

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 38.
EDUCATIONAL INSTITUTIONS.

CHAPTER 20.
RETIREMENT OF PUBLIC SCHOOL TEACHERS.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 20. RETIREMENT OF PUBLIC SCHOOL
TEACHERS.

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CHAPTER 20. RETIREMENT OF PUBLIC SCHOOL TEACHERS.

SUBCHAPTER I. RETIREMENT BEFORE JUNE 30, 1946.

§ 38-2001.01. ANNUITY--SALARY DEDUCTIONS.

(a) There shall be deducted and withheld from the annual salary of every teacher in the public schools of the District of Columbia an amount computed to the nearest tenth of a dollar that will be sufficient, with interest thereon at 4 per centum per annum, compounded annually, to purchase, under the provisions of this subchapter, an annuity equal to 1% of his average annual salary received during the 10 years immediately preceding retirement, for each year of his whole term of service rendered after June 30, 1926, payable monthly throughout life, for every such teacher who shall be retired, as herein provided.

(b) The deductions herein provided for shall be based on such annuity table or tables as the Council of the District of Columbia shall direct; provided, however, that said deductions shall in no case exceed 8% of his annual salary; and provided further, that when the annual salary exceeds \$2,000 the deductions and benefits shall be made as on an annual salary of \$2,000.

(c) The Council of the District of Columbia shall cause to be filed with the Board of Education on September 10th of each year a certificate showing the amount of deduction to be made from the salary of each teacher during the year, said deduction to be made in equal amounts, one to be deducted for each school month. A similar certificate shall be filed not later than the 15th day of each calendar month to cover cases of new entrants. No deduction shall be made from less than an entire month's salary.

(Jan. 15, 1920, 41 Stat. 387, ch. 39, § 1; June 11, 1926, 44 Stat. 727, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1201.

1973 Ed., § 31-701.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(237) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2001.02. ANNUITY--DEPOSIT IN UNITED STATES TREASURY.

The amount so deducted and withheld from the annual salary of every teacher shall be deposited in the Treasury of the United States and shall be credited, together with interest at 4% per annum, compounded annually, to an individual account of the teacher from whose salary the deduction is made, which account shall be kept by the Auditor of the District of Columbia. The fund thus created shall be held and invested by the Treasurer of the United States until paid out as hereinafter provided, and the income derived from such

investments shall constitute a part of said fund for the purpose of carrying out the provisions of this subchapter.

(Jan. 15, 1920, 41 Stat. 387, ch. 39, § 2; June 11, 1926, 44 Stat. 727, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1202.

1973 Ed., § 31-702.

Miscellaneous Notes

Office of Auditor abolished: The Office of the Auditor of the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952, and effective September 2, 1952, established, under the direction and control of the Board of Commissioners, a Department of General Administration headed by a Director. The Order transferred to the Director of General Administration all of the functions of the Office of Auditor. Reorganization Order No. 19 established the Internal Audit Office headed by an Internal Audit Officer in the Department of General Administration. The function of certifying as to the accuracy of the yearly financial statement of the Armory Board was transferred to the Internal Audit Office. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order Nos. 3 and 19 were revoked by Organization Order No. 3 of the Commissioner of the District of Columbia, dated December 13, 1967. Organization Order No. 3 established within the newly created Department of General Administration an Internal Audit Office and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. Part IVB of Organization Order No. 3 and that portion of paragraph 4 of Commissioner's Order No. 69-96 pertaining to a transfer of audit functions to the Department of Finance and Revenue were revoked by Organization Order No. 33, dated July 14, 1972. The latter Order established an Office of Municipal Audit and Inspection and prescribed the functions thereof. Organization Order No. 50, dated December 31, 1974, established the Office of Budget and Management Systems, and transferred to that office the functions of the Municipal Audit Office. The Office of Budget and Management Systems was replaced by Mayor's Order 79-5, dated January 2, 1977, which Order established the Office of Budget and Revenue Development.

§ 38-2001.03. RETIREMENT AGE; CONTINUOUS EMPLOYMENT REQUIREMENTS.

Any teacher who shall have reached the age of 62 may be retired by the Board of Education on its own motion, or shall be retired if application is made by the teacher. Any teacher who shall have reached the age of 70 shall be retired unless, in the judgment of two thirds of the Board of Education, such teacher should be longer retained for the good of the service; provided, that no sum shall be paid to any teacher upon his retirement under the provisions of this section unless he shall have been continuously employed as a teacher in the public schools of the District of Columbia from the time of his attainment of the age of 52 years.

(Jan. 15, 1920, 41 Stat. 388, ch. 39, § 3; June 11, 1926, 44 Stat. 728, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1203.

1973 Ed., § 31-703.

§ 38-2001.04. DISABILITY RETIREMENT; REQUIREMENTS.

Any teacher who shall have reached the age of 45, and who shall have been continuously employed in the public schools of the District of Columbia for not less than 10 years immediately prior to his retirement, or who shall have been continuously employed for not less than 15 years prior to his retirement and who by reason of accident or illness not due to vicious habits has acquired a physical or mental disability and is incapable of satisfactorily performing the duties of his position, may be retired by the Board of Education under the provisions hereinafter stated; provided, that absence of any teacher on authorized leave of absence without pay for a period not in excess of 2 years shall not constitute a break in continuous employment; provided further, that no teacher shall be retired by the Board of Education under the provisions of this section until said teacher shall have been examined under the direction of the health officer of the District of Columbia, and as a result of said examination, in his judgment, or in the judgment

of two-thirds of the members of the Board of Education shall have been found to be physically or mentally incapacitated for efficient service.

(Jan. 15, 1920, 41 Stat. 388, ch. 39, § 4; June 11, 1926, 44 Stat. 728, ch. 556, § 1; Apr. 24, 2007, D.C. Law 16-305, § 55, 53 DCR 6198; Mar. 25, 2009, D.C. Law 17-353, § 172(c), 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1204.

1973 Ed., § 31-704.

Effect of Amendments

D.C. Law 16-305 substituted "has acquired a physical or mental disability and is" for "has become physically or mentally disabled and".

D.C. Law 17-353 validated a previously made technical correction.

Legislative History of Laws

For Law 16-305, see notes following § 38-911.

For Law 17-353, see notes following § 38-102.

§ 38-2001.05. ANNUITY ALLOWANCE.

Every teacher who shall be retired under the provisions of § 38-2001.03 or § 38-2001.04 shall receive during the remainder of his life a combined annuity composed of:

- (1) An annuity equal to 1% of his average annual salary received during the 10 years immediately preceding retirement for each year of his whole term of service after June 30, 1926;
- (2) A sum equal to 1% of his average annual salary received during the 10 years immediately preceding retirement for each year of his whole term of service prior to July 1, 1926, but not to exceed 40 years; and
- (3) An additional sum of \$15 for each year of said service, but in neither case to exceed 40 years, such annuity to be fixed at the nearest multiple of 12 cents and to be payable monthly and to cease and determine at his death.

(Jan. 15, 1920, 41 Stat. 388, ch. 39, § 5; June 11, 1926, 44 Stat. 728, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1205.

1973 Ed., § 31-705.

§ 38-2001.06. MINIMUM-SERVICE CREDIT IN CASES OF DISABILITY RETIREMENT.

In calculating, as provided in § 38-2001.05, the 3rd part of the annuity of a teacher retired under the provisions of § 38-2001.04, a minimum credit of 20 years shall be used in determining the sum allowable to a teacher with less than 20 years of service.

(Jan. 15, 1920, 41 Stat. 388, ch. 39, § 6; June 11, 1926, 44 Stat. 728, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1206.

1973 Ed., § 31-706.

§ 38-2001.07. APPROPRIATIONS FOR ANNUITY; RESERVES; INTEREST.

(a) The second and third parts of the annuity provided for by § 38-2001.05 shall be paid by appropriations from the same fund as the current expenses of the District of Columbia were paid on June 11, 1926, or may thereafter be paid.

(b) The reserves created as the result of such annual appropriations shall be held by the Treasurer of the

United States separate from the fund created by the contributions of the teachers, and the fund shall be credited with interest at 4% per annum, compounded annually. The fund thus created shall be held and invested by the Treasurer of the United States until paid out as hereinafter provided, and the income derived from such investments shall constitute a part of said fund for the purpose of carrying out the provisions of this subchapter.

(Jan. 15, 1920, 41 Stat. 388, ch. 39, § 7; June 11, 1926, 44 Stat. 728, ch. 556, § 1; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 146(c)(1).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1207.

1973 Ed., § 31-707.

§ 38-2001.08. CREDIT FOR SERVICE OUTSIDE DISTRICT.

In computing length of service of retiring teachers credit may be given, year for year, but not to exceed 10 years, for public school service or its equivalent outside the District of Columbia; provided, that no credit for service outside of the public schools of the District of Columbia shall be given to any teacher entering the said public schools after June 30, 1926, until he shall have deposited to the credit of the teachers' retirement fund of the District of Columbia a sum equal to the contributions that would have been required of the teacher if such service had been rendered in the public schools of the District of Columbia, with interest thereon at 4% per annum, compounded annually, said contributions to be based on the average annual salary of the class to which the teacher is appointed; provided further, that when the average annual salary of the class exceeds \$2,000 the contributions shall be based on a salary of \$2,000; provided further, that if the teacher so elects he may deposit the required sum in the fund in any number of monthly installments not exceeding 100, with interest at 4% per annum, compounded annually; and provided further, that the provisions of this subchapter shall not apply to any teacher who receives an annuity from any state or municipality other than the District of Columbia, nor to allow any teacher more than one year's credit for all services rendered in any one fiscal year.

(Jan. 15, 1920, 41 Stat. 388, ch. 39, § 8; June 11, 1926, 44 Stat. 729, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1208.

1973 Ed., § 31-708.

§ 38-2001.09. REFUND ON LEAVING SERVICE; REINSTATEMENT.

(a) Upon separation of any teacher from the service of the public schools of the District of Columbia, except for retirement under § 38-2001.03 or § 38-2001.04, he shall receive the amount of his deductions, together with the interest then credited thereon.

(b) No teacher who shall withdraw the amount of his deductions under this section shall, after reinstatement, be entitled to credit for previous service unless he shall deposit in the fund the amount so withdrawn by him; provided, that the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding 100, with interest at 4% compounded annually, but no credit for previous service shall be given in any case of retirement where the teacher has been separated from teaching service in any public school system for more than 5 years.

(Jan. 15, 1920, 41 Stat. 388, ch. 39, § 9; June 11, 1926, 44 Stat. 729, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1209.

1973 Ed., § 31-709.

§ 38-2001.10. DEATH OF TEACHER--DESIGNATION OF BENEFICIARY.

Every teacher from whose salary retirement deductions are made in accordance with this subchapter shall be required to designate in writing a beneficiary or beneficiaries to whom the amount of his deductions, together with interest then credited thereon, shall be payable in the event of the death of such teacher.

(Jan. 15, 1920, 41 Stat. 389, ch. 39, § 10; June 11, 1926, 44 Stat. 729, ch. 556, § 1; Apr. 5, 1939, 53 Stat. 571, ch. 42, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1210.

1973 Ed., § 31-710.

§ 38-2001.10A. DEATH OF TEACHER--PRECEDENCE OF PAYMENTS.

In the event of death of any such teacher the order of precedence of payments shall be as follows: first, to the beneficiary, or beneficiaries, designated in writing by the teacher and recorded on his or her individual account; second, if there be no such beneficiary or beneficiaries designated, then to the duly appointed executor, or administrator, of the estate; third, if there be no such beneficiary, or if an executor or administrator be not appointed within 6 months after the death of such teacher, payment shall be made into the registry of the court having probate jurisdiction.

(Apr. 5, 1939, 53 Stat. 571, ch. 42, § 2; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 577, Pub. L. 91-358, title I, § 158(g).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1211.

1973 Ed., § 31-711.

§ 38-2001.11. CONSENT TO DEDUCTIONS.

Every teacher who shall continue in the service of the public schools of the District of Columbia after January 15, 1920, as well as every person who on and after January 15, 1920, may be appointed to a position as teacher in the public schools of the District of Columbia, shall be deemed to consent and agree to the deductions made and provided for in this subchapter; and the salary, pay, or compensation, which may be paid monthly or at any other time, shall be full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such teacher during the period covered by such payment, except his claim for the benefits to which he may be entitled under the provisions of this subchapter, notwithstanding the provisions of said Public Act No. 254, approved June 20, 1906, and of any other law, rule or regulation affecting the salary, pay, or compensation of the teachers employed in the service of the public schools of the District of Columbia.

(Jan. 15, 1920, 41 Stat. 389, ch. 39, § 11; June 11, 1926, 44 Stat. 730, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1212.

1973 Ed., § 31-712.

References in Text

"Public Act No. 254, approved June 20, 1906," referred to near the end of the section, refers to the Act of June 20, 1906, 34 Stat. 316, ch. 3446.

§ 38-2001.12. DISCHARGE OF TEACHERS.

Nothing in this subchapter shall be construed to prevent the discharge of any teacher at any time in the discretion of the Board of Education of the District of Columbia under the provisions of law.

(Jan. 15, 1920, 41 Stat. 389, ch. 39, § 12; June 11, 1926, 44 Stat. 730, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1213.

1973 Ed., § 31-713.

§ 38-2001.13. DEFINITIONS.

The term "teacher," under this subchapter, shall include all teachers permanently employed by the Board of Education in the public day schools of the District of Columbia, including other educational employees whose salaries are established in the Act approved June 20, 1906, and acts amendatory thereof, except the employees of the Recreation Board and the Department of School Attendance and Work Permits; the term "annual salary" shall be construed to mean the total annual income received during the fiscal year for services rendered in the public day schools of the District of Columbia, including basic salary, longevity allowance, session room allowance, and increase of compensation (bonus); and whenever the pronoun "his" occurs in this subchapter it shall be construed to mean both male and female teachers.

(Jan. 15, 1920, 41 Stat. 389, ch. 39, § 13; June 11, 1926, 44 Stat. 730, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1214.

1973 Ed., § 31-714.

References in Text

The "Act approved June 20, 1906," referred to near the beginning of the section, refers to the Act of June 20, 1906, 34 Stat. 316, ch. 3446.

§ 38-2001.14. RECORDS TO BE KEPT BY MAYOR.

The Mayor of the District of Columbia shall prepare and keep all needful tables, records, and accounts required for carrying out the provisions of this subchapter. The records to be kept shall include data showing the mortality experience of the teachers in the service of the public schools of the District of Columbia and the rate of withdrawal from such service, and any other information pertaining to such service that may be of value and may serve as a guide for future valuations and adjustments of the plan for the retirement of teachers.

(Jan. 15, 1920, 41 Stat. 389, ch. 39, § 14; June 11, 1926, 44 Stat. 730, ch. 556, § 1; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 146(c)(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1215.

1973 Ed., § 31-715.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2001.15. [OMITTED]

§ 38-2001.16. RULES AND REGULATIONS.

The Mayor of the District of Columbia is hereby authorized to perform, or cause to be performed, any or all acts and the Council of the District of Columbia is hereby authorized to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this subchapter into full force and effect.

(Jan. 15, 1920, 41 Stat. 390, ch. 39, § 16; June 11, 1926, 44 Stat. 731, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1216.

1973 Ed., § 31-717.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(238) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2001.17. FUNDS NOT SUBJECT TO ASSIGNMENT, EXECUTION OR LEVY.

None of the money mentioned in this subchapter shall be assignable, either in law or equity, or be subject to execution or levy by attachment, garnishment, or other legal process.

(Jan. 15, 1920, 41 Stat. 390, ch. 39, § 17; June 11, 1926, 44 Stat. 731, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1217.

1973 Ed., § 31-718.

§ 38-2001.18. APPLICATION OF SUBCHAPTER--ANNUITIES FROM OTHER GOVERNMENTS.

The provisions of this subchapter shall not apply to any teacher who receives an annuity from any state or municipality other than the District of Columbia.

(Jan. 15, 1920, 41 Stat. 390, ch. 39, § 18; June 11, 1926, 44 Stat. 731, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1218.

1973 Ed., § 31-719.

§ 38-2001.19. APPLICATION OF SUBCHAPTER--ANNUITIES UNDER PRIOR ACT.

The provisions of this subchapter shall apply to: (1) all teachers who were on the rolls of the public schools of the District of Columbia for the month of June, 1926, if otherwise eligible; and (2) all teachers who, on June 30, 1926, were receiving an annuity under the provisions of this subchapter, the annuity to be paid each such teacher after June 30, 1926, to be computed in the manner provided herein; provided, that nothing in this subchapter shall be construed to require a reduction in the amount of the annuity being paid to any teacher on July 1, 1926.

(Jan. 15, 1920, 41 Stat. 389, ch. 39, § 19; June 11, 1926, 44 Stat. 731, ch. 556, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1219.

1973 Ed., § 31-720.

SUBCHAPTER II. RETIREMENT AFTER JUNE 30, 1946.

PART A. GENERAL.

§ 38-2021.01. SALARY DEDUCTIONS; DEPOSIT; PURCHASE OF ANNUITY.

(a) Beginning on the first day of the first pay period which begins after December 31, 1969, there shall be deducted and withheld from the annual salary of each teacher in the public schools of the District of Columbia an amount equal to 7% of the teacher's annual salary; except that in the case of teachers hired on or after the first day of the first pay period that begins after October 29, 1996, there shall be deducted and withheld from the annual salary of each teacher in the public schools of the District of Columbia an amount equal to 8% of the teacher's annual salary. The amounts deducted and withheld from the annual salary of each teacher, including amounts so deducted and withheld prior to July 1, 1946, under subchapter I of this chapter, shall be credited to an individual account of the teacher from whose salary the deduction is made, together with interest at 4% per annum, compounded annually up to July 1, 1946, and thereafter at 3% per annum, compounded annually from December 31st of the year in which the deductions are made; provided, that such interest shall not be credited after December 31, 1956, except that in the case of a teacher separated before he has completed 5 years of eligible service interest shall be credited to the date of separation or the end of the 90-day period beginning on November 17, 1979, whichever is earlier. These individual interest-bearing accounts shall be kept by the Custodian of Retirement Funds. After the end of the 90-day period beginning on November 17, 1979, any amounts deducted and withheld pursuant to this subsection shall be paid to the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a).

(b) Any teacher may at his option and under such regulations as may be prescribed by the District of Columbia Retirement Board deposit with the Custodian of Retirement Funds additional sums in multiples of \$25 but not to exceed 10% per annum of his annual salary, pay, or compensation for services rendered since March 1, 1920, which amount together with interest thereon computed in accordance with § 38-2023.14(a) shall, at the date of his retirement, be available to purchase an annuity as he shall elect in accordance with such rules and regulations as may be prescribed by the District of Columbia Retirement Board, in addition to the annuity provided by this part; the purchase price of such annuity shall be based upon the interest rate computed in accordance with § 38-2023.14(a) and upon such table of mortality as shall from time to time be prescribed by the Board. In the event of death or separation from the service of such teacher before becoming eligible for retirement on annuity, the amounts so deposited with interest at 3% compounded annually from December 31st of the year in which the deposits are made to the date of such death or separation or the end of the 90-day period beginning on November 17, 1979, whichever is earlier shall be refunded in accordance with the provisions of §§ 38-2021.09 and 38-2021.10, respectively. A separate individual account shall be kept by the Custodian of Retirement Funds with respect to the voluntary deposits and interest of each teacher.

(Aug. 7, 1946, 60 Stat. 875, ch. 779, § 1; Mar. 6, 1952, 66 Stat. 17, ch. 95, § 1; Aug. 5, 1955, 69 Stat. 530, ch. 569, title V, § 21; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 747, Pub. L. 90-231, § 1(1); May 22, 1970, 84 Stat. 257, Pub. L. 91-263, § 1(d)(1); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 123(b)(1)(A), 253(a)(1); Mar. 24, 1990, D.C. Law 8-97, § 4, 37 DCR 1046; Apr. 9, 1997, D.C. Law 11-218, § 4(a), 43 DCR 6172; Apr. 13, 2005, D.C. Law 15-354, § 55(a), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 60, 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1221.

1973 Ed., § 31-721.

Effect of Amendments

D.C. Law 15-354, in subsec. (b), substituted "District of Columbia Retirement Board" for "Council of the District of Columbia" and substituted "prescribed by the District of Columbia Retirement Board" for "prescribed by the Council, in".

D.C. Law 16-191, in subsec. (b), validated a previously made technical correction.

Emergency Act Amendments

For temporary amendment of section, see § 2 of the Board of Education Early-Out Retirement for "ET" Employees Emergency Amendment Act of 1996 (D.C. Act 11-262, April 18, 1996, 43 DCR 2177).

For temporary amendment of section, see § 4(a) of the New Hires Police Officers, Fire Fighters, and

Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and 4(a) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

Section 7 of D.C. Act 12-10 provides for the application of the act.

Legislative History of Laws

Law 8-97 was introduced in Council and assigned Bill No. 8-267, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 19, 1989, and January 16, 1990, respectively. Signed by the Mayor on January 26, 1990, it was assigned Act No. 8-149 and transmitted to both Houses of Congress for its review.

Law 10-135, the "Full Funding of Pension Liability Retirement Reform Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-515, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 1, 1994, and April 12, 1994, respectively. Signed by the Mayor on May 4, 1994, it was assigned Act No. 10-239 and transmitted to both Houses of Congress for its review.

Law 11-218, the "New Hire Police Officers, Fire Fighters, and Teachers Pension Modification Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-316. The Bill was adopted on first and second readings on July 3, 1996 and October 1, 1996, respectively. Signed by the Mayor on October 18, 1996, it was assigned Act No. 11-432 and transmitted to both Houses of Congress for its review. D.C. Law 11-218 became effective on April 9, 1997.

For Law 15-354, see notes following § 38-101.

For Law 16-191, see notes following § 38-1202.01.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(239) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Full Funding of Pension Liability Retirement Reform Amendment Act of 1994: Section 311 of D.C. Law 10-135 amended (a) by inserting "(or, with respect to each pay period which begins on or after October 1, 1995, 8 per centum)" following "7 %" in the first sentence.

Section 401 of D.C. Law 10-135 provided that notwithstanding any other law, title I, §§ 101(b)(1) and (2), and titles II and III shall apply to any action or transaction taken or undertaken with respect to the Police Officers and Fire Fighters' Retirement Fund, the Teachers' Retirement Fund and the Judges' Retirement Fund on and after October 1, 1995.

Section 501 of D.C. Law 10-135 provides that the act shall take effect on the later of: (1) completion of a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in § 1-2-33(c)(1), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations; or (2) enactment by Congress of titles II and III of this act and of an amendment to D.C. Code § 11-1563 which amends the first sentence in subsection (a) by inserting after "per centum" the following: "(or, with respect to each pay period which begins on or after October 1, 1995, 4 1/2 per centum)" and an amendment to D.C. Code § 11-1564(d)(1) which inserts after "United States Code," the following: "with respect to services performed before October 1, 1995, and equal to 4 1/2 per centum of such salary, pay, or compensation with respect to services performed on or after October 1, 1995,".

§ 38-2021.01A. RETIREMENT CREDIT FOR LEAVE WITHOUT PAY.

(a) Any teacher who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of teachers, for the purpose of bargaining with the District of Columbia concerning grievances, disputes, hours of employment, or conditions of work, may, within 60 days after entering on such leave without pay, file with the Board of Education of the District of Columbia an election to receive full retirement credit for his periods of that leave without pay and arrange to pay currently into the

teachers' retirement fund established pursuant to this part, through the Board of Education, amounts equal to the retirement deductions plus additional amounts equivalent to such amounts, in lieu of District of Columbia contributions which would be applicable if he were in pay status. A teacher who is on approved leave without pay and serving as a full-time officer or employee of such an organization on May 22, 1970, may similarly make such election within 60 days after such date. If the election and all payments herein provided are not made, the teacher shall receive no credit for such periods of leave without pay occurring on or after May 22, 1970.

(b) A teacher may deposit, with interest computed in accordance with § 38- 2023.14(b), an amount equal to retirement deductions representing any period or periods of approved leave without pay while serving, prior to May 22, 1970, as a full-time officer or employee of an organization composed primarily of teachers, and may receive full retirement credit for such period or periods of leave without pay. In the event of the death of such teacher, any individual entitled to annuity under this part may make such deposit.

(Aug. 7, 1946, ch. 779, § 1A; May 22, 1970, 84 Stat. 259; Pub. L. 91-263, § 3; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 253(a)(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1222.

1973 Ed., § 31-721a.

§ 38-2021.02. RETIREMENT AND ANNUITY FUND; INCOME FROM INVESTMENTS; SEPARATE ACCOUNTS.

Until the end of the 90-day period beginning on November 17, 1979, the amounts so deducted and withheld from the annual salary of every teacher, and the amounts of additional voluntary deposits, shall be deposited in the Treasury of the United States to the credit of the Teachers' Retirement and Annuity Fund. As of July 1, 1946, there shall be transferred and credited to such fund the balances of funds held for the retirement of teachers under the provisions of §§ 38-2001.02 and 38-2001.07. The fund thus created shall be held and invested by the Secretary of the Treasury until paid out as hereinafter provided, and the income derived from such investment shall constitute a part of said fund for the purpose of carrying out the provisions of this part, and for payment of administrative expenses incurred by the Mayor of the District of Columbia in placing in effect each annuity adjustment granted under § 38- 2023.14. Separate accounts shall be maintained by the Treasury with respect to:

(1) The regular operations of the retirement system, exclusive of those incident to the voluntary deposits; and

(2) The voluntary deposits and the supplementary annuities and refunds resulting from such deposits.

(Aug. 7, 1946, 60 Stat. 876, ch. 779, § 2; July 5, 1966, 80 Stat. 267, Pub. L. 89-494, § 2; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 123(b)(1)(B).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1223.

1973 Ed., § 31-722.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2021.03. VOLUNTARY AND INVOLUNTARY RETIREMENT.

(a) Any teacher who completes 5 years of eligible service and who is separated from the service: (1) after becoming 55 years of age and completing 30 years of service; (2) after becoming 60 years of age and completing 20 years of service; (3) after becoming 62 years of age; or (4) in the case of any teacher hired

on or after the first day of the first pay period which begins after October 29, 1996, after completing 30 years of service; is entitled to an annuity.

(b) Any teacher who completes 5 years of eligible service and who is involuntarily separated from the service, except by removal for cause on charges of misconduct or delinquency, after: (1) completing 25 years of service; or (2) becoming 50 years of age and completing 20 years of service; is entitled to an annuity reduced by one sixth of 1% for each full month such teacher is under the age of 55 years at the date of his separation from the service.

(c) Repealed.

(d)(1) The length of a teacher's service shall be computed in accordance with § 38-2021.08.

(2) The amount of an annuity authorized by this section shall be computed in accordance with § 38-2021.05.

(3) Each annuity authorized by this section shall commence on the day after the teacher is separated from the service and shall terminate on the date the teacher dies.

(e) Any teacher who completes 5 years of vested service may voluntarily retire from the service on or before December 31, 1980, after completing 20 years of service and shall be entitled to an annuity computed in accordance with subsection (b) of this section; provided, that the amortization payment to the District of Columbia Retirement Board for the District of Columbia Teachers' Retirement Fund shall be made from appropriations of the Board of Education; except that any teacher hired on or after the first day of the first pay period which begins after October 29, 1996, who completes 30 years of service shall be entitled to an annuity computed in accordance with § 38-2021.05.

(f)(1) In the event of a major reorganization, a major reduction in force, or a major transfer of functions in which a significant percentage of Board of Education employees will be separated or subject to an immediate reduction in the rate of basic pay or a furlough, the Board of Education is authorized to offer voluntary retirement to the following eligible teachers:

(A) Teachers who have completed 25 years of service; and

(B) Teachers who have reached 50 years of age and completed 20 years of service.

(2) Teachers who accept voluntary retirement under paragraph (1) of this subsection shall:

(A) Receive an annuity reduced by 1/6 of 1% for each full month such teacher is under the age of 55 years at the date of his or her separation from the service; and

(B) Be eligible for the early out retirement incentive program established by § 38-2021.03.

(Aug. 7, 1946, 60 Stat. 876, ch. 779, § 3; Mar. 6, 1952, 66 Stat. 17, ch. 95, § 2; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 747, Pub. L. 90-231, § 1(2); Mar. 4, 1981, D.C. Law 3-128, § 9, 28 DCR 246; Mar. 5, 1981, D.C. Law 3-133, § 5, 27 DCR 4417; May 21, 1988, D.C. Law 7-111, § 2, 35 DCR 2674; Sept. 26, 1995, D.C. Law 11-52, § 902, 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-218, § 4(b), 43 DCR 6172.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1224.

1973 Ed., § 31-723.

Emergency Act Amendments

For temporary amendment of section, see § 4(b) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and 4(b) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

Legislative History of Laws

Law 3-128 was introduced in Council and assigned Bill No. 3-394, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-337 and transmitted to both Houses of Congress for its review.

Law 3-133 was introduced in Council and assigned Bill No. 3-273, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 29, 1980, and September 16, 1980, respectively. Signed by the Mayor on October 2, 1980, it was assigned Act No. 3-254 and transmitted to both Houses for Congress for its review.

Law 7-111 was introduced in Council and assigned Bill No. 7-393, which was referred to the Committee on Education and Libraries. The Bill was adopted on first and second readings on March 1, 1988 and March 15,

1988, respectively. Signed by the Mayor on March 31, 1988, it was assigned Act No. 7-157 and transmitted to both Houses of Congress for its review.

Law 10-253, the "Multiyear Budget Spending Reduction and Support Temporary Act of 1995," was introduced in Council and assigned Bill No. 10-857. The Bill was adopted on first and second readings on December 21, 1994, and January 3, 1995, respectively. Deemed approved without the signature of the Mayor, it was assigned Act No. 10-401 and transmitted to both Houses of Congress for its review. D.C. Law 10-253 became effective on March 23, 1995.

For legislative history of D.C. Law 11-52, see Historical and Statutory Notes following § 38-2021.21.

For legislative history of D.C. Law 11-218, see Historical and Statutory Notes following § 38-2021.01.

§ 38-2021.04. DISABILITY RETIREMENT.

(a) Any teacher who completes 5 years of eligible service, and who, before becoming eligible for retirement under the conditions defined in §§ 38-2021.01 to 38-2021.03, acquires a physical or mental disability and is incapable of satisfactorily performing the duties of his position by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the teacher, shall upon his own application or upon order of the Board of Education as provided later in this section be retired on an annuity computed in accordance with the provisions of §§ 38-2021.05 and 38-2021.06 and beginning on the day after his pay ceases and he meets the service and disability requirements for title to annuity. Proof of freedom from vicious habits, intemperance, or willful misconduct for a period of more than 5 years next prior to having a disability for useful and efficient service shall not be required in any case. No claim shall be allowed under the provisions of this section unless the application for retirement shall have been executed prior to the applicant's separation from the service or within 6 months thereafter. No teacher shall be retired under the provisions of this section unless examined under the direction of the Director of the Department of Human Services of the District of Columbia, and as a result of said examination, in his judgment, or in the judgment of the Superintendent of Schools concurred in by two thirds of the members of the Board of Education, shall have been found to be physically or mentally incapacitated for efficient service.

(b) Every annuitant retired under the provisions of this section, unless the disability for which retired be permanent in character, shall at the expiration of one year from the date of such retirement and annually thereafter, until reaching retirement age as defined in § 38-2021.03, be examined under the direction of the Director of the Department of Human Services of the District of Columbia in order to ascertain the nature and degree of the annuitant's disability, if any. If an annuitant shall recover before reaching retirement age he shall be reappointed by the Board of Education in accordance with such rules and regulations as the said Board may prescribe to the first position, equal or similar to any position in the public schools occupied by the annuitant before retirement, which becomes vacant after the date the Board of Education receives written notification from the Director of the Department of Human Services of the District of Columbia that the annuitant has recovered and is able to discharge his duties as a teacher in the public schools of the District of Columbia. Payment of the annuity shall be continued until the date of reappointment by the Board of Education. In the event that the annuitant refuses to accept the employment prescribed in this section no annuity shall be paid after the date of such refusal. Should the annuitant fail to appear for examination as required under this section, payment of the annuity shall be suspended until continuance of the disability shall have been satisfactorily established. Upon written recommendation of the Superintendent of Schools, the Board of Education may order or direct at any time such medical or other examination as it shall deem necessary to determine the facts relative to the nature and degree of disability of any teacher retired on an annuity under this section.

(b-1) Any initiation, termination, or change of annuity payments made under subsection (b) of this section shall be subject to review and final determination by the District of Columbia Retirement Board.

(c) Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this section and who has not reached retirement age (as defined in § 38-2021.03) receives income from wages or self-employment, or both, in an amount not less than 80% of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the District of Columbia Retirement Board effective January 1st of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1st of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80% of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the District of Columbia Retirement Board determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80% of such current rate of pay.

(d) In all cases where the annuity is discontinued under the provisions of this section, so much of the annuity payments as would have been provided by an annuity whose actuarial value at the time of

retirement was equal to the contributions accumulated with interest shall be charged against his individual account and, unless he shall become reemployed in a position under the purview of this part, he shall be considered as having been separated from the service for other than retirement purposes and entitled to the benefits of § 38- 2021.09 hereof; provided, however, that if such teacher were also receiving an annuity because of voluntary deposits made under the provisions of § 38- 2021.01, such annuity may be continued or, at the option of the teacher, the actuarial reserve value of such annuity may be withdrawn in cash unless the teacher is reemployed in a position within the purview of this part, in which case the amount of such reserve value shall be treated as a voluntary deposit under the provisions of § 38-2021.01.

(Aug. 7, 1946, 60 Stat. 877, ch. 779, § 4; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; Mar. 6, 1952, 66 Stat. 17, ch. 95, § 3; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 747, Pub. L. 90-231, § 1(3); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 256; Apr. 13, 2005, D.C. Law 15-354, § 55(b), 52 DCR 2638; Apr. 24, 2007, D.C. Law 16-305, § 56, 53 DCR 6198.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1225.

1973 Ed., § 31-724.

Effect of Amendments

D.C. Law 15-354 added subsec. (b-1); and, in subsec. (c), substituted "District of Columbia Retirement Board" for "Board of Education".

D.C. Law 16-305, in subsec. (a), substituted "acquires a physical or mental disability and is" for "becomes physically or mentally disabled and" and "having a disability" for "becoming so disabled".

Legislative History of Laws

For Law 15-354, see notes following § 38-101.

For Law 16-305, see notes following § 38-911.

Miscellaneous Notes

Office of Director of Public Health abolished: Section 1 of the Act of August 1, 1950, 64 Stat. 393, ch. 513, provided that the Health Officer of the District of Columbia would be known as the Director of Public Health. The Health Department of the District of Columbia, including the office of the head thereof, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 57 of the Board of Commissioners, dated June 30, 1953, and Reorganization Order No. 52, dated June 30, 1953, combined and redesignated Organization Order No. 141, dated February 11, 1964, established, under the direction and control of a Commissioner, a Department of Public Health headed by a Director, for the purpose of planning, implementing, and directing public health and hospital care programs, and for performing certain other allied medical and paramedical functions. The Anatomical Board was established under the direction and control of the Director of Public Health consisting of members as prescribed in the D.C. Code. The Order prior to redesignation abolished the previously existing Health Department, Gallinger Hospital, Glenn Dale Sanatorium, and the Anatomical Board and transferred their functions and positions to the new Department. The organization of the new Department was set out in the Order. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions stated in Organization Order No. 141 were transferred to the Director of the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by Reorganization Plan No. 2 of 1979, dated February 21, 1980, which Plan established the Department of Human Services.

§ 38-2021.05. COMPUTATION OF ANNUITY; OPTIONS.

(a) Except as otherwise provided in this part, every teacher who shall be retired under the provisions of § 38-2021.03 or § 38-2021.04 shall receive an annuity composed of: (1) the larger of: (A) one and one-half per centum of the average salary as defined in § 38-2021.13, multiplied by so much of the total service as does not exceed 5 years; or (B) one per centum of the average salary, plus \$25, multiplied by so much of the total service as does not exceed 5 years; plus (2) the larger of: (A) one and three-quarters per centum of the average salary multiplied by so much of the total service as exceeds 5 years but does not exceed 10 years; or (B) one per centum of the average salary, plus \$25, multiplied by so much of the total service as exceeds 5 years but does not exceed 10 years; plus (3) the larger of: (A) two per centum of the average salary multiplied by so much of the total service as exceeds 10 years; or (B) one per centum of the average salary, plus \$25, multiplied by so much of the total service as exceeds 10 years. Notwithstanding the preceding sentence, every teacher retired under the provisions of § 38-2021.03 or § 38-2021.05 who is hired on or after the first day of the first pay period that begins after October 29, 1996 shall receive an annuity equal to 2% of the average salary as defined in § 38- 2021.13 multiplied by the number of years of

the teacher's creditable service. Each annuity is stated as an annual amount, one twelfth of which, fixed at the nearest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued. Annuities payable to any retired teacher who has become eligible for retirement because of age as defined in § 38-2021.03 shall be payable during the lifetime of the annuitant. Annuities payable to any teacher retired on account of disability shall be subject to the conditions set forth under § 38- 2021.04.

(b) Any teacher retiring under the provisions of § 38-2021.03 or § 38- 2021.04 may, at the time of retirement, elect to receive in lieu of the life annuity described herein 1 of the following:

(1) A reduced annuity and an annuity after death payable to the surviving spouse or domestic partner of such teacher. The life annuity of a teacher making such election, or any portion of such annuity designated by the teacher in writing for such purposes at the time of retirement, shall be reduced by $2\frac{1}{2}$ of so much thereof as does not exceed \$3,600 and by 10% of so much thereof as exceeds \$3,600. The spouse or domestic partner of a teacher making such election shall be entitled to an annuity equal to 55% of such life annuity, or designated portion thereof, except that if a retired teacher who has elected a reduced annuity as provided in this paragraph or in subsection (d) of this section dies and is survived by a spouse or domestic partner whom he or she married or entered into a domestic partnership with after retirement, such spouse or domestic partner is entitled to an annuity in an amount which would have been paid had the teacher been married to, or in a domestic partnership with, the spouse or domestic partner at the time of retirement, but only if: (A) such spouse or domestic partner was married to, or in a domestic partnership with, such individual for at least 2 years immediately preceding the teacher's death, or is the mother or father of issue of such marriage or domestic partnership; and (B) such spouse or domestic partnership elects this annuity instead of any other survivor benefit to which he or she may be entitled under this part or another retirement system for employees of the federal or District government. The annuity of a spouse or domestic partner entitled to an annuity under this paragraph shall begin on the day after the retiree dies. Such annuity and any right thereto shall terminate on the last day of the month before: (A) the spouse or domestic partner dies; or (B) the spouse or domestic partner remarries or enters into a domestic partnership before becoming 60 years of age. In the case of a surviving spouse or domestic partner whose annuity under this paragraph is terminated because of remarriage or entry into a domestic partnership before becoming 60 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, or the day the domestic partnership is terminated in accordance with § 32-702(d), if:

(i) The surviving spouse or domestic partner elects to receive the annuity which was terminated instead of a survivor benefit to which the surviving spouse or domestic partner may be entitled, under this part or another retirement system for employees of the federal or District government, by reason of the remarriage or entry into a domestic partnership; and

(ii) Any lump sum paid on termination of the annuity is repaid to the Custodian of Retirement Funds (as defined in § 1-702(6) for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a).

(2) If unmarried, not in a domestic partnership, and in good health, a reduced annuity payable to him during his life, and an annuity after his death payable to a survivor annuitant having an insurable interest in such teacher, duly designated in writing and filed with the District of Columbia Retirement Board at the time of retirement, during the life of such survivor annuitant equal to 55% of such reduced annuity. The annuity of the survivor annuitant shall commence on the day after the retired teacher dies, and such annuity and any right thereto shall terminate on the last day of the month before the death of the survivor annuitant. The annuity hereunder payable to the teacher shall be 90% of the life annuity otherwise payable if the survivor annuitant is the same age or older than the annuitant, or is less than 5 years younger than the annuitant; 85% if the survivor annuitant is 5 but less than 10 years younger; 80% if the survivor annuitant is 10 but less than 15 years younger; 75% if the survivor annuitant is 15 but less than 20 years younger; 70% if the survivor annuitant is 20 but less than 25 years younger; and 60% if the survivor annuitant is 25 or more years younger. No such election shall be valid until the retiring teacher shall have satisfactorily passed a physical examination under the direction of the Director of the Department of Human Services of the District of Columbia, as prescribed by the Board of Education. No person shall be eligible to receive an annuity under subsection (b) of § 38-2021.09 based upon the service of the same teacher covering the same period of time.

(3) A reduced annuity of equivalent value providing for a life-insurance benefit payable in a lump sum at the time of the annuitant's death. The face amount of such life insurance may be in any amount which the retiring teacher shall designate at the time of retirement but shall not exceed his contributions accumulated with interest to the date of retirement. Payment of such insurance shall be made in accordance with the provisions of § 38- 2021.10. Any annuitant who elects to receive the reduced annuity with fixed life-insurance benefits may reconvert the value of the life insurance to an additional annuity of equivalent value on any anniversary of the retirement date of said annuitant prior to reaching age 70.

(4) In the event an individual designated as a surviving spouse or domestic partner or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of

such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.

(c)(1)(A) The annuity of any person who now or hereafter is receiving or entitled to receive an annuity from the Teachers' Retirement and Annuity Fund shall be increased, effective on October 1, 1955, or on the commencing date of the annuity, whichever is later, in accordance with the following schedule:

If annuity commences between	Annuity not in excess of \$1,500 shall be increased by	Annuity in excess of \$1,500 shall be increased by

August 20, 1920, and June 30, 1955 ...	12 per centum	8 per centum
July 1, 1955, and December 31, 1955 ..	10 per centum	7 per centum
January 1, 1956, and June 30, 1956 ...	8 per centum	6 per centum
July 1, 1956, and December 31, 1956 ..	6 per centum	4 per centum
January 1, 1957, and June 30, 1957 ...	4 per centum	2 per centum
July 1, 1957, and December 31, 1957 ..	2 per centum	1 per centum

(B) Such increase in annuity shall not exceed the sum necessary to increase such annuity, exclusive of annuity purchased by voluntary contributions under this section, to \$4,104. The monthly installment of each annuity so increased shall be fixed at the nearest dollar.

(2) The increases provided by this subsection, when added to the annuities of retired employees, shall not operate to increase the annuities of their survivors, except that the annuity of any such survivor who becomes entitled to annuity shall be increased by the per centum provided in paragraph (1) of this subsection appropriate to the commencing date of such survivors annuity.

(d) A teacher who is unmarried and not in a domestic partnership at the time of retiring under a provision of law which permits election of a reduced annuity with a survivor annuity payable to his spouse or domestic partner and who later marries or enters into a domestic partnership may irrevocably elect, in a signed writing filed with the District of Columbia Retirement Board within one year after he or she marries or enters into a domestic partnership, a reduction in his or her current annuity and an annuity after death payable to his or her surviving spouse or domestic partner as provided in paragraph (1) of subsection (b) of this section. The reduced annuity is effective the first day of the month after such election is received by the District of Columbia Retirement Board. The election voids prospectively any election previously made under paragraph (2) or paragraph (3) of subsection (b) of this section.

(e)(1) Notwithstanding any other provision of this part, other than this subsection, the monthly rate of annuity payable under this section shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

(2) Notwithstanding any other provisions of this part, other than this subsection, the monthly rate of annuity payable under this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or 3 times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States, or the District of Columbia, an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

(4) An annuity payable from the Teachers' Retirement and Annuity Fund to a former teacher, which is based on a separation occurring prior to October 20, 1969, is increased by \$240.

(5) In lieu of any increase based on an increase under paragraph (4) of this subsection, an annuity payable from the Teachers' Retirement and Annuity Fund to the surviving spouse of a teacher or annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by \$132.

(6) The monthly rate of an annuity resulting from an increase under paragraph (4) or (5) of this subsection shall be considered as the monthly rate of annuity payable under subsection (a) of this section for purposes of computing the minimum annuity under this subsection.

(Aug. 7, 1946, 60 Stat. 878, ch. 779, § 5; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; Mar. 6, 1952, 66 Stat. 17, ch. 95, § 4; Aug. 5, 1955, 69 Stat. 530, ch. 569, title V, § 23; July 2, 1956, 70 Stat. 487, ch. 497, § 1; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Oct. 24, 1962, 76 Stat. 1237, Pub. L. 87-881, title II, § 203(a); Dec. 29, 1967, 81 Stat. 748, Pub. L. 90-231, § 1(4); May 22, 1970, 84 Stat. 258, Pub. L. 91-263, § 1(f); Oct. 21, 1972, 86 Stat. 1012, Pub. L. 92-518, title II, § 201(1), (2); Sept. 3, 1974, 88 Stat. 1050, Pub. L. 93-407, title III, § 301; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 123(b)(1)(c), 255(a); Apr. 9, 1997, D.C. Law 11-218, § 4(c), 43 DCR 6172; Apr. 13, 2005, D.C. Law 15-354, § 55(c), 52 DCR 2638; Sept. 12, 2008, D.C. Law 17-231, § 32(a), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1226.

1973 Ed., § 31-725.

Effect of Amendments

D.C. Law 15-354, in subsec. (b)(2), substituted "District of Columbia Retirement Board" for "Auditor of the District of Columbia"; and, in subsec. (d), substituted "District of Columbia Retirement Board" for "Mayor of the District of Columbia" and "Mayor".

D.C. Law 17-231 substituted "surviving spouse or domestic partner" for "widow or widower" throughout the section; rewrote subsec. (b)(1); in subsec. (b)(2), substituted "unmarried", not in a domestic partnership" for "unmarried"; and, in subsec. (d), substituted "unmarried and not in a domestic partnership," for "unmarried", "spouse or domestic partner" for "spouse", and "marries or enters into a domestic partnership". Prior to amendment, subsec. (b)(1) read as follows:

"(1) A reduced annuity and an annuity after death payable to the surviving widow or widower of such teacher. The life annuity of a teacher making such election, or any portion of such annuity designated by the teacher in writing for such purposes at the time of retirement, shall be reduced by 2 1/2% of so much thereof as does not exceed \$3,600 and by 10% of so much thereof as exceeds \$3,600. The widow or widower of a teacher making such election shall be entitled to an annuity equal to 55% of such life annuity, or designated portion thereof, except that if a retired teacher who has elected a reduced annuity as provided in this paragraph or in subsection (d) of this section dies and is survived by a widow or widower whom he or she married after retirement, such widow or widower is entitled to an annuity in an amount which would have been paid had the teacher been married to the widow or widower at the time of retirement, but only if: (A) such widow or widower was married to such individual for at least 2 years immediately preceding the teacher's death, or is the mother or father of issue of such marriage; and (B) such widow or widower elects this annuity instead of any other survivor benefit to which he or she may be entitled under this part or another retirement system for employees of the federal or District government. The annuity of a widow or widower entitled to an annuity under this paragraph shall begin on the day after the retiree dies. Such annuity and any right thereto shall terminate on the last day of the month before: (A) the widow or widower dies; or (B) the widow or widower remarries before becoming 60 years of age. In the case of a surviving widow or widower whose annuity under this paragraph is terminated because of remarriage before becoming 60 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if:

"(i) The surviving widow or widower elects to receive the annuity which was terminated instead of a survivor benefit to which the surviving widow or widower may be entitled, under this part or another retirement system for employees of the federal or District government, by reason of the remarriage; and

"(ii) Any lump sum paid on termination of the annuity is repaid to the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a)."

Emergency Act Amendments

For temporary amendment of section, see § 4(c) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 4(c) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

Section 7 of D.C. Act 12-10 provides for the application of the act.

Legislative History of Laws

For legislative history of D.C. Law 11-218, see Historical and Statutory Notes following § 38-2021.01.

For Law 15-354, see notes following § 38-101.

Law 17-231, the "Omnibus Domestic Partnership Equality Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-135, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on June 6, 2008, it was assigned Act No. 17-403 and transmitted to both Houses of

Congress for its review. D.C. Law 17-231 became effective on September 12, 2008.

References in Text

"Title II of the Social Security Act," referred to throughout subsection (e), is codified at 42 U.S.C. § 401 et seq.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Office of Auditor abolished: The Office of the Auditor of the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Auditor including the functions of all officers, employees, and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952, and effective September 2, 1952. The function of receiving written designation for survivor annuity, referred to in subsection (b)(2) of this section, was transferred from the Auditor to the Accounting Officer, Finance Office, Department of General Administration by Reorganization Order No. 20, dated November 10, 1952. Reorganization Order No. 20 was superseded by Organization Order No. 121, dated December 12, 1957. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Organization Order No. 121 was revoked and replaced by Organization Order No. 3, dated December 13, 1967. Part IV-C of the latter Order established a Finance Office within the newly created Department of General Administration, and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by paragraph 4, Commissioner's Order No. 69-96, dated March 7, 1969. Functions pertaining to centralized accounting as set forth in Commissioner's Order No. 69-96 were transferred to the Director of the Office of Budget and Financial Management by Organization Order No. 30, dated April 5, 1972. Organization Order No. 50, dated December 31, 1974, established the Office of Budget and Management Systems, and transferred to that Office the functions of the Office of Budget and Financial Management. The Office of Budget and Management Systems was replaced by Mayor's Order 79-5, dated January 2, 1979, which Order established the Office of Budget and Revenue Development.

Office of Director of Public Health abolished: Section 1 of the Act of August 1, 1950, 64 Stat. 393, ch. 513, provided that the Health Officer of the District of Columbia would be known as the Director of Public Health. The Health Department of the District of Columbia, including the office of the head thereof, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 57 of the Board of Commissioners, dated June 30, 1953, and Reorganization Order No. 52, dated June 30, 1953, combined and redesignated Organization Order No. 141, dated February 11, 1964, established, under the direction and control of a Commissioner, a Department of Public Health headed by a Director, for the purpose of planning, implementing, and directing public health and hospital care programs, and for performing certain other allied medical and paramedical functions. The Anatomical Board was established under the direction and control of the Director of Public Health consisting of members as prescribed in the D.C. Code. The Order prior to redesignation abolished the previously existing Health Department, Gallinger Hospital, Glenn Dale Sanatorium, and the Anatomical Board and transferred their functions and positions to the new Department. The organization of the new Department was set out in the Order. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions stated in Organization Order No. 141 were transferred to the Director of the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by Reorganization Plan No. 2 of 1979, dated February 21, 1980, which Plan established the Department of Human Services.

Application of Law 11-218: Section 7 of D.C. Law 11-218 provided that the act shall apply as of January 28, 1997.

§ 38-2021.06. ANNUITY OF TEACHERS RETIRED FOR DISABILITY.

The annuity of a teacher retiring under § 38-2021.04 shall be at least: (1) forty per centum of the average salary or; (2) the sum obtained under § 38-2021.05 after increasing his total service by the period

elapsing between the date of separation and the date he attains the age of 60 years, whichever is the lesser.

(Aug. 7, 1946, 60 Stat. 878, ch. 779, § 6; Mar. 6, 1952, 66 Stat. 19, ch. 95, § 5; June 4, 1957, 71 Stat. 47, Pub. L. 85-46, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1229.

1973 Ed., § 31-726.

§ 38-2021.07. [OMITTED]

§ 38-2021.08. BASIS FOR DETERMINING ANNUITY AMOUNT.

(a) The years of service which form the basis for determining the amount of the annuity provided in § 38-2021.05(a) shall be computed from the date of original appointment as a teacher in the public schools of the District of Columbia, including so much of any authorized leaves of absence without pay beginning on May 1, 1952, as does not exceed 6 months in the aggregate in any fiscal year, plus any service credit that may be allowed under the provisions of this section; provided, that deposits equal to 5% of those portions of salary received between July 1, 1949, and May 1, 1952, for which service credit was not earned may be made, and service credit received accordingly. A teacher or former teacher who returns to duty after a period of separation is deemed, for the purpose of this section, to have been on a leave of absence without pay for that part of the period in which he or she was receiving benefits under subchapter I of Chapter 81 of Title 5, United States Code, or any earlier statute on which such subchapter is based. In computing an annuity under § 38-2021.05(a) the total service of a teacher shall include days of unused sick leave credited to him. No deposit may be required for days of unused sick leave included in a teacher's total service under the preceding sentence. Days of unused sick leave shall not be counted in determining a teacher's average salary or his eligibility for an annuity. In computing the length of service of retiring teachers credit may be given, year for year, for: (1) public school service or its equivalent outside the District of Columbia but not to exceed 10 years; (2) continuous temporary service in the public schools of the District of Columbia immediately prior to probationary appointment; (3) service in the government of the District of Columbia or the government of the United States allowable under subchapter III of Chapter 83 of Title 5, United States Code; (4) periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National Guard except when ordered to active duty in the service of the United States) prior to the date of the separation upon which title to annuity is based; except that, if a teacher is awarded retired pay on account of military service, his military service shall not be included unless such retired pay is awarded on account of a service-connected disability: (A) incurred in combat with an enemy of the United States; or (B) caused by an instrumentality of war and incurred in the line of duty during an enlistment or employment as provided in Veterans Regulation No. 1(a), part 1, paragraph 1, or is awarded under title III of Public Law 810, 80th Congress; (5) all educational leaves of absence with part pay authorized by the Board of Education in accordance with §§ 1-612.01 to 1-612.03; and (6) continuous temporary service as an employee of any cafeteria or lunchroom operated in the public school buildings of the District of Columbia during any period prior to the date on which such cafeteria or lunchroom is placed under the Office of Central Management, Department of Food Services, District of Columbia, and immediately prior to appointment as a teacher in the public schools of the District of Columbia; provided, however, that portion of the annuity which results from credit for service allowable under clauses (1) and (3) of this subsection shall be reduced by the amount of any annuity which the retired teacher is entitled to receive under any federal, state, or municipal retirement or pension system in respect to such service, except that such portion of the annuity after reduction shall not be less than the annuity purchasable with the deposit which the teacher is required to make under the provisions of this section in order to obtain credit for such service; provided further, that no credit for service prescribed in this section, with the exception of periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States and all educational leaves of absence with part pay authorized by the Board of Education in accordance with §§ 1-612.01 to 1-612.03, shall be given to any teacher entering the said public schools after June 30, 1926, until he shall have deposited to the credit of the Teachers' Retirement and Annuity Fund of the District of Columbia a sum equal to: (1) the accumulated contributions which he would have had credited to his individual account if such service had been rendered on active duty in the public schools of the District of Columbia, said contributions to be based on the average annual salary of the class to which the teacher is appointed; and (2) interest thereon computed in accordance with § 38-2023.14(b); provided further, that all contributions to the retirement fund made by any teacher on education leave with part pay shall be determined in accordance with the provisions of § 38-2021.01, but otherwise no provision of this part shall be interpreted to deprive any teacher employed by the Board of Education of any rights or benefits allowable under §§ 1-612.01 to 1-612.03. If the teacher so elects he may deposit the required sum in the Teachers' Retirement and Annuity

Fund in monthly installments, upon making a claim with the District of Columbia Retirement Board. Except as otherwise provided in this subsection, this section shall not be construed to allow any teacher more than one year's credit for all services rendered in any one fiscal year.

(b) A teacher who during the period of any war, or of any national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service, as defined in this section, shall not be considered, for the purposes of this part, as separated from his teaching position by reason of such military service, unless he shall apply for and receive a lump-sum benefit under this part, except that such teacher shall not be considered as retaining his teaching position beyond 6 months after June 4, 1957, or the expiration of 5 years of such military service, whichever is later.

(c) Nothing in this part shall affect the right of a teacher to retired pay, pension, or compensation in addition to the annuity herein provided.

(d) Notwithstanding the provisions of this section, any teacher who is entitled to purchase service credit under the provisions of § 38-1970(d) shall purchase such credit based on the salary received from the Board of Higher Education during the period of service to be credited.

(Aug. 7, 1946, 60 Stat. 879, ch. 779, § 8; Mar. 6, 1952, 66 Stat. 19, ch. 95, § 7; Aug. 5, 1955, 69 Stat. 536, ch. 575, § 2; June 4, 1957, 71 Stat. 47, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 748, Pub. L. 90-231, § 1(5); May 22, 1970, 84 Stat. 257, Pub. L. 91-263, § 1(b); Oct. 21, 1972, 86 Stat. 1013, Pub. L. 92-518, title II, §§ 201(3), 202(a)(1), 203(b); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 253(a)(3); May 10, 1989, D.C. Law 7-231, § 34(a), 36 DCR 492; Apr. 13, 2005, D.C. Law 15-354, § 55(d), 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1230.

1973 Ed., § 31-728.

Effect of Amendments

D.C. Law 15-354, in subsec. (b)(2), substituted "District of Columbia Retirement Board" for "Mayor of the District of Columbia, or his designated agent".

Legislative History of Laws

Law 7-231 was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

For Law 15-354, see notes following § 38-101.

References in Text

"Veterans Regulation No. 1(a), part 1, paragraph 1," referred to in subsection (a)(4)(B) of this section, was repealed by the Act of June 17, 1957, 71 Stat. 167, Pub. L. 85-56, title XXII, § 2202(129), (217).

"Title III of Public Law 810, 80th Congress," referred to in subsection (a)(4)(B) of this section, refers to the Act of June 29, 1948, 62 Stat. 1087, ch. 708, title III, §§ 301 to 313, which was repealed by the Act of August 10, 1956, 70A Stat. 64, ch. 1041, § 53, and the Act of September 2, 1958, 72 Stat. 1569, Pub. L. 85-861, § 36A.

"Section 31-1132(d)," referred to in subsection (d), was repealed by D.C. Law 4-78, effective March 16, 1982.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2021.09. DEFERRED ANNUITY; ANNUITY TO SURVIVORS.

(a) Should any teacher to whom this part applies, after completing 5 years of eligible service and before becoming eligible for retirement, become separated from the service, such teacher may elect to receive a deferred annuity, computed as provided in § 38-2021.05, beginning at the age of 62 years and terminating

on the date of his death; provided, that any teacher who becomes separated from the public schools of the District of Columbia for other than retirement purposes and who does not elect to receive a deferred annuity as provided for in this section shall receive as soon as practicable after separation the refund of deductions, deposits, or redeposits with interest thereon (computed to the date of separation or the end of the 90-day period beginning on November 17, 1979, whichever is earlier), or any voluntary contributions made under the provisions of § 38-2021.01, with interest (computed to the date of separation or the end of the 90-day period beginning on November 17, 1979, whichever is earlier); provided further, that no teacher who shall withdraw the amount of his deductions, deposits, or redeposits under this section shall, after reinstatement, be entitled to credit for previous service unless he shall repay to the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a) the amount so withdrawn by him (including the interest thereon) plus interest computed in accordance with § 38-2023.14(c); and provided further, that the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding 100.

(b)(1) In the event any teacher to whom this part applies shall die subsequent to March 6, 1952, after completing at least 18 months of eligible service and is survived by a spouse or domestic partner, such surviving spouse or domestic partner shall be paid an annuity beginning the day after the teacher dies, equal to 55% of the amount of an annuity computed as provided in subsection (a) of § 38-2021.05 with respect to such teacher, except that in the computation of the annuity under such subsection the annuity of the teacher shall be at least the smaller of: (A) forty per centum of his average salary; or (B) the sum obtained under such subsection after increasing his eligible service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age. Such annuity and any right thereto shall terminate on the last day of the month before: (A) the surviving spouse or domestic partner dies; or (B) the surviving spouse or domestic partner remarries or enters a new domestic partnership before becoming 60 years of age. In the case of a surviving spouse or domestic partner whose annuity under this paragraph is terminated because of remarriage or entry into a new domestic partnership before becoming 60 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, or the new domestic partnership is terminated in accordance with § 32-702(d), if:

(i) The surviving spouse or domestic partner elects to receive the annuity which was terminated instead of a survivor benefit to which the surviving spouse or domestic partner may be entitled, under this part or another retirement system for employees of the federal or District government, by reason of the remarriage or new domestic partnership; and

(ii) Any lump sum paid on termination of the annuity is repaid to the Custodian of Retirement Funds (as defined in § 1-702(6)), for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a).

(2) If any teacher to whom this part applies shall die after completing at least 18 months of eligible service or after having retired under the provisions of § 38-2021.03 or § 38-2021.04 and is survived by a spouse or domestic partner, each surviving child shall be paid an annuity equal to the smallest of: (A) sixty per centum of the teacher's average salary divided by the number of children; (B) \$ 900; or (C) \$ 2,700 divided by the number of children. If such teacher is not survived by a spouse or domestic partner, each surviving child shall be paid an annuity equal to the smallest of: (A) seventy-five per centum of the teacher's average salary divided by the number of children; (B) \$ 1,080; or (C) \$ 3,240 divided by the number of children. The child's annuity shall commence on the first day after the teacher dies. Such annuity and the right thereto terminate on the last day of the month before the child: (i) becomes 18 years of age unless he is then a student as described or incapable of self-support; (ii) becomes capable of self-support after becoming 18 years of age unless he or she is then such a student; (iii) becomes 22 years of age if he or she is then such a student and capable of self-support; (iv) ceases to be such a student after becoming 18 years of age unless he or she is then incapable of self-support; or (v) dies or marries; whichever first occurs. Upon the death of the surviving spouse or domestic partner or termination of the annuity of the child, the annuity of any other child or children shall be recomputed and paid as though such spouse, domestic partner, or child had not survived the teacher.

(3) In the event any teacher to whom this part applies shall die subsequent to March 6, 1952, after completing at least 18 months of eligible service, and is not survived by a spouse, domestic partner, or children, but is survived by dependent parents or a dependent father or a dependent mother, such surviving dependent parents or parent shall be paid an annuity, beginning the first day of the month following the death of the teacher, equal to 55% of the amount of an annuity computed as provided in subsection (a) of § 38-2021.05 with respect to such teacher, except that, in the computation of the annuity under such subsection, the annuity of the teacher shall be at least the smaller of 40% of his average salary, or the sum obtained under such subsection after increasing his eligible service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age; provided, that such payments shall be made jointly to surviving dependent parents and payment of such annuity shall continue after the death of either dependent parent; provided further, that all such payments or any right thereto shall cease upon the death of both dependent parents.

(c) As used in this section:

(1) The term "spouse" means a surviving wife or husband of an individual, who either shall have been married to such individual for at least 2 years immediately preceding the individual's death, or is the mother or father of issue by such marriage.

(2) The term "child" means:

(A) An unmarried child under 18 years of age, including:

(i) An adopted child; and:

(ii) A stepchild or recognized natural child who lived with the teacher in a regular parent-child relationship;

(B) Such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or

(C) Such unmarried child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. For the purpose of this paragraph and paragraph (2) of subsection (b) of this section, a child whose 22nd birthday occurs before July 1st or after August 31st of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the 1st day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if he shows to the satisfaction of the District of Columbia Retirement Board that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(3) The term "dependent parents" means the natural parents of a teacher who were receiving one half or more of their total income from said teacher immediately preceding the death of said teacher.

(4) The term "dependent father" or "dependent mother" means the natural father or natural mother of a teacher who was receiving one half or more of his or her total income from said teacher immediately preceding the death of said teacher.

(5) Repealed.

(6) Questions of dependency and disability arising under this section shall be determined by the District of Columbia Retirement Board and its decisions with respect to such matters shall be final and conclusive and shall not be subject to review.

(7) The term "domestic partner" shall have the same meaning as provided in § 32-701(3), and who shall have been a domestic partner with such individual for at least 2 years immediately preceding his death.

(Aug. 7, 1946, 60 Stat. 880, ch. 779, § 9; Mar. 6, 1952, 66 Stat. 19, ch. 95, § 8; June 4, 1957, 71 Stat. 47, Pub. L. 85-46, § 1; Oct. 24, 1962, 76 Stat. 1237, Pub. L. 87-881, title II, § 203(b), (c), (d), (e); Sept. 2, 1964, 78 Stat. 886, Pub. L. 88-575, § 202; Dec. 29, 1967, 81 Stat. 748, Pub. L. 90-231, § 1(6); May 22, 1970, 84 Stat. 258, Pub. L. 91-263, § 1(e); Oct. 21, 1972, 86 Stat. 1013, Pub. L. 92-518, title II, § 201(4); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 123(b)(1)(D), (E), 253 (a)(4); Apr. 13, 2005, D.C. Law 15-354, § 55(e), 52 DCR 2638; Sept. 12, 2008, D.C. Law 17-231, § 32(b), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1231.

1973 Ed., § 31-729.

Effect of Amendments

D.C. Law 15-354, in subsec. (c)(2)(C), substituted "District of Columbia Retirement Board" for "Mayor of the District of Columbia"; and, in subsec. (c)(6), substituted "District of Columbia Retirement Board" for "Board of Education".

D.C. Law 17-231 rewrote subsecs. (b) and (c)(1); repealed subsec. (c)(5); and added subsec. (c)(7). Prior to amendment or repeal, subsecs. (b), (c)(1), and (c)(7) read as follows:

"(b)(1) In the event any teacher to whom this part applies shall die subsequent to March 6, 1952, after completing at least 18 months of eligible service and is survived by a widow, or widower, such widow or widower shall be paid an annuity beginning the day after the teacher dies, equal to 55% of the amount of an annuity computed as provided in subsection (a) of § 38-2021.05 with respect to such teacher, except that in the computation of the annuity under such subsection the annuity of the teacher shall be at least the smaller of: (A) forty per centum of his average salary; or (B) the sum obtained under such subsection after increasing his

eligible service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age. Such annuity and any right thereto shall terminate on the last day of the month before: (A) the widow or widower dies; or (B) the widow or widower remarries before becoming 60 years of age. In the case of a widow or widower whose annuity under this paragraph is terminated because of remarriage before becoming 60 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if:

"(i) The widow or widower elects to receive the annuity which was terminated instead of a survivor benefit to which the widow or widower may be entitled, under this part or another retirement system for employees of the federal or District government, by reason of the remarriage; and

"(ii) Any lump sum paid on termination of the annuity is repaid to the Custodian of Retirement Funds (as defined in § 1-702(6)) for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a).

"(2) If any teacher to whom this part applies shall die after completing at least 18 months of eligible service or after having retired under the provisions of § 38-2021.03 or § 38-2021.04 and is survived by a wife or husband, each surviving child shall be paid an annuity equal to the smallest of: (A) sixty per centum of the teacher's average salary divided by the number of children; (B) \$900; or (C) \$2,700 divided by the number of children. If such teacher is not survived by a wife or husband, each surviving child shall be paid an annuity equal to the smallest of: (A) seventy-five per centum of the teacher's average salary divided by the number of children; (B) \$1,080; or (C) \$3,240 divided by the number of children. The child's annuity shall commence on the first day after the teacher dies. Such annuity and the right thereto terminate on the last day of the month before the child: (i) becomes 18 years of age unless he is then a student as described or incapable of self-support; (ii) becomes capable of self-support after becoming 18 years of age unless he is then such a student; (iii) becomes 22 years of age if he is then such a student and capable of self-support; (iv) ceases to be such a student after becoming 18 years of age unless he is then incapable of self-support; or (v) dies or marries; whichever first occurs. Upon the death of the surviving wife or husband or termination of the annuity of the child, the annuity of any other child or children shall be recomputed and paid as though such wife, husband, or child had not survived the teacher.

"(3) In the event any teacher to whom this part applies shall die subsequent to March 6, 1952, after completing at least 18 months of eligible service, and is not survived by a widow, a widower, and/or children, but is survived by dependent parents or a dependent father or a dependent mother, such surviving dependent parents or parent shall be paid an annuity, beginning the first day of the month following the death of the teacher, equal to 55% of the amount of an annuity computed as provided in subsection (a) of § 38-2021.05 with respect to such teacher, except that, in the computation of the annuity under such subsection, the annuity of the teacher shall be at least the smaller of 40% of his average salary, or the sum obtained under such subsection after increasing his eligible service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age; provided, that such payments shall be made jointly to surviving dependent parents and payment of such annuity shall continue after the death of either dependent parent; provided further, that all such payments or any right thereto shall cease upon the death of both dependent parents."

"(1) The term 'widow' means a surviving wife of an individual, who either shall have been married to such individual for at least 2 years immediately preceding his death, or is the mother of issue by such marriage."

"(5) The term 'widower' means the surviving husband of a teacher who was married to such teacher for at least 2 years immediately preceding her death or is the father of issue by such marriage."

Legislative History of Laws

For Law 15-354, see notes following § 38-101.

For Law 17-231, see notes following § 38-2021.05.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2021.10. PAYMENT OF BENEFICIARIES.

(a) Under regulations prescribed by the District of Columbia Retirement Board, a present or former

teacher may designate a beneficiary or beneficiaries for the purpose of this part.

(b)(1) Lump-sum benefits authorized by subsections (c), (d), and (e) of this section shall be paid in the following order of precedence to the person or persons surviving the teacher and alive at the date title to the payment arises, and the payment bars recovery by any other person:

(A) To the beneficiary or beneficiaries designated by the teacher in a signed and witnessed writing received by the District of Columbia Retirement Board before the teacher's death;

(B) If there is no designated beneficiary, to the spouse or domestic partner of the teacher;

(C) If none of the above, to the child or children of the teacher and descendants of deceased children by representation;

(D) If none of the above, to the parents of the teacher or the survivor of them;

(E) If none of the above, to the duly appointed executor or administrator of the estate of the teacher;

(F) If none of the above, to such other next of kin of the teachers as the District of Columbia Retirement Board determines to be entitled under the laws of the domicile of the teacher at the date of his death.

(2) For the purpose of this subsection, the term "child" includes a natural child and an adopted child, but does not include a stepchild.

(c) If: (1) a teacher dies: (A) without a survivor; or (B) with a survivor or survivors and the right of all survivors terminates before a claim for survivor annuity is filed; or (2) a former teacher not retired dies, the lump-sum credit shall be paid.

(d) If all annuity rights under this part based on the service of a deceased teacher terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

(e) If an annuitant dies, any annuity accrued and unpaid shall be paid.

(f) For purposes of this section, the term "lump-sum credit" means the unrefunded amount consisting of:

(1) Retirement deductions made under this part from the salary of a teacher;

(2) Amounts deposited into the teachers' retirement and annuity fund by a teacher covering earlier service; and

(3) Interest earned prior to the end of the 90-day period beginning on November 17, 1979, on the deductions and deposits made with respect to service which aggregates more than 1 year but excluding interest for the fractional part of a month in the total service.

(Aug. 7, 1946, 60 Stat. 880, ch. 779, § 10; Mar. 6, 1952, 66 Stat. 21, ch. 95, § 9; Dec. 29, 1967, 81 Stat. 750, Pub. L. 90-231, § 1(7); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 253(a)(5); Apr. 13, 2005, D.C. Law 15-354, § 55(f), 52 DCR 2638; Sept. 12, 2008, D.C. Law 17-231, § 32(c), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1232.

1973 Ed., § 31-730.

Effect of Amendments

D.C. Law 15-354, in subsecs. (a) and (b)(1)(F), substituted "District of Columbia Retirement Board" for "Mayor of the District of Columbia"; and, in subsec. (b)(1)(A), substituted " District of Columbia Retirement Board before the teacher's death;" for "Mayor of the District of Columbia before his death;"

D.C. Law 17-231, in subsec. (b)(1)(B), substituted "spouse or domestic partner" for "widow or widower".

Legislative History of Laws

For Law 15-354, see notes following § 38-101.

For Law 17-231, see notes following § 38-2021.05.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)) appropriate

changes in terminology were made in this section.

§ 38-2021.11. CONSENT TO DEDUCTIONS.

Every teacher who shall continue in the service of the public schools of the District of Columbia after the passage of this part, as well as every person who hereafter may be appointed to a position as teacher in the public schools of the District of Columbia, shall be deemed to consent and agree to the deductions made and provided for herein; and the salary, pay, or compensation, which may be paid monthly or at any other time, shall be full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such teacher during the period covered by such payment, except his claim for the benefits to which he may be entitled under the provisions of this part, notwithstanding the provisions of the Act of June 20, 1906 (34 Stat. 316), and of any other law, rule, or regulation affecting the salary, pay, or compensation of the teachers employed in the service of the public schools of the District of Columbia.

(Aug. 7, 1946, 60 Stat. 880, ch. 779, § 11.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1233.

1973 Ed., § 31-731.

§ 38-2021.12. DISCHARGE OF TEACHER.

Nothing in this part shall be construed to prevent the discharge of any teacher at any time in the discretion of the Board of Education of the District of Columbia under the provisions of law.

(Aug. 7, 1946, 60 Stat. 881, ch. 779, § 12.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1234.

1973 Ed., § 31-732.

§ 38-2021.13. DEFINITIONS.

(a) The term "teacher," under this part, shall include all teachers employed by the Board of Education in the public day schools of the District of Columbia, including other educational employees whose salaries are established in the District of Columbia Teachers' Salary Act of 1945, as amended, except the employees of the Department of School Attendance and Work Permits; whenever the pronoun "his" occurs in this part it shall be construed to mean both male and female; and the term "annual salary" shall be construed to mean the total annual income received during the fiscal year for service rendered in the public day schools (not including summer schools) of the District of Columbia, including basic salary, automatic increases, and longevity allowances, provided for in the District of Columbia Teachers' Salary Act of 1945, as amended, and all wartime additional compensation or bonus, and this definition of "annual salary" shall not be construed to affect any deductions which have been made prior to July 1, 1946, from any teacher's "annual salary" as defined in subchapter I of this chapter.

(b) The term "average salary" shall mean the largest annual rate resulting from averaging, over any period of 3 consecutive years of eligible service, or in the case of a survivor annuity under § 38-2021.09(b) based on service of less than 3 years, over the total eligible service in the public schools of the District of Columbia, a teacher's rates of annual salary in effect during such period, with each rate weighted by the time it was in effect.

(c) For purposes of this part, the term "eligible service" means service in the public schools of the District of Columbia under a temporary, probationary, or permanent appointment to a position, the rate of compensation of which is prescribed in the salary schedule adopted pursuant to §§ 1-611.11 and 1-617.16.

(d) For the purposes of this part, the term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(e) For the purposes of this part, the term "domestic partnership" shall have the same meaning as provided in § 32-701(4).

(Aug. 7, 1946, 60 Stat. 881, ch. 779, § 13; June 4, 1957, 71 Stat. 48, Pub. L. 85-46, § 1; Dec. 29, 1967, 81 Stat. 751, Pub. L. 90-231, § 1(8); May 22, 1970, 84 Stat. 257, Pub. L. 91-263, § 1(a); Oct. 21, 1972, 86 Stat.

1013, Pub. L. 92-518, title II, § 202(a)(2); May 10, 1989, D.C. Law 7- 231, § 34(b), 36 DCR 492; Sept. 12, 2008, D.C. Law 17-231, § 32(d), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1235.

1973 Ed., § 31-733.

Effect of Amendments

D.C. Law 17-231 added subsecs. (d) and (e).

Legislative History of Laws

For legislative history of D.C. Law 7-231, see Historical and Statutory Notes following § 38-2021.08.

For Law 17-231, see notes following § 38-2021.05.

References in Text

The "District of Columbia Teachers' Salary Act of 1945, as amended," referred to twice in subsection (a) of this section, was repealed by the Act of July 7, 1947, 61 Stat. 260, ch. 208, § 20.

§ 38-2021.14. RECORDS AND ACCOUNTS; REPORT TO CONGRESS.

The Mayor of the District of Columbia shall prepare and keep all needful tables, records, and accounts required for carrying out the provisions of this part. The records to be kept shall include data showing the mortality experience of the teachers in the service of the public schools of the District of Columbia and the rate of withdrawal from such service, and any other information pertaining to such service that may be of value and may serve as a guide for future valuations and adjustments of the plan for the retirement of teachers. Until such time as all amounts in the Teachers' Retirement and Annuity Fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by § 1-713(a), the Mayor of the District of Columbia shall make a detailed comparative report annually to Congress showing all receipts and disbursements under the provisions of this part, together with the total number of persons receiving annuities and the amounts paid them.

(Aug. 7, 1946, 60 Stat. 881, ch. 779, § 14; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 146(a)(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1236.

1973 Ed., § 31-734.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2021.15. [OMITTED]

§ 38-2021.16. RULES AND REGULATIONS.[REPEALED]

(Aug. 7, 1946, 60 Stat. 881, ch. 779, § 16; Apr. 13, 2005, D.C. Law 15-354, § 55(g), 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1237.

1973 Ed., § 31-736.

Legislative History of Laws

For Law 15-354, see notes following § 38-101.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(240) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 7(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2021.17. FUNDS NOT ASSIGNABLE OR SUBJECT TO EXECUTION.

Except as provided in the District of Columbia Spouse Equity Act of 1988, none of the money mentioned in this part (including any assets of the District of Columbia Teachers' Retirement Fund established by § 1-713(a)) shall be assignable, either in law or equity, or be subject to execution or levy by attachment, garnishment, or other legal process.

(Aug. 7, 1946, 60 Stat. 882, ch. 779, § 17; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 123(b)(1)(F); Mar. 16, 1989, D.C. Law 7-214, § 5, 36 DCR 513.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1238.

1973 Ed., § 31-737.

Legislative History of Laws

Law 7-214 was introduced in Council and assigned Bill No. 7-389, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 29, 1988, and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-289 and transmitted to both Houses of Congress for its review.

References in Text

The "District of Columbia Spouse Equity Act of 1988" is D.C. Law 7-214.

§ 38-2021.18. APPLICABILITY.

The provisions of this part shall apply to all teachers on the rolls of the public schools of the District of Columbia for the month of June 1946, or thereafter, if otherwise eligible; provided, that nothing in this part shall require the reduction of any annuity any teacher on the rolls of the public schools of the District of Columbia for the month of June 1946, would be entitled to receive, under the provisions of subchapter I of this chapter, upon retirement. Subchapter I of this chapter shall not otherwise apply to teachers on the rolls of the public schools of the District of Columbia for the month of June 1946, or thereafter, but such subchapter I of this chapter shall remain in force and effect with respect to teachers retired prior to July 1, 1946, subject to the provisions of § 38-2021.19.

(Aug. 7, 1946, 60 Stat. 882, ch. 779, § 18.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1239.

1973 Ed., § 31-738.

§ 38-2021.19. RECOMPUTATION OF ANNUITIES.

The annuities of all teachers retired prior to July 1, 1946, shall be recomputed in accordance with the

provisions of § 38-2021.05 within 90 days after August 7, 1946, retroactive to July 1, 1946, and no recomputation shall be made which will reduce the annuity received by any retired teacher; provided, that the average annual salary during any 5 consecutive years, specified in § 38-2021.05, upon which the annuity is based shall be within the last 10 years of allowable service in the public schools of the District of Columbia; provided further, that the increased amount of the annuity resulting therefrom shall be a straight life annuity without any insurance or death benefits of any kind.

(Aug. 7, 1946, 60 Stat. 882, ch. 779, § 19.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1240.

1973 Ed., § 31-739.

§ 38-2021.20. [OMITTED]

§ 38-2021.21. ADJUSTMENT OF ANNUITIES ON BASIS OF PRICE INDEX; COMPUTATION; DEFINITIONS.

(a) Effective December 1, 1965, each annuity payable from the fund which has a commencing date not later than January 1, 1966, shall be increased by: (1) the per centum rise in the price index, adjusted to the nearest 1/10 of 1%, determined by the Mayor of the District of Columbia on the basis of the annual average price index for calendar year 1962 and the price index for the month of July 1965; plus (2) 6 1/2% if the commencing date (or in the case of a survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred on or before October 1, 1956, or 1 1/2% if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred after October 1, 1956. The month used in determining the increase based on the per centum rise in the price index under this subsection shall be the base month for determining the per centum change in the price index until the next succeeding increase occurs.

(b)(1) For the payments of benefits accrued by teachers after June 30, 1997, on January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

(2)(A) If, in accordance with paragraph (1) of this subsection, the Mayor determines in a year (beginning with 1999) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

(i) In the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under paragraph (1) of this subsection, adjusted to the nearest 1/10 of 1 per centum; or

(ii) In the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of 1/12 of the per centum change computed under paragraph (1) of this subsection, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

(B) On January 1, 1998, or within a reasonable time thereafter, the Mayor shall determine the per centum change in the price index published for December 1997 over the price index published for June 1997. If such per centum change indicates a rise in the price index, effective March 1, 1998:

(i) Each annuity having a commencing date on or before September 1, 1997, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1 per centum; and

(ii) Each annuity having a commencing date after September 1, 1997, and on or before March 1, 1998, shall be increased by a pro rata increase equal to the product of 1/6 of such per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1 per centum.

(b-1)(1) On January 1 of each year, or within a reasonable time thereafter, the Mayor shall determine the per centum change in the price index for the preceding year and by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

(2)(A) If, in accordance with paragraph (1) of this subsection, the Mayor determines in a year, beginning with 1997, that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to:

(i) In the case of an annuity having a commencing date on or before March 1 of the preceding year, the per centum change computed under paragraph (1) of this subsection, adjusted to the nearest 1/10 of 1%; or

(ii) In the case of an annuity having a commencing date after March 1 of the preceding year, a pro rata increase equal to the product of 1/12 of the per centum change computed under paragraph (1) of this subsection, multiplied by the number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1%.

(B) On January 1, 1996, or within a reasonable time thereafter, the Mayor shall determine the per centum change in the price index published for December 1995 over the price index published for June 1995. If such per centum change indicates a rise in the index, effective March 1, 1996;

(i) Each annuity having a commencing date on or before September 1, 1995, shall be increased by an amount equal to the per centum change, adjusted to the nearest 1/10 of 1%; and

(ii) Each annuity having a commencing date after September 1, 1995, and on or before March 1, 1996, shall be increased by a pro rata increase equal to the product of 1/6 of the per centum change, multiplied by the number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1%.

(3) This subsection shall apply only to public school teachers hired after December 31, 1979.

(c) Eligibility for an annuity increase under this section shall be as provided in subsection (b)(2) of this section, except as follows:

(1) Effective from its commencing date, an annuity payable to an annuitant's survivor (other than a child entitled under § 38-2021.09(b)(2)), which annuity commences the day after the annuitant's death and after the effective date of the 1st increase under this section, shall be increased by the total per centum increase the annuitant was receiving under this section at death;

(2) For the purpose of computing the annuity of a child under § 38-2021.09(b)(2) that commences after October 31, 1969, the items \$900, \$1,080, \$2,700, and \$3,240 appearing in § 38-2021.09(b)(2) shall be increased by the total per centum increases allowed and in force under this section on or after such day and, in case of a deceased annuitant, the items 60% and 75% appearing in § 38-2021.09(b)(2) shall be increased by the total per centum allowed and in force to the annuitant under this section on or after such day.

(3) Each annuity increase payable from the fund to an annuitant hired on or after the first day of the first pay period which begins after October 29, 1996, or to such annuitant's beneficiary or survivor, shall in no event exceed 3% per annum.

(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except that such installments shall after adjustment reflect an increase of at least \$1.

(f) For purposes of this section, the term "price index" shall mean the Consumer Price Index (all items -- United States city average) published monthly by the Bureau of Labor Statistics. The term "base month" shall mean the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase.

(Aug. 7, 1946, ch. 779, § 21, as added Oct. 24, 1962, 76 Stat. 1236, Pub. L. 87-881, title II, § 202; July 5, 1966, 80 Stat. 266, Pub. L. 89-494, § 1; Dec. 29, 1967, 81 Stat. 751, Pub. L. 90-231, § 1(9); May 22, 1970, 84 Stat. 257, Pub. L. 91-263, § 1(c); Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 251(a)(1), (b); Sept. 26, 1995, D.C. Law 11-52, § 806b, 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-218, § 4(d), 43 DCR 6172; Apr. 9, 1997, D.C. Law 11-255, § 33, 44 DCR 1271; Aug. 5, 1997, 111 Stat. 719, Pub. L. 105-33, § 11013(b); Sept. 18, 1998, D.C. Law 12-152, § 207(b), 45 DCR 4045.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1241.

1973 Ed., § 31-739a.

Temporary Amendments of Section

Section 206(b) of D.C. Law 12-58 rewrote (b).

Section 209(b) of D.C. Law 12-58 provided that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary amendment of section, see § 4(d) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 4(d) of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

For temporary amendment of section, see § 206(b) of the Police Officer, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Emergency Act of 1997 (D.C. Act 12-155, October 1, 1997, 44 DCR 5896), and see § 206(b) of the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Congressional Review Emergency Act of 1997 (D.C. Act 12-240, January 13, 1998, 45 DCR 531).

Legislative History of Laws

For legislative history of D.C. Law 10-135, see Historical and Statutory Notes following § 38-2021.01.

Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

For legislative history of D.C. Law 11-218, see Historical and Statutory Notes following § 38-2021.01.

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Law 12-58, the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Temporary Act of 1997," was introduced in Council and assigned Bill No. 12-383. The Bill was adopted on first and second readings on September 24, 1997, and October 7, 1997, respectively. Signed by the Mayor on October 22, 1997, it was assigned Act No. 12-189 and transmitted to both Houses of Congress for its review. D.C. Law 12-58 became effective on March 20, 1998.

Law 12-152, the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998," was introduced in Council and assigned Bill No. 12-386, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 7, 1998, and May 5, 1998, respectively. Signed by the Mayor on May 22, 1998, it was assigned Act No. 12-369 and transmitted to both Houses of Congress for its review. D.C. Law 12-152 became effective on September 18, 1998.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Full Funding of Pension Liability Reform Amendment Act of 1994: Section 312 of D.C. Law 10-135 amends (b)(1) and (2) to read as follows:

"(b)(1) On January 1 of each year (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index for the preceding year by determining the difference between the index published for December of the preceding year and the index published for December of the second preceding year.

(2)(A) If (in accordance with paragraph (1) of this subsection) the Mayor determines in a year (beginning with 1997) that the per centum change in the price index for the preceding year indicates a rise in the price index, each annuity having a commencing date on or before March 1 of the year shall, effective March 1 of the year, be increased by an amount equal to--

(i) In the case of an annuity having a commencing date on or before March 1 of such preceding year, the per centum change computed under paragraph (1), adjusted to the nearest 1/10 of 1%; or.

(ii) In the case of an annuity having a commencing date after March 1 of such preceding year, a pro rata increase equal to the product of:

(I) One-twelfth of the per centum change computed under paragraph (1), multiplied by.

(II) The number of months (not to exceed 12 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1%.

(B) On January 1, 1996 (or within a reasonable time thereafter), the Mayor shall determine the per centum change in the price index published for December 1995 over the price index published for June 1995. If such per centum change indicates a rise in the price index, effective March 1, 1996--

(i) Each annuity having a commencing date on before September 1, 1995, shall be increased by an amount equal to such per centum change, adjusted to the nearest 1/10 of 1%; and.

(ii) Each annuity having a commencing date after September 1, 1995, and on or before March 1, 1996, shall be increased by a pro rata increase equal to the product of.

(I) One-sixth of such per centum change, multiplied by.

(II) The number of months (not to exceed 6 months, counting any portion of a month as an entire month) for which the annuity was payable before the effective date of the increase, adjusted to the nearest 1/10 of 1%."

§ 38-2021.22. [OMITTED]

§ 38-2021.23. INCREASED ANNUITIES FOR CERTAIN SURVIVING SPOUSES.

Effective on November 1, 1969, or the commencing date of the annuity, whichever is later, the annuity of each surviving spouse or domestic partner whose entitlement to annuity payable from the District of Columbia Teachers' Retirement and Annuity Fund resulted from the death of: (1) a teacher prior to October 24, 1962; or (2) a retired teacher whose retirement was based on a separation from service prior to October 24, 1962; shall be increased by 20%.

(Aug. 7, 1946, ch. 779, § 23, as added May 22, 1970, 84 Stat. 258, Pub. L. 91-263, § 1(g); Sept. 12, 2008, D.C. Law 17-231, § 32(e), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1242.

1973 Ed., § 31-739d.

Effect of Amendments

D.C. Law 17-231, in subsec. (b)(1)(B), substituted "spouse or domestic partner" for "spouse".

Emergency Act Amendments

For temporary (90 day) addition of §§ 38-2021.24 and 38-2021.25, see §§ 3602 to 3604 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).

Legislative History of Laws

For Law 17-231, see notes following § 38-2021.05.

§ 38-2021.24. ROLLOVERS; PURCHASE OF SERVICE CREDIT.

(a) Any individual withdrawing any distribution under this part, which distribution constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 135; 26 U.S.C. § 402(c)) ("Internal Revenue Code of 1986"), may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of the distribution paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code of 1986, in a direct rollover.

(b) The Custodian of the Retirement Funds shall be entrusted with any transfer from another retirement plan for the purchase of service credit, including transfers allowed by sections 403(b) and 457 of the Internal Revenue Code of 1986. Before any transfer is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed transfers for the purchase of service credit.

(c)(1) The Custodian of the Retirement Funds shall also be entrusted with any rollover contribution from:

(A) A qualified plan described in section 401(a) or 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

(B) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

(C) An eligible plan under section 457(b) of the Internal Revenue Code of 1986 which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or

(D) Amounts transferred from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code of 1986 that is eligible to be rolled over and would otherwise be includible in gross income.

(2) The rollover shall be separately accounted for as member contributions that were not previously taxed. Before any rollover is received, the District of Columbia Retirement Board shall be presented with documentation sufficient to satisfy the provisions of the Internal Revenue Code of 1986 governing the substantiation of proposed rollover contributions. The rollover shall be used to purchase service credit in addition to the service credit provided under the provisions of this act.

(d) The District of Columbia Retirement Board shall administer the plan in the manner required to satisfy the applicable qualification requirements for a qualified governmental plan pursuant to the Internal Revenue Code of 1986. If a conflict should arise with a qualification requirement, the provision shall be interpreted in favor of maintaining the federal qualification requirements. The District of Columbia Retirement Board may adopt rules to implement this section.

(Aug. 7, 1946, ch. 799, § 24, as added Oct. 1, 2002, D.C. Law 14-190, § 3702, 49 DCR 6968; Mar. 13, 2004, D.C. Law 15-105, § 71, 51 DCR 881; Apr. 13, 2005, D.C. Law 15-354, § 55(h), 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 15-105 validated a previously made technical correction.

D.C. Law 15-354 substituted "District of Columbia Retirement Board" for "Mayor".

Legislative History of Laws

For Law 14-190, see notes following § 38-1208.01.

For Law 15-105, see notes following § 38-302.

For Law 15-354, see notes following § 38-101.

References in Text

Section 403(b) of the Internal Revenue Code of 1986, referred to in subsecs. (b) and (c), is classified as 26 U.S.C.A. § 403(b).

Section 457 of the Internal Revenue Code of 1986, referred to in subsecs. (b) and (c)(1)(C), is classified as 26 U.S.C.A. § 457.

Section 401(a) of the Internal Revenue Code of 1986, referred to in subsec. (c)(1)(A), is classified as 26 U.S.C.A. § 401(a).

Section 403(b) of the Internal Revenue Code of 1986, referred to in subsec. (c)(1)(B), is classified as 26 U.S.C.A. § 403(b).

Section 408(a) or 408(b) of the Internal Revenue Code of 1986, referred to in subsec. (c)(1)(D), is classified as 26 U.S.C.A. § 408(a) or 408(b).

Miscellaneous Notes

Section 3703 of D.C. Law 14-190 provides: "This subtitle [subtitle A of title XXXVII, §§ 3701 to 3705 of D.C. Law 14-190] is adopted in good faith to comply with the requirements of the Economic Growth and Tax Relief Reconciliation Act of 2001, approved June 7, 2001 (115 Stat. 38; scattered sections of Title 26 of the U.S. Code) ("EGTRRA") and shall be construed in accordance with EGTRRA and guidance issued thereunder."

Section 3704 of D.C. Law 14-190 provides: "This subtitle [subtitle A of title XXXVII, §§ 3701 to 3705 of D.C. Law 14-190] shall apply as of January 1, 2002."

Short title of subtitle A of title XXXVII of Law 14-190: Section 3701 of D.C. Law 14-190 provided that subtitle A of title XXXVII of the act may be cited as the Teachers Retirement Consolidation Amendment Act of 2002.

§ 38-2021.25. INTERNAL REVENUE CODE LIMITS.

(a)(1) Benefits and contributions under the provisions of this part shall not be computed with reference to

any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code of 1986, as adjusted for increases in the cost-of-living.

(2) This subsection shall apply as of October 1, 2002, and shall apply only with respect to an individual who first becomes covered by this part after October 1, 2002.

(b) Benefits shall not be payable under this part to the extent that they exceed the limitations imposed by section 415 of the Internal Revenue Code of 1986, as adjusted for increases in the cost-of-living.

(Aug. 7, 1946, ch. 799, § 25, as added Oct. 1, 2002, D.C. Law 14-190, § 3702, 49 DCR 6968; Mar. 13, 2004, D.C. Law 15-105, § 71, 51 DCR 881.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 15-105 validated a previously made technical correction.

Legislative History of Laws

For Law 14-190, see notes following § 38-1208.01.

For Law 15-105, see notes following § 38-302.

References in Text

Section 401(a)(17) of the Internal Revenue Code of 1986, referred to in subsec. (a)(1), is classified to 26 U.S.C.A. § 401(a)(17).

Section 415 of the Internal Revenue Code of 1986, referred to in subsec. (b), is classified as 26 U.S.C.A. § 415.

Miscellaneous Notes

Section 3703 of D.C. Law 14-190 provides: "This subtitle [subtitle A of title XXXVII, §§ 3701 to 3705, of D.C. Law 14-190] is adopted in good faith to comply with the requirements of the Economic Growth and Tax Relief Reconciliation Act of 2001, approved June 7, 2001 (115 Stat. 38; scattered sections of Title 26 of the U.S. Code) ("EGTRRA") and shall be construed in accordance with EGTRRA and guidance issued thereunder."

Section 3704 of D.C. Law 14-190 provides: "This subtitle [subtitle A of title XXXVII, §§ 3701 to 3705, of D.C. Law 14-190] shall apply as of January 1, 2002."

PART B. ADDITIONAL ANNUITY PROVISIONS.

SUBPART I. INCREASED ANNUITIES.

§ 38-2023.01. ANNUITY INCREASE.

(a) The annuity of each retired employee, who on August 1, 1958, is receiving or is entitled to receive an annuity from the District of Columbia Teachers' Retirement and Annuity Fund based on service which terminated prior to October 1, 1956, shall be increased by 10%, but no such increase shall exceed \$500 per annum.

(b) The annuity otherwise payable from the District of Columbia Teachers' Retirement and Annuity Fund to: (1) each survivor who on August 1, 1958, is receiving or entitled to receive an annuity based on service which terminated prior to October 1, 1956; and (2) each survivor of a retired employee described in subsection (a) of this section shall be increased by 10%. No increase provided by this subsection shall exceed \$250 per annum.

(c) No increase provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(Sept. 2, 1958, 72 Stat. 1768, Pub. L. 85-917, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1247.

1973 Ed., § 31-741.

§ 38-2023.02. ANNUITY FOR UNREMARIED WIDOW OR WIDOWER.

The unmarried widow or widower of an employee: (1) Who had completed at least 10 years of service

creditable for retirement purposes under part A of this subchapter; (2) who died before May 1, 1952; and (3) who was at the time of his death: (A) subject to an act under which annuities granted before May 1, 1952, were or are now payable from the District of Columbia Teachers' Retirement and Annuity Fund; or (B) retired under such act; shall be entitled to receive an annuity. In order to qualify for such annuity, the widow or widower shall have been married to the employee for at least 5 years immediately prior to his death and must be not entitled to any other annuity from the District of Columbia Teachers' Retirement and Annuity Fund based on the service of such employee. Such annuity shall be equal to one half of the annuity which the employee was receiving on the date of his death if retired, or would have been receiving if he had been retired for disability on the date of his death, but shall not exceed \$750 per annum and shall not be increased by the provisions of this or any other prior law. Any annuity granted under this section shall cease upon the death or remarriage of the widow or widower.

(Sept. 2, 1958, 72 Stat. 1768, Pub. L. 85-917, § 2.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1248.

1973 Ed., § 31-742.

§ 38-2023.03. EFFECTIVE DATES OF ANNUITIES PROVIDED BY §§ 38-2023.01 AND 38- 2023.02; COMPUTATION.

(a) An increase in annuity provided by subsection (a), or clause (1) of subsection (b), of § 38-2023.01 shall take effect on August 1, 1958. An increase in annuity provided by clause (2) of such subsection (b) shall take effect on the commencing date of the survivor annuity.

(b) An annuity provided by § 38-2023.02 shall commence on August 1, 1958, or on the 1st day of the month in which application for such annuity is received by the Mayor of the District of Columbia or his designated agent, or, after October 1, 2004, the 1st day of the month in which application for such annuity is received by the District of Columbia Retirement Board, whichever occurs later.

(c) The monthly installment of each annuity increased or provided by §§ 38- 2023.01 to 38-2023.04 shall be fixed at the nearest dollar.

(Sept. 2, 1958, 72 Stat. 1769, Pub. L. 85-917, § 3; Apr. 13, 2005, D.C. Law 15-354, § 56, 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1249.

1973 Ed., § 31-743.

Effect of Amendments

D.C. Law 15-354, in subsec. (b), inserted "or, after October 1, 2004, the 1st day of the month in which application for such annuity is received by the District of Columbia Retirement Board," following "agent,".

Legislative History of Laws

For Law 15-354, see notes following § 38-101.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2023.04. PAYMENT OF ANNUITY INCREASE.

The annuities and increases in annuities provided by §§ 38-2023.01 to 38- 2023.03 shall be paid from the District of Columbia Teachers' Retirement and Annuity Fund until such time as all amounts in such fund have been expended or transferred under § 1-713(b) to the District of Columbia Teachers' Retirement

Fund established by § 1-713(a) and thereafter from the District of Columbia Teachers' Retirement Fund. Such annuities and increases in annuities shall terminate for each fiscal year beginning on or after July 1, 1960, for which the Congress has failed to make provision for the payment of like annuities and increases in annuities under the Act approved June 25, 1958 (72 Stat. 218), for such fiscal year. For any fiscal year for which such annuities and increases in annuities shall terminate for the reason set forth in this section, §§ 38-2023.01 to 38-2023.03 shall not be in effect and annuities and increases in annuities shall be determined and paid as though such sections had not been enacted. Nothing contained in this section shall be held or considered to prevent the payment of annuities and increases in annuities provided by §§ 38-2023.01 to 38-2023.03 for any fiscal year for which the Congress shall have made provisions for the payment of like annuities and increases in annuities under such Act approved June 25, 1958 (72 Stat. 218).

(Sept. 2, 1958, 72 Stat. 1769, Pub. L. 85-917, § 4; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 123(b)(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1250.

1973 Ed., § 31-744.

SUBPART II. GENERAL.

§ 38-2023.11. RECOMPUTATION OF BENEFITS.

The annuities of all teachers retired prior to the effective date of this act shall be recomputed in accordance with the provisions of § 38-2021.04 within 90 days after March 6, 1952, retroactive to the effective date of this act, and no recomputation shall be made which will reduce the annuity received by any retired teacher; provided, that the average annual salary during any 5 consecutive years, specified in § 38-2021.04, upon which the annuity is based shall be within the last 10 years of allowable service in the public schools of the District of Columbia; provided further, that the increased amount of the annuity resulting therefrom shall be a straight life annuity without any insurance or death benefits of any kind.

(Mar. 6, 1952, 66 Stat. 22, ch. 95, § 10.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1227.

1973 Ed., § 31-725a.

References in Text

"The effective date of this act," referred to twice in this section, is prescribed by § 11 of the Act of March 6, 1952, 66 Stat. 22, ch. 95.

§ 38-2023.12. ANNUITY INCREASE.

(a) The annuity of each person who, January 1, 1963, is receiving or entitled to receive an annuity from the District of Columbia Teachers' Retirement and Annuity Fund shall be increased by 5% of the amount of such annuity.

(b) The annuity of each person who receives or is entitled to receive an annuity from the District of Columbia Teachers' Retirement and Annuity Fund commencing during the period which begins on the day following January 1, 1963 and ends 5 years after such date, shall be increased in accordance with the following table:

If the annuity commences between	The annuity shall be increased by
January 2, 1963, and December 31, 1963	4 per centum.
January 1, 1964, and December 31, 1964	3 per centum.
January 1, 1965, and December 31, 1965	2 per centum.
January 1, 1966, and December 31, 1966	1 per centum.

(c) In lieu of any other increase provided by this section, the annuity of a survivor of a retired employee who received an increase under this section shall be increased by a percentage equal to the percentage by which the annuity of such employee was so increased.

(d) No increase provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The limitation contained in the next to the last sentence of § 38- 2021.05(c)(1) shall not be effective on and after January 1, 1963.

(f) The increases provided by this section shall take effect on January 1, 1963, except that any increase under subsection (b) or (c) of this section shall take effect on the beginning date of the annuity.

(g) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar.

(Oct. 24, 1962, 76 Stat. 1235, Pub. L. 87-881, title II, § 201.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1228.

1973 Ed., § 31-725b.

§ 38-2023.13. APPLICATION OF AMENDMENT TO § 38-2021.21.

The amendment made by Pub. L. 96-122, § 251(a)(1), to § 38-2021.21(b) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia Teachers' Retirement and Annuity Fund established by § 38-2021.02 or from the District of Columbia Teachers' Retirement Fund established by § 1-713(a), except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such 1st date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under § 38- 2021.21(b), as in effect immediately before the amendment of such section by Pub. L. 96-122, § 251(a)(1).

(Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 251(a)(2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1243.

1973 Ed., § 31-739.1.

§ 38-2023.14. COMPUTATION OF INTEREST.

(a) For purposes of determining the amount available to purchase an annuity under subsection (b) of § 38-2021.01, interest shall be deemed to accrue on deposits at the following rates for the following periods:

(1) Prior to the end of the 90-day period beginning on November 17, 1979, interest shall accrue at the rate of 3% per annum compounded as of December 31st of each year;

(2) For the period beginning at the end of the 90-day period beginning on November 17, 1979, and ending on September 30, 1981, interest shall accrue at a rate which (as determined by the District of Columbia Retirement Board) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest 1/8 of 1%);

(3) After October 1, 1981, interest shall accrue at an annual rate which (as determined by the District of Columbia Retirement Board) is equal to the average annual rate of return on investment (adjusted to the nearest 1/8 of 1%) for the District of Columbia Teachers' Retirement Fund established by § 1- 713.

(b) Interest required on deposits under § 38-2021.01a(b) or § 38-2021.08, or under § 38-2061.02, shall be computed as follows:

(1) Interest shall be paid at a rate which (as determined by the District of Columbia Retirement Board) is equal to the average rate of return on investment (adjusted to the nearest 1/8 of 1%) for the District of Columbia Teachers' Retirement Fund (established by § 1-713) for the period beginning on the 1st day of the 1st month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the 1st payment if he makes installment deposits, except that:

(A) For so much of any such period which occurs between the end of the 90-day period beginning on November 17, 1979, and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest 1/8 of 1%)

shall be used in determining the interest rate to be paid on deposits; and

(B) For so much of any such period which occurs prior to the end of the 90-day period beginning on November 17, 1979, the rate of 3% a year, compounded annually, shall be used in determining the interest rate to be paid on deposits;

(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made;

(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

(c) Interest required on deposits under § 38-2021.09(a) shall be computed as follows:

(1) Interest shall be paid at a rate which (as determined by the District of Columbia Retirement Board) is equal to the average rate of return on investment (adjusted to the nearest 1/8 of 1%) for the District of Columbia Teachers' Retirement Fund (established by § 1-713) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the 1st payment if he makes installment deposits, except that:

(A) For so much of any such period which occurs between the end of the 90-day period beginning on November 17, 1979, and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest 1/8 of 1%) shall be used in determining the interest rate to be paid on deposits; and

(B) For so much of any such period which occurs prior to the end of the 90-day period beginning on November 17, 1979, the rate of 3% a year, compounded annually, shall be used in determining the interest rate to be paid on deposits;

(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made; and

(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

(Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, § 253(a)(6); Apr. 13, 2005, D.C. Law 15-354, § 3(f), 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1244.

1973 Ed., § 31-739e.

Effect of Amendments

D.C. Law 15-354 substituted "District of Columbia Retirement Board" for "Mayor of the District of Columbia".

Legislative History of Laws

For Law 15-354, see notes following § 38-101.

§ 38-2023.15. WAIVER OF ANNUITY; REVOCATION.

Any person entitled to annuity pursuant to the provisions of subchapter I of this chapter or part A of this subchapter may decline to accept all or any part of such annuity by a waiver signed and filed with the District of Columbia Retirement Board. Such waiver may be revoked in writing at any time, but no payment of the annuity waived shall be made covering the period during which such waiver was in effect.

(July 2, 1956, 70 Stat. 487, ch. 497, § 2; Apr. 13, 2005, D.C. Law 15-354, § 57, 52 DCR 2638.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1246.

1973 Ed., § 31-740.

Effect of Amendments

D.C. Law 15-354 substituted "District of Columbia Retirement Board" for "Mayor of the District of Columbia or his designated agent".

For Law 15-354, see notes following § 38-101.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 38-2023.16. TAX-SHELTERED ANNUITY PROGRAM.

(a) Notwithstanding the provisions of §§ 1-611.11 and 1-617.16, and of any other law or regulation affecting the salary of teachers or school officers employed in the service of the public schools of the District of Columbia, the Mayor of the District of Columbia (hereinafter referred to as the "Mayor") is authorized to enter into an agreement with a teacher or school officer to reduce the salary of that teacher or school officer by an amount requested by that teacher or school officer, and to contribute that amount for the purchase of an annuity contract described in § 403(b) of the Internal Revenue Code of 1986 (relating to the taxability of beneficiaries of annuity plans) for that teacher or school official.

(b) The reduction in salary effected under an agreement authorized by this section shall not be considered in computing the salary for any teacher or school officer for any other purpose including, but not limited to, the determination of benefits or contributions under Chapters 81 (relating to workmen's compensation) and 87 (relating to life insurance) of Title 5 of the United States Code.

(c) The Mayor shall prescribe such regulations as he deems necessary to carry out the purposes of this section.

(d) For the purposes of this section, the term "teacher or school officer" includes all teachers, school officers, and other employees of the Board of Education of the District of Columbia who receive compensation according to the salary schedules under §§ 1-611.11 and 1-617.16, and to whom the provisions of part A of this subchapter are applicable.

(e) This section shall apply with respect to any pay period of any teacher or school officer beginning on or after the 180th day after April 26, 1972.

(Apr. 26, 1972, 86 Stat. 131, Pub. L. 92-281, §§ 1 to 4; May 10, 1989, D.C. Law 7-231, § 35, 36 DCR 492.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1252.

1973 Ed. § 31-746.

Legislative History of Laws

For legislative history of D.C. Law 7-231, see Historical and Statutory Notes following § 38-2021.08.

References in Text

"§ 403(b) of the Internal Revenue Code of 1986," referred to in subsection (a) of this section, is codified as 26 U.S.C. § 403(b).

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

SUBCHAPTER III. RETIREMENT INCENTIVE

PROGRAM.

§ 38-2041.01. RETIREMENT INCENTIVE PROGRAM.

(a) The Board of Education is authorized to establish a retirement incentive program ("program") which shall apply to eligible employees under the personnel authority of the Board of Education. This authorization is conditioned on the requirement that no District employee who receives an incentive payment under the early out retirement program shall be reemployed with the District government, including the Board of Education, for 5 years, or hired or retained as a sole source personal services contractor for 5 years from the date of retirement.

(b) The Board of Education may exclude or limit positions from the program based on the needs of the Board.

(c) The program shall be effective from December 21, 1994, through September 30, 1995.

(d) The program shall be limited to employees retiring under the early out retirement provisions of 5 U.S.C. 8336(d)(2), employees who become eligible to retire on or before June 15, 1995, under the optional retirement provisions of 5 U.S.C. 8336(a), (b), or (f), and teachers who are eligible to retire under § 38-2021.01(f).

(e) The program shall offer a retirement incentive of 50% of an employee's annual rate of basic pay paid from the employee's salary or pay schedule which was in effect on the employee's date of retirement, not to exceed \$24,000, to be paid in 24 equal installments.

(f) Retirement incentive payments shall be prorated in the case of a part-time employee.

(g) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

(h) No incentive payments shall be paid to:

(1) An employee retiring under the law enforcement provisions of 5 U.S.C. 8336(c), the discontinued service/involuntary retirement provisions of 5 U.S.C. 8336(d)(1), or the disability retirement provisions of 5 U.S.C. 8337; or

(2) An employee who is a reemployed annuitant under the provisions of 5 U.S.C. 8334.

(Sept. 26, 1995, D.C. Law 11-52, § 901, 42 DCR 3684.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1271.

Temporary Amendments of Section

Section 2 of D.C. Law 15-184, in subsec. (a), substituted "the personnel authority of the Board of Education, who are enrolled in retirement systems established pursuant to An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 875; D.C. Official Code §§ 38-2021.01–38-2021.23), commonly known as the 'District of Columbia Teachers' Retirement System.'" for "the personnel authority of the Board of Education."; repealed subsec. (c); and rewrote subsecs. (d) and (e) to read as follows:

"(d) The program shall be limited to employees who are eligible to voluntarily retire on or before May 14, 2004, pursuant to section 3 of An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 875; D.C. Official Code § 38-2021.03), and who declare their intent to retire between April 1, 2004 and May 14, 2004, with an effective retirement date between June 25, 2004 and June 30, 2004."

"(e) The program shall offer a retirement incentive of an amount to be determined by the Board, not to exceed \$23,250, to be paid in one installment."

Section 4(b) of D.C. Law 15-184 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary establishment of a District of Columbia Teachers' Defined Benefit Pension Program, see title II, §§ 101-509 of the Police Officers', Firefighters' and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 43 DCR 4637).

For temporary amendment of section, see title III, § 104 of the Police Officers', Firefighters' and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 43 DCR 4637).

Section 5 of D.C. Law 11-218 repealed D.C. Act 11-369.

For temporary repeal of the Police Officers', Fire Fighters', and Teachers' Defined Benefit Pension Program Emergency Establishment Act of 1996 (D.C. Act 11-369, August 21, 1996, 41 DCR 4637), see § 5 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Emergency Amendment Act of 1996 (D.C. Act 11-428, October 29, 1996, 43 DCR 6147), and § 5 of the New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-10, March 3, 1997, 44 DCR 1633).

For temporary (90 day) amendment of section, see § 2 of Teacher Retirement Incentive Program Emergency Act of 2004 (D.C. Act 15-422, May 10, 2004, 51 DCR 5179).

For temporary (90 day) amendment of section, see § 2 of Teacher Retirement Incentive Program Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-517, August 2, 2004, 51 DCR 8990).

Legislative History of Laws

Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

For legislative history of D.C. Law 11-218, see Historical and Statutory Notes following § 38-2021.01.

Law 15-184, the "Teacher Retirement Incentive Program Temporary Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-793, and was retained by Council. The Bill was adopted on first and second readings on April 20, 2004, and May 4, 2004, respectively. Signed by the Mayor on May 21, 2004, it was assigned Act No. 15-434 and transmitted to both Houses of Congress for its review. D.C. Law 15-184 became effective on September 8, 2004.

SUBCHAPTER IV. MISCELLANEOUS.

§ 38-2061.01. EMPLOYMENT OF RETIRED TEACHERS.

Notwithstanding any other provision of law, the salary of any retired teacher who first becomes entitled to an annuity under this subchapter after November 17, 1979, and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such teacher's annuity under part A of subchapter II of this chapter and compensation for such employment is equal to the salary otherwise payable for the position held by such teacher.

(Aug. 7, 1946, 60 Stat. 875, ch. 779, § 25, as added Nov. 17, 1979, 93 Stat. 922, Pub. L. 96-122, § 257.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1245.

1973 Ed., § 31-739f.

§ 38-2061.02. RETIREMENT CREDIT FOR LEAVE WITHOUT PAY.

Any teacher who, on or after June 27, 1960, retires pursuant to part A of subchapter II of this chapter shall be entitled to have included in the years of service creditable to him for retirement purposes any period of authorized leave of absence which was taken by him without pay, and for educational purposes; except that credit for any such period shall be conditioned upon payment by such teacher to the Custodian of Retirement Funds (as defined in § 1-702 (6)), for deposit in the District of Columbia Teachers' Retirement Fund established by § 1-713(a), of a sum equal to the accumulated contributions which would have been credited to his individual account if he had remained on active duty in the public schools of the District of Columbia during any such period plus interest computed in accordance with § 38-2023.14(b); provided, that in order to receive such retirement credit a teacher must produce evidence satisfactory to the Superintendent of Schools of the District of Columbia that the authorized leave of absence without pay was taken for educational purposes.

(June 27, 1960, 74 Stat. 222, Pub. L. 86-525; Nov. 17, 1979, 93 Stat. 866, Pub. L. 96-122, §§ 123(b)(3), 253(b).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 31-1251.

