of the retirement system upon the receipt of a voucher signed by at least 2 members of the retirement board other than the treasurer. The treasurer shall not execute a voucher or warrant unless the voucher or warrant has been previously authorized by resolution

adopted by the board.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1945, Act 256, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.553 ;-- Am. 1989, Act 7, Imd. Eff. May 3, 1989
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### 38.554 Credit for prior service.

Sec. 4.

All service performed by members prior to the enactment of this act by any city, village or township, including service performed for predecessor townships, shall be computed to the credit of each member so affected.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1939, Act 210, Eff. Sept. 29, 1939 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.554 ;-- Am. 1957, Act 52, Eff. Sept. 27, 1957 ;-- Am. 1958, Act 159, Eff. Sept. 13, 1958
**Popular Name:** Act 345

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### 38.555 Retirement board; quasi-judicial body; review of actions by writ of certiorari.

Sec. 5.

The board shall be a quasi-judicial body, and its actions shall be reviewable by writ of certiorari only.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- CL 1948, 38.555
**Popular Name:** Act 345

### 38.556 Age and service retirement benefits.

Sec. 6.

(1) Age and service retirement benefits payable under this act are as follows:

(a) A member who is 55 years of age or older and who has 25 or more years of service as a police officer or fire fighter in the employ of the municipality affected by this act may retire from service upon written application to the retirement board stating a date, not less than 30 days or more than 90 days after the execution and filing of the application, on which the member desires to be retired. The retirement board shall grant the benefits to which the member is entitled under this act, unless the member continues employment. If the member continues employment, the member's pension shall be deferred with service years of credit until actual retirement. Upon the approval of the legislative body or the electors of a municipality under this act, a member under 50 years of age who has 25 or more years of service, or without the necessity for approval, a member 50 years of age or more who has 25 or more years of service, may leave service and receive the full retirement benefits payable throughout the member's life as provided in subdivision (e).

(b) A member who is 60 years of age or older shall be retired by the retirement board upon the written application of the legislative body, or board or official provided in the charter of the municipality as head of the department in which the member is employed. Upon retirement, the retirement board shall grant the benefits to which the member is entitled under this act, unless the member continues employment. If the member continues employment, the member's pension shall be deferred with service years of credit until actual retirement.

(c) A member who is 65 years of age shall be retired by the retirement board on the first day of the month following attainment of 65 years of age.

(d) A member who has 10 or more years of service shall have vested retirement benefits that are not subject to forfeiture on account of disciplinary action, charges, or complaints. If the member leaves employment before the date the member would have first become eligible to retire as provided in subdivision (a) for any reason except the

member's retirement or death, the member is entitled to a pension that shall begin the first day of the calendar month immediately after the month in which the member's written application for the pension is filed with the retirement board that is on or after the date the member would have been eligible to retire had the member continued in employment. The retirement board shall grant the member the benefits to which the member is entitled under this act, unless the member resumes service. If the member resumes service, the member's pension shall be further deferred with service years of credit until the member actually retires.

(e) Upon retirement from service as provided in this subsection, a member shall receive a regular retirement pension payable throughout the member's life of 2% of the member's average final compensation multiplied by the first 25 years of service credited to the member, plus 1% of the member's average final compensation multiplied by the number of years, and fraction of a year, of service rendered by the member in excess of 25 years. A municipality under this act, upon approval of the legislative body or the electors of the municipality, may increase the percentage of the payment from 2% up to a maximum of 2.5%. If an increase is approved, the increase shall not be reduced for members under the system at the time of the increase. The legislative body may also increase the percentage of employee contributions. If a retired member dies before the total of regular pension payments received by the member equals the total of the member's contributions made to the retirement system, the difference between the member's total contributions and the total of the member's regular retirement pension payments received shall be paid in a single sum to the person or persons the member nominates by written designation duly executed and filed with the retirement board. If there is not a person or persons surviving the retired member, the difference, if any, shall be paid to the retired member's legal representative or estate.

(f) As used in this section, "average final compensation" means the average of the highest annual compensation received by a member during a period of 5 consecutive years of service contained within the member's 10 years of service immediately preceding the member's retirement or leaving service. However, if so provided in a collective bargaining agreement entered into between a municipality under this act and the appropriate recognized bargaining agent, average final compensation may mean the average of the 3 years of highest annual compensation received by a member during the member's 10 years of service immediately preceding the member's retirement or leaving service. If the member has less than 5 years of service, average final compensation means the annual average compensation received by the member during his or her total years of service.

(g) A member shall be given service credit for time spent in the military, naval, marine, or other armed service of the United States government during time of war, or other national emergency recognized by the board, if the member was employed by the municipality at the time of entry into the armed service, and is or was reemployed by the municipality as a police officer or fire fighter within 6 months after the date of termination of his or her required enlistment or assignment in the armed service. A municipality by a 3/5 vote of its governing body or by a majority vote of the qualified electors may provide service credit for not more than 6 years of active military service to the United States government to a member who is employed subsequent to this military service upon payment to the retirement system of 5% of the member's full-time or equated full-time compensation for the fiscal year in which payment is made multiplied by the years of service that the member elects to purchase up to the maximum. Service is not creditable if it is or would be creditable under any other federal, state, or local publicly supported retirement system. However, this restriction does not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve. A member shall be given service credit for the time the member is absent from active service without full pay on account of sickness or injury. If the absence from active service is due to nonservice connected sickness or injury, not more than 60 days of the absence shall be credited as service in any 1 calendar year, as determined by the retirement board.

(h) Before the effective date of the member's retirement as provided in this subsection, but not after the effective date of the member's retirement, a member may elect to receive his or her benefit in a pension payable throughout the member's life, called a regular retirement pension, or the member may elect to receive the actuarial equivalent, computed as of the effective date of retirement, of the member's regular retirement pension in a reduced retirement pension payable throughout the member's life, and nominate a survivor beneficiary, under an option provided in this subdivision. Upon the death of a retirant who retires on or after July 1, 1975, and who is receiving a regular retirement pension, his or her spouse, if living, shall receive a pension equal to 60% of the regular retirement pension the deceased retirant was receiving. Benefits shall not be paid under this subdivision on account of the death of a retirant if the member elected to receive his or her pension under an option provided in this subdivision. As used in this subsection, "spouse" means the person to whom the retirant was legally married on both the effective date of retirement and the date of death. Except as otherwise provided in this act, if a member fails to elect an option before the effective date of retirement, then the pension shall be paid as a regular retirement pension. A member may elect 1 of the following options:

(i) Option I. Upon the death of a retired member, his or her reduced retirement pension shall be continued throughout the life of and paid to the person, having an insurable interest in the retired member's life, that the member nominated by written designation executed and filed with the retirement board before the effective date of the member's retirement.

(ii) Option II. Upon the death of a retired member, 1/2 of his or her reduced retirement pension shall be continued throughout the life of and paid to the person, having an insurable interest in the retired member's life, that

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the member nominated by written designation executed and filed with the retirement board before the effective date of the member's retirement.

(i) If a member continues in service on or after the date of acquiring 20 years of service credit, does not have an option I election provided for in subdivision (j) in force, and dies while in service of the municipality before the effective date of the member's retirement, leaving a surviving spouse, the spouse shall receive a pension computed in the same manner as if the member had retired effective the day preceding the date of the member's death, elected option I provided for in subdivision (h), and nominated the spouse as survivor beneficiary. Upon the death of the spouse the pension shall terminate. A pension shall not be paid under this subdivision on account of the death of a member if benefits are paid under subsection (2) on account of the member's death.

(j) A member who continues in service on or after the date of acquiring 25 years of service credit may, at any time before the effective date of the member's retirement, by written declaration executed and filed with the board in the manner and form prescribed by the board, elect option I provided for in subdivision (h) and nominate a survivor beneficiary whom the board finds to be dependent upon the member for at least 50% of the beneficiary's support. If a member who has an option I election provided for in this subdivision in force dies while in service before the effective date of the member's retirement, the member's survivor beneficiary shall immediately receive the same pension that the survivor beneficiary would have been entitled to receive under option I if the member had retired pursuant to this act effective the day preceding the date of the member's death, notwithstanding that the member may not have attained 55 years of age. If a member who has an option I election provided for in this subdivision in force subsequently retires pursuant to this act, the member, within 90 days immediately preceding the effective date of the member's retirement, but not after the effective date of the member's retirement, may elect an option provided for in subdivision (h). The option election is effective as of the effective date of the member's retirement. A pension shall not be paid under this subdivision on account of the death of a member if benefits are paid under subsection (2) on account of the member's death.

(k) If a retirant receiving a reduced retirement pension under subdivision (h)(i) or (ii) is divorced from the spouse who had been named the retirant's survivor beneficiary under subdivision (h)(i) or (ii), the election of a reduced retirement pension payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in section 9 and dated after June 27, 1991 provides that the election of a reduced retirement pension payment option under subdivision (h)(i) or (ii) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement pension payment option under subdivision (h)(i) or (ii) is considered void by the retirement system under this subsection, the retirant's retirement pension shall revert to a regular retirement pension, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement pension shall revert to a regular retirement pension under this subdivision effective the first day of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subdivision does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subdivision does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(2) Disability and service connected death benefits payable under this act are as follows:

(a) To a surviving spouse, a duty death pension of the same amount each week as that which has been paid the surviving spouse under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable on the termination of the payments to the surviving spouse by a municipality under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue for the surviving spouse's life.

(b) If death results to a member in the line of duty, and the member leaves surviving children, the children shall be paid a pension of the same amount as that which has been paid to them as a weekly benefit under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable upon termination of the payments under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue to each surviving child until he or she attains 18 years of age, or until his or her marriage or death before attaining 18 years of age.

(c) If death results to a member in the line of duty and the member leaves other surviving dependents, the dependents shall receive a pension of the same amount as that which has been paid to them as a weekly benefit under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable upon termination of the payments under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue until the time the retirement board determines that the need for a pension no longer exists.

(d) Upon the application of a member or the member's department head, a member who becomes totally incapacitated for duty by reason of a personal injury or disease occurring as the natural and proximate result of causes arising out of and in the course of the member's employment by the municipality shall be retired by the

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retirement board. The member shall be given a medical examination by a medical committee consisting of a physician named by the retirement board, a physician named by the member claiming benefits, and a third physician designated by the first 2 physicians named. The medical committee, if determined by a majority opinion, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty as a police officer or fire fighter in the service of the municipality; that the incapacity is likely to be permanent; and that the member should be retired. Upon retirement for disability as provided in this subdivision, a member who has not attained 55 years of age shall receive a disability retirement pension of 50% of the member's average final compensation, which shall be determined according to subsection (1)(f), and shall be payable until the member becomes 55 years of age. Upon becoming 55 years of age, the disabled member shall receive a disability retirement pension computed according to subsection (1)(e). In computing the disability retirement pension, the member shall be given service credit for the period of receipt of a disability retirement pension before attainment of 55 years of age. If a member retired after attaining 55 years of age on account of disability, as provided in this subdivision, the member shall receive a disability retirement pension computed according to subsection (1)(e), notwithstanding that the member may not have 25 years of service credit. The disability retirement pension provided for in this subdivision is subject to subdivisions (f) and (g).

(e) Upon the application of a member or the member's department head, a member in service who has 5 or more years of service credit and who becomes totally and permanently incapacitated for duty by reason of a personal injury or disease occurring as the result of causes arising outside the course of the member's employment by the municipality may be retired by the retirement board. The member shall be given a medical examination by a medical committee consisting of a physician named by the retirement board, a physician named by the member claiming benefits, and a third physician designated by the first 2 physicians named. The medical committee, if determined by a majority opinion, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty as a police officer or fire fighter in the service of the municipality, that the incapacity is likely to be permanent, and that the member should be retired. Upon retirement for disability, as provided in this subdivision, a member who has not attained 55 years of age shall receive a disability retirement pension until the member becomes 55 years of age, recovers, or dies, whichever occurs first, of 1.5% of the member's average final compensation multiplied by the number of years of service credited to the member. Upon becoming 55 years of age, the member's disability retirement pension shall be increased to 2% of the member's average final compensation multiplied by the number of years of service credited to the member at the time of his or her retirement. Upon retirement for disability as provided in this subdivision, a member who is 55 years of age or older shall receive a disability retirement pension computed according to subsection (1)(e). This subdivision is subject to subdivisions (f) and (g).

(f) At least once each year during the first 5 years after the retirement of a member with a disability retirement pension and at least once in every 3-year period after disability retirement, the retirement board may, and upon the retired member's application shall, require a retired member who has not attained 55 years of age to undergo a medical examination. The medical examination shall be given by or under the direction of a physician, designated by the retirement board, at the place of residence of the retired member or other place mutually agreed upon. If a retired member who has not attained 55 years of age refuses to submit to the medical examination in the period, the member's disability retirement pension may be discontinued by the retirement board. If the member's refusal continues for 1 year, all the member's rights to his or her disability retirement pension may be revoked by the retirement board. If upon a medical examination of the retired member the physician reports to the retirement board that the retired member is physically capable of resuming employment in the classification held by the member at the time of retirement, the member shall be restored to active service in the employ of the municipality and payment of the disability retirement pension shall cease if the report of the physician is concurred in by the retirement board. A retired member restored to active service shall again become a member of the retirement system from the date of return to service. The member shall contribute to the retirement system after restoration to active service in the same manner as before the member's disability retirement. Service credited to the member at the time of disability retirement shall be restored to full effect. The member shall be given service credit for the period the member was receiving a duty disability retirement pension provided for in subdivision (d), but shall not be given service credit for the period the member was receiving a nonduty disability retirement pension provided for in subdivision (e). Amounts paid under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to a retired member shall be offset against and payable in place of benefits provided under this act. If the benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, are less than the benefits payable under this act, the amount to be paid out of the funds of the retirement system shall be the difference between the benefits provided under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and the benefits provided in this act. Upon the termination of benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, the benefits shall be paid pursuant to this act.

(g) Within 60 days before a member becomes 55 years of age, or before retirement from service if retirement occurs after the member becomes 55 years of age, a disabled member who is retired as provided in subdivision (d) or (e) may elect to continue to receive a disability retirement pension as a benefit terminating at death, to be known

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as a regular disability pension, or may elect to receive the actuarial equivalent, at that time, of a regular disability pension in a reduced disability pension payable throughout life pursuant to an option provided in subsection (1)(h). If a disabled member fails to elect an option, as provided in this subdivision, before becoming 55 years of age or before retirement, the member's retirement pension shall be paid to the member as a regular disability pension terminating at death. If a disabled member who has not elected an option provided in subsection (1)(h) dies before the total of the member's regular disability pension payments received equals or exceeds the total of the member's contributions made to the retirement system, the remainder, if any, shall be paid in a single sum to the person or persons nominated by the member by written designation duly executed and filed with the board. If there is not a designated person or persons surviving, then the remainder, if any, shall be paid to the retired member's legal representative or estate.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1939, Act 210, Eff. Sept. 29, 1939 ;-- Am. 1945, Act 256, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.556 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951 ;-- Am. 1954, Act 173, Eff. Aug. 13, 1954 ;-- Am. 1955, Act 263, Imd. Eff. June 29, 1955 ;-- Am. 1956, Act 169, Imd. Eff. Apr. 16, 1956 ;-- Am. 1959, Act 224, Eff. Mar. 19, 1960 ;-- Am. 1961, Act 201, Eff. Sept. 8, 1961 ;-- Am. 1965, Act 137, Imd. Eff. July 12, 1965 ;-- Am. 1967, Act 256, Eff. Nov. 2, 1967 ;-- Am. 1970, Act 230, Imd. Eff. Nov. 25, 1970 ;-- Am. 1975, Act 147, Imd. Eff. July 9, 1975 ;-- Am. 1976, Act 118, Imd. Eff. May 14, 1976 ;-- Am. 1976, Act 321, Eff. Mar. 31, 1977 ;-- Am. 1989, Act 7, Imd. Eff. May 3, 1989 ;-- Am. 1991, Act 54, Imd. Eff. June 27, 1991 ;-- Am. 2002, Act 98, Imd. Eff. Mar. 27, 2002 ;-- Am. 2003, Act 8, Imd. Eff. May 20, 2003
**Popular Name:** Act 345

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### 38.556a Municipality having population of 80,000 or more; applicability of MCL 38.556(1)(h) to certain members.

Sec. 6a.

In a municipality having a population of 80,000 or more, section 6(1)(h) shall be applicable to any member who continues in service on or after the date he or she acquires 15 years of service credit.

**History:** Add. 1963, Act 57, Eff. Sept. 6, 1963 ;-- Am. 1982, Act 145, Imd. Eff. Apr. 28, 1982 ;-- Am. 2003, Act 8, Imd. Eff. May 20, 2003
**Popular Name:** Act 345

### 38.556b Remarriage of surviving spouse; applicability of subsection (1) to municipality.

Sec. 6b.

(1) Notwithstanding section 6 or any predecessor to section 6, the remarriage of a surviving spouse shall not render the surviving spouse ineligible to receive a pension described in section 6(1)(i) or a duty death pension described in section 6(2)(a). A surviving spouse whose pension described in section 6(1)(i) or duty death pension described in section 6(2)(a) was terminated due to the surviving spouse's remarriage shall be eligible to receive that pension or duty death pension beginning on the first day of the month following the month in which written application for reinstatement is filed with the board, but shall not be eligible to receive the pension or duty death pension attributable to any month beginning before the month of reinstatement under this section.

(2) Beginning on the effective date of the amendatory act that amended this subsection, the provisions of subsection (1) that apply to a surviving spouse who is eligible to receive a pension described in section 6(1)(i) shall apply to a municipality upon approval by resolution of the governing body of the municipality.

(3) Beginning on the effective date of the amendatory act that added this subsection, a surviving spouse who is eligible to receive a duty death pension described in section 6(2)(a) and who remarries after the effective date of the amendatory act that added this subsection shall not be denied a duty death pension described in section 6(2)(a) by a municipality because of the remarriage of the surviving spouse.

**History:** Add. 1986, Act 30, Imd. Eff. Mar. 10, 1986 ;-- Am. 2003, Act 8, Imd. Eff. May 20, 2003
**Compiler's Notes:** Former MCL 38.556b, pertaining to vested rights in pensions and benefits, was repealed by Act 321 of 1976.
**Popular Name:** Act 345

**38.556c Service credit for employment in transitional public employment program; payment of contributions and regular interest; payroll deduction; amount in reserve; payment of contributions by current employer; accident, disability, or other benefits.**

Sec. 6c.

(1) If a person who participated in a transitional public employment program becomes a member of a retirement system established under this act within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment in the transitional public employment program for purposes of determining a retirement allowance upon the payment by the person and the person's employer under the transitional public employment program from funds provided under the comprehensive employment and training act, 29 U.S.C. 801 to 992, as funds permit, to the retirement system of the contributions, plus regular interest, the person and the employer would have paid had the employment been rendered in a position covered by this act. During the person's employment in the transitional public employment program, the person's employer shall provide an opportunity by payroll deduction for the person to make his or her employee contribution to the applicable pension system. To provide for the eventual payment of the employer's contribution, the person's employer shall during this same period place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions which the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this act, but only for that number of employees which the employer determined would transfer from the transitional public employment program into positions covered by this act. If the funds provided under the comprehensive employment and training act are insufficient, the remainder of the employer contributions shall be paid by the person's current employer.

(2) The provisions of subsection (1) shall not exclude the participant in a transitional public employment program from the accident, disability or other benefits available to members of the retirement system covered by this act.

**History:** Add. 1978, Act 421, Imd. Eff. Sept. 30, 1978
**Popular Name:** Act 345

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**38.556d Postretirement adjustments increasing retirement benefits.**

Sec. 6d.

A municipality, by ordinance or in another manner provided by law, may adopt from time to time benefit programs providing for postretirement adjustments increasing retirement benefits. Such benefit programs may provide for 1-time postretirement percentage increases in retirement benefits; annual or other periodic postretirement percentage increases in retirement benefits; lump sum postretirement distributions; or any other method considered appropriate by the municipality. The retirement benefit payable after making an adjustment pursuant to the benefit program adopted shall be the new retirement benefit payable until the next adjustment, if any, is made.

**History:** Add. 1987, Act 145, Imd. Eff. Oct. 26, 1987
**Popular Name:** Act 345

**38.556e Mandatory subjects of bargaining.**

Sec. 6e.

Notwithstanding any other provisions of this act, any matter relating to the retirement system provided by this act, including, but not limited to, postretirement adjustment increases, applicable to current employees represented by a collective bargaining agent is a mandatory subject of bargaining under the public employment relations act, Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws.

**History:** Add. 1987, Act 145, Imd. Eff. Oct. 26, 1987
**Popular Name:** Act 345

**38.557 "An act of duty,""municipality" and "transitional public employment program" defined.**

Sec. 7.

As used in this act:

(a) "An act of duty" means an act performed by a fire fighter or police officer arising out of and in the course of employment, or the performance of an act pertinent or incidental to the work of a fire fighter or police officer, regardless of time or place.

(b) "Municipality" includes a county, township, charter township, city, or incorporated village.

(c) "Transitional public employment program" means a public service employment program in the area of environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans' outreach, or any other area of human betterment and community improvement as part of a program of comprehensive manpower services authorized, undertaken, and financed pursuant to the comprehensive employment and training act of 1973, 29 U.S.C. 801 to 992.

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**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1945, Act 256, Eff. Sept. 6, 1945 ;-- CL 1948, 38.557 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951 ;-- Am. 1968, Act 210, Imd. Eff. June 24, 1968 ;-- Am. 1978, Act 421, Imd. Eff. Sept. 30, 1978
**Popular Name:** Act 345

**38.558 Refunds of salary contributions.**

Sec. 8.

Refunds of salary contributions:

(1) If a fire fighter or police officer dies before being placed on pension, the total amount of the member's salary deductions, with interest as the board may determine, but not to exceed 2% per annum, shall be payable to the person or persons that the member nominated by written designation duly executed and filed with the board. If there is no designated person or persons surviving, then the total of the member's salary deductions shall be paid to the member's legal representative or estate.

(2) If a fire fighter or police officer becomes separated from the service before being eligible for retirement, the member shall be paid the total of the member's contributions together with interest as the board may determine, but not to exceed 2% per annum credited to the member upon his or her written request for a refund. If the person again becomes employed by the city, village, or municipality as a police officer or fire fighter, he or she shall, within 1 year following his or her reemployment, repay to the retirement system the amount previously withdrawn together with interest at 2% per year.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1939, Act 210, Eff. Sept. 29, 1939 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.558 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951 ;-- Am. 1957, Act 52, Eff. Sept. 27, 1957 ;-- Am. 1989, Act 7, Imd. Eff. May 3, 1989
**Popular Name:** Act 345

**38.559 Contributions of member; rate; deduction from salary; appropriations to maintain actuarially determined reserves; payment of deductions and appropriations into retirement system; prorating pensions and other benefits; expenses; pensions as obligations of retirement system.**

Sec. 9.

(1) The contributions of a member to the retirement system shall be 5% of the salary paid to the member by the municipality. The officer responsible for making up the payroll shall cause the contributions provided for in this subsection to be deducted from the salary of each member on each payroll for each payroll period so long as he or she remains an active member in the employ of the municipality. The amounts deducted shall be paid into the funds of the retirement system. The members' contributions provided for in this act shall be made notwithstanding that the minimum salary provided for by law is changed by the members' contributions. Every member shall be considered to consent and to agree to the deductions made and provided for in this act and shall receipt for his or her full salary and payment of his or her salary less the deduction, which is a full and complete discharge and acquittance of all claims and demands for the services rendered by the member during the period covered by the payment, except as to benefits provided by this retirement system.

(2) For the purpose of creating and maintaining a fund for the payment of the pensions and other benefits payable as provided in this act, the municipality, subject to the provisions of this act, shall appropriate, at the end of such regular intervals as may be adopted, quarterly, semiannually, or annually, an amount sufficient to maintain actuarially determined reserves covering pensions payable or that might be payable on account of service performed and to be performed by active members, and pensions being paid to retired members and beneficiaries. The appropriations to be made by the municipality in any fiscal year shall be sufficient to pay all pensions due and payable in that fiscal year to all retired members and beneficiaries. The amount of the appropriation in a fiscal year shall not be less than 10% of the aggregate pay received during that fiscal year by members of the retirement system unless, by actuarial determination, it is satisfactorily established that a lesser percentage is needed. All deductions and appropriations shall be payable to the treasurer of the municipality and he or she shall pay the deductions and appropriations into the retirement system. Except in municipalities that are subject to the 15 mill tax limitation as provided by section 6 of article IX of the state constitution of 1963, the amount required by taxation to meet the appropriations to be made by municipalities under this act shall be in addition to any tax limitation imposed upon tax rates in those municipalities by charter provisions or by state law subject to section 25 of article IX of the state constitution of 1963.

(3) If, at the beginning or during any fiscal year, it has been satisfactorily determined by the retirement board that the accumulated funds of the retirement system plus the municipality's contribution of 10% of the aggregate pay received during that fiscal year by members of the retirement system plus members' contributions of 5% of payroll, are insufficient to pay all pensions and other benefits due and payable in that year out of funds of the retirement system, then all pensions and other benefits payable shall be prorated for the remainder of the fiscal year by the retirement board.

(4) Any clerical, legal, actuarial, or medical expenses required by the retirement board, or any other necessary expense for the operation of the retirement system, shall be provided for by the municipality or shall be paid from the investment income of the retirement system, as determined by the governing body of the municipality. The retirement board shall submit expenses periodically to the governing body of the municipality. If use of investment income to pay these expenses causes an actuarial insufficiency in the assets of the retirement system used to pay pensions, the insufficiency shall be made up by the municipality.

(5) All pensions allowed and payable to retired members and beneficiaries under this act shall become obligations of and be payable from the funds of the retirement system.

(6) The right of a person to a pension, to the return of member contributions, to any optional benefits, or any other right accrued or accruing to a member or beneficiary under this act and the money belonging to the retirement system is subject to the public employee retirement benefit protection act.

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**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1939, Act 210, Eff. Sept. 29, 1939 ;-- Am. 1945, Act 256, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.559 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951 ;-- Am. 1985, Act 36, Imd. Eff. June 13, 1985 ;-- Am. 1987, Act 145, Imd. Eff. Oct. 26, 1987 ;-- Am. 1991, Act 54, Imd. Eff. June 27, 1991 ;-- Am. 2002, Act 98, Imd. Eff. Mar. 27, 2002
**Popular Name:** Act 345

**38.560 Investments; transfer and disposition of certain assets.**

Sec. 10.

Any and all cash assets and funds on hand not necessary for immediate payment of pensions or benefits under this act shall be invested subject to all the terms, conditions, limitations, and restrictions imposed by the statutes of this state upon life insurance companies in making and disposing of their investments, and as provided by law

relating to investment authority of public employee retirement systems under Act No. 314 of the Public Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan Compiled Laws, and any and all assets of every description of the pension or retirement fund created by any city, village, or municipality under this act shall be transferred and deposited to the credit of the newly created retirement system under this act.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.560 ;-- Am. 1965, Act 33, Eff. Mar. 31, 1966 ;-- Am. 1989, Act 7, Imd. Eff. May 3, 1989
**Popular Name:** Act 345

**38.561 Referendum; township or charter township.**

Sec. 11.

At any time after this act shall become effective, any city, village or municipality having a paid or part paid fire or police department, may come under the provisions of this act and create a pension board hereunder by submitting the same to the electors of any such city, village or municipality at any regular or special election for adoption, in the manner provided by law for amending charters: Provided, That this act shall not become effective until the beginning of the next succeeding fiscal year after such adoption of the provisions of this act by any city, village or municipality: Provided further, That where no provision is made in the charter of the city, village or municipality for amending said charters, this act may be submitted for adoption in accordance with any law authorizing the amending of the charters of cities: Provided further, That in case of a township or charter township, this act shall be submitted to the qualified electors of such township or townships by the township board on the filing of a petition requesting the submission, signed by 10 per cent of the registered and qualified electors in such township or charter township, at any general election or special election called for that purpose by the township board, in accordance with the laws of this state, and this act shall be in force and effect in any such township or charter township if a majority of the electors voting on such proposition, as determined by the canvass of votes cast, shall vote in favor thereof.

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**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1939, Act 210, Eff. Sept. 29, 1939 ;-- Am. 1945, Act 256, Eff. Sept. 6, 1945 ;-- CL 1948, 38.561 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951
**Popular Name:** Act 345

**38.561a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 11a.

A petition under section 11, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 200, Eff. Mar. 23, 1999
**Popular Name:** Act 345

**38.562 Membership of retirement system.**

Sec. 12.

(1) The membership of the retirement system created by a municipality affected by this act shall include each police officer and fire fighter employed by a municipality. A police officer or fire fighter, who is a member of the retirement system and who is transferred from the classification of a police officer or fire fighter to a civilian

position within the police or fire department or who is transferred from the police or fire department of the municipality to another department of the municipality by an officer or body of the municipality authorized to make the transfer, shall continue as a member of this retirement system covering the police officers and fire fighters, and shall be subject to the provisions of the retirement system. If the officers and employees of the department to which the person is transferred are covered by an annuity pension or retirement system to which the municipality makes contributions and the person transferred becomes entitled to membership in that system, the person shall cease to be a member of this police officer and fire fighter retirement system.

(2) The membership of the retirement system shall not include a volunteer fire fighter, a privately employed police officer or fire fighter, a person temporarily employed during an emergency, a civilian employee of a police and fire department, or a person participating in a transitional public employment program, except as provided in subsection (1) and section 6c.

**History:** 1937, Act 345, Eff. Oct. 29, 1937 ;-- Am. 1939, Act 210, Eff. Sept. 29, 1939 ;-- Am. 1947, Act 229, Imd. Eff. June 17, 1947 ;-- CL 1948, 38.562 ;-- Am. 1951, Act 16, Imd. Eff. Mar. 30, 1951 ;-- Am. 1978, Act 421, Imd. Eff. Sept. 30, 1978
**Popular Name:** Act 345

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