

## **Chapter 58**

### **PERSONNEL\***

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**\*Charter references:** Personnel ordinance required, § 4.02; personnel board, § 4.03.

**Cross references:** Administration, ch. 2; officers and employees, § 2-76 et seq.

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### ARTICLE I. IN GENERAL

**Secs. 58-1--58-25. Reserved.**

### ARTICLE II. PERSONNEL SYSTEM

#### DIVISION 1. GENERALLY

**Sec. 58-26. Purpose.**

A comprehensive personnel system is hereby being established and designed to create an equitable and uniform system of personnel administration governing employment with the city.

(Code 1982, § 2-231)

**Sec. 58-27. Political activities.**

The city encourages every employee to exercise the right to vote in all legal elections. However, city employees shall not:

- (1) Engage in political activities while on duty;
- (2) Be required as a duty of office or employment, or as a condition for employment, promotion or tenure of office, to contribute funds for political or partisan purposes;
- (3) Coerce or compel contributions for political or partisan purposes by other city employees or use office or influence to coerce the political action of any person;
- (4) Use any supplies or equipment of the city for political purposes; or
- (5) Be a candidate for political or partisan elected office, unless on unpaid leave of absence authorized for such purpose.

(Code 1982, § 2-231)

**Sec. 58-28. Residency.**

In considering applications for employment, all municipal authorities empowered to employ personnel shall give preference, whenever practicable, to qualified persons who have been inhabitants of the city for at least three months. (Code 1982, § 2-233)

**Sec. 58-29. Compliance with applicable laws.**

The city shall comply with all requirements of state and federal laws which apply to persons applying for jobs or employed by the city. (Code 1982, § 2-234)

**Sec. 58-30. Personnel policies.**

The director of human resources, with the advice of the city administrator, shall prepare and propose such changes through the personnel committee for city council approval to the

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personnel policies as necessary to ensure effective administration of the personnel system. The personnel policies and revisions thereof shall be filed in the human resources department and available for public inspection during normal business hours. The policies shall cover specific procedures covering the following phases of the personnel system:

Classification and pay plan.

Education and training.

Leaves (paid and unpaid.)

Outside employment.

Probationary period.

Reimbursements.

Safety.

Terminations.

Wage supplementals.

Working hours.

(Code 1982, § 2-235; Ord. No. 99-7, 4-15-99)

**Secs. 58-31--58-70. Reserved.**

### **DIVISION 2. APPEALS\***

**\*Editor's note:** Ord. No. 06-16, effective Feb. 8, 2007, renumbered div. 3 as div. 2 to read as herein set out. Formerly, div. 2 consisted of sections 58-41--58-59 and pertained to civil service and derived from Code 1982, §§ 2-261--2-279.

#### **Sec. 58-71. Generally.**

The appeals procedure established in this division is intended to provide full opportunity for permanent noncontractual employees to bring to the attention of management, acts or omissions, working conditions or administrative actions that the employee feels need either adjustment or information. It is the intent and desire of the city to adjust complaints or grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be matters which can only be resolved after an appeal and review. The submission of a grievance by an employee shall in no way adversely affect the employee or his future employment with the city.

(Code 1982, § 2-251; Ord. No. 06-16, 2-8-07)

#### **Sec. 58-72. Grievance procedure.**

In order to ensure the employee of a method in which he/she may obtain review of his/her particular grievance effectively, the following steps are provided:

- (1) The aggrieved employee shall, within ten working days of the incident, discuss and explain his/her grievance orally with the immediate supervisor. The

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supervisor shall make a decision and notify the employee within ten working days after the discussion.

- (2) If the aggrieved employee feels that the matter has not been settled or adjusted to his/her satisfaction by the immediate supervisor, he/she then may submit the matter in writing within ten days to the department head. The department head shall schedule a meeting within ten working days after receipt of the grievance from the employee. If the matter is not resolved at this meeting, the department head shall submit the written answer within ten working days after the scheduled meeting.
- (3) If the decision of the department head is not satisfactory to the aggrieved employee, the grievance may then be submitted in writing within ten working days thereafter to the city administrator. The hearing shall be held within ninety working days after receipt of the request. The city administrator shall have the right to issue subpoenas, to examine witnesses under oath and to require the production of evidence. At such hearing, either party may be represented or assisted by counsel. The decision of the city administrator shall be final and may include any remedy appropriate to the dispute, including partial or complete restitution of back pay and/or benefits. The decision shall be submitted in writing within thirty working days after the close of the hearing.
- (4) In the event of a suspension, demotion or dismissal of an employee, the employee shall commence the grievance procedure at the city administrator level (subsection (3) of this section).

(Code 1982, § 2-252; Ord. No. 02-26, 2-6-03; Ord. No. 06-16, 2-8-07)

**Secs. 58-73--58-85. Reserved.**

### ARTICLE III. RETIREMENT AND DISABILITY\*

\***Charter references:** Prior retirement benefits preserved, § 8.06.

**State law references:** Pension system authorized, 30-A M.R.S.A. § 3007(4).

#### DIVISION 1. GENERALLY

##### **Sec. 58-86. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Average final compensation* means the annual average of the pay received for a period of five consecutive years of service preceding retirement.

**State law references:** Similar provisions, 5 M.R.S.A. § 1001(3).

*Beneficiary* means any person in receipt of a pension or benefit under the provisions of the retirement system.

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*Board* means the pension board provided for in section 58-89 to administer the retirement system.

*Creditable service* means service after the establishment of the retirement system plus prior service.

*Disability*, as a basis for retirement, means permanent disability or disability of extended and uncertain duration, as determined by the board upon the basis of competent medical and other information.

*Employee* means any person who is regularly and permanently in the employ of the city.

*Prior service* means service rendered prior to the date of establishment of the retirement system.

*Retirement system* means the retirement system as defined in this article.

*Service* means service as an employee for which compensation is paid by the city.

(Code 1982, § 2-301)

**Cross references:** Definitions generally, § 1-2.

### **Sec. 58-87. Minimum requirements for pension plan for city employees.**

- (a) The powers to promulgate, enact and amend, by ordinance, a pension plan for the employees of the city who prior to the year 1945 were not provided for in a system of retirement or disability benefits, shall be vested in the city council, subject, however, to the provision that no such ordinance, or amendment thereto, involving a matter of cost, expense or finances, shall be enacted by the city council without the approval or the recommendation of the finance committee. Provided, also, that such pension plan shall include the following:
- (1) Pension to be not over one-half of employees' average final compensation, at the time of retirement:
    - a. Retired for disability received while acting in the scope of employment, provided the employee has ten or more years of creditable service. Any amount paid to employee under state workmen's compensation law shall be deducted from employee's annual allowable pension.
    - b. Reaches age 65 and/or has served not less than 25 years.
    - c. Reaches age 65 and has served 20 years or more, the employee shall be entitled to a pension equal to 1/50 of his average final compensation multiplied by the number of years of his creditable service.
  - (2) "Average final compensation" shall mean the annual average of the highest pay received for a period of five consecutive years of service preceding retirement.
  - (3) No less than 190 days' service of eight hours duration shall constitute one year of service, nor shall more than one year of service be creditable for all service in any one calendar year.
  - (4) "Creditable service" shall mean service after establishment of the retirement system plus prior service.

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- (5) "Prior service" shall mean service rendered prior to the date of establishment of the retirement system.
  - (6) The provisions of this section shall not apply to any employee of the city who elects to participate in any contributory employees' retirement system which may be established, authorized or approved by the city council upon the recommendation of the finance committee nor to any person who shall become employed by the city after the date of the establishment of any contributory employees' retirement system which may be established, authorized or approved by the city council upon the recommendation of the finance committee.
- (b) Any person who shall become employed by the city after the effective date of the establishment of any contributory employees' retirement system which may be established, authorized or approved by the city council upon the recommendation of the finance committee shall, as a condition of employment, become a participating member in such contributory employees' retirement system.

(Code 1982, § 2-302)

### **Sec. 58-88. Established.**

A retirement system is hereby established in accordance with the provisions of 30-A M.R.S.A. § 3007(4), for the purpose of providing retirement and disability benefits for employees of the city not presently provided for.

(Code 1982, § 2-303)

### **Sec. 58-89. Administration; pension board.**

- (a) The general administration and the responsibility for the operation of the retirement system and for making effective the provisions of this division are hereby vested in a board to be known as the pension board.
- (b) The pension board shall consist of the city finance committee. The pension board may employ such medical and other services as shall be required, which services shall be charged to and paid out of the retirement fund.

(Code 1982, § 2-304)

### **Sec. 58-90. Rules and regulations authorized.**

Subject to the limitations of this article, the pension board may from time to time establish such rules and regulations as may be necessary to regulate its activities.

(Code 1982, § 2-305)

### **Sec. 58-91. Record of pension board's proceedings.**

The pension board established pursuant to this article shall keep a record of all of its proceedings, which shall be open to public inspection.

(Code 1982, § 2-306)

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### **Sec. 58-92. Legal advisor to pension board.**

The city attorney shall be the legal advisor of the pension board. (Code 1982, § 2-307)

### **Sec. 58-93. Fraud prohibited.**

Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record of this retirement system, in any attempt to defraud such system as a result of such act, shall be guilty of an offense.

(Code 1982, § 2-308)

### **Sec. 58-94. Corrections in retirement records authorized.**

Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the pension board shall have the power to correct such error and to adjust as far as practicable the payments which such member or beneficiary was correctly entitled to.

(Code 1982, § 2-309)

### **Sec. 58-95. Appeals.**

Any person aggrieved by any decision or ruling of the pension board shall have the right of appeal from such decision or ruling to the next term of the superior court to be held in the county, held not less than 30 days after the rendition of such decision or ruling. The appellant shall file a written notice of his appeal from such decision or ruling with the board and with the clerk of the superior court. Certified copies of the ruling or decision, together with a copy of the appeal, shall be forwarded by the board to the clerk of the superior court. The city attorney shall appear for and in behalf of the board. The procedure in such court shall be the same as in appeal from decisions of the district courts. (Code 1982, § 2-310)

### **Sec. 58-96. Persons subject to regulations.**

Each member and beneficiary shall be subject to all the provisions of this division and to all the rules and regulations adopted by the pension board, and shall furnish to the board such information affecting his status as a member or beneficiary of the system as the board may from time to time require. (Code 1982, § 2-311)

### **Sec. 58-97. Appropriations.**

The retirement fund shall be the fund provided by the city in the annual appropriation resolve. Each municipal department shall furnish annually to the board a list of their respective employees who have attained or shall attain the retirement age within the next ensuing fiscal year. The board, after verification, shall then submit to the city administrator an estimate of the sum or sums necessary for the retirement fund for the ensuing fiscal year. (Code 1982, § 2-312)

### **Sec. 58-98. Departments to furnish employee information to pension board.**

It shall be the duty of the head of each department to submit to the pension board a statement showing the name, title, compensation, duties, date of birth, and length of service of each

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member, and such other information regarding employees in his department as the board may require. (Code 1982, § 2-313)

### **Sec. 58-99. Certification of creditable prior service of municipal employees.**

It shall be the duty of the pension board to establish and institute the procedure and machinery necessary to investigate and properly certify the creditable prior service of all the employees in the various departments of the city now subject to any existing noncontributory retirement or pension plan, and of those employees who shall participate in any contributory employees' retirement plan which may be established, authorized or approved by the city council upon the recommendation of the finance committee, and to maintain a complete file of the data pertaining to the employment and service of all employees in the employment of the city. It shall be the duty of the finance committee to certify to the proper authorities the creditable prior service of all employees in the employ of the city under any retirement or pension system.

(Code 1982, § 2-314)

### **Sec. 58-100. Employee's claim for prior service; service certificates.**

- (a) Under such rules and regulations as the pension board shall adopt, each employee in service on February 14, 1980, shall file a detailed statement of all service as an employee rendered by him prior to such date for which he claims credit, and of such other facts as the board may require for the proper operation of the retirement system.
- (b) The board shall verify, as soon as practicable after the filing of such statement of service under subsection (a), the service therein claimed. Upon verification of the statement of service, the board shall issue prior service certificates certifying to each employee the length of prior service rendered with which he is credited. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any employee may, within one year from the date of issuance or modification of such certificate, request the board to modify or correct his prior service certificate.

(Code 1982, § 2-315)

### **Sec. 58-101. Eligibility for credit for prior service; year's service defined.**

- (a) Credit for prior service shall be granted to each employee who has rendered such service as defined in this division and who was employed on February 14, 1980, or who becomes employed thereafter, provided that prior service rendered prior to a discontinuance of city service followed by reentrance into city service after a lapse of three years shall not be credited; except, that the three-year limitation shall not apply to city employment prior to the adoption of the City Charter in 1939, nor to city employees who were employed on federal projects during the years between 1933 and 1942, both inclusive; and except that any absence from city service by reason of service in the military or naval services of the United States in any war in which the United States has engaged shall not be considered as a break in city service, and the period of such absence shall count as city service.
- (b) No less than 190 days' service of eight hours duration shall constitute one year's service, nor shall more than one year of service be creditable for all service in any one calendar year.

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(Code 1982, § 2-316)

### **Sec. 58-102. Leave of absence.**

No employee shall be entitled to or be credited with prior service upon discontinuance of city service unless such employee before such discontinuance of service obtains a leave of absence. No leave of absence shall be granted to any employee at any one time for more than one year's duration, except if, for good reason shown and upon the written application of the employee, the leave of absence is further extended. Such extension shall not exceed the further term of one year.

(Code 1982, § 2-317)

### **Sec. 58-103. Requirements to receive retirement benefits.**

Any employee may retire upon his written application to the pension board, stating at what time, not less than 30 days nor more than 90 days subsequent to the filing thereof, he desires to be retired, provided that such employee shall be credited, at the time so specified for his retirement, with the following:

- (1) Reaching age 65 or having served not less than 25 years, in which case he shall be entitled to one-half of his average final compensation at the time of his retirement.
- (2) Reaching age 65 and having served 20 years or more, in which case the employee shall be entitled to 1/50 of his average final compensation multiplied by the number of years of his creditable service, but in no case shall he receive more than one-half of his average final compensation at the time of his retirement.

(Code 1982, § 2-318)

### **Sec. 58-104. Service beyond retirement.**

The pension board may allow any city department to retain the services of any member of their department after the age of retirement, from year to year, if he consents, while it deems it for the best interest of the city. In such cases, the employee shall be entitled to his pension from the date of actual retirement.

(Code 1982, § 2-319)

### **Sec. 58-105. Payment of retirement benefits.**

Retirement benefits granted under the provisions of this article shall be payable in equal monthly installments.

(Code 1982, § 2-320)

### **Sec. 58-106. Retirement benefits exempt from execution and unassignable.**

Retirement benefits granted under the provisions of this article shall not be subject to execution, garnishment, attachments or any other process whatsoever, and shall be unassignable.

(Code 1982, § 2-321)

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### **Sec. 58-107. Application for disability retirement; medical examination; computation of benefits.**

Upon written application to the board, any employee who has had ten or more years of creditable service may be retired because of total and permanent disability as the natural and proximate result of an injury or disease arising out of and in the course of employment without willful negligence on his part, provided that after a medical examination of such employee, the medical examiners shall certify in writing to the board that such employee is mentally or physically totally incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such employee should be retired; in which case, the employee shall be entitled to one-half of his average final compensation at the time of his retirement. The retirement benefits granted because of disability as a result of injury or disease arising out of and in the course of employment shall be reduced by the amount of any benefits, other than medical benefits, payable to or on account of such employee under the workmen's compensation laws, because of the disability resulting in his retirement.

(Code 1982, § 2-322)

### **Sec. 58-108. Subsequent to retirement for disability physical examinations may be required.**

The pension board may, at its pleasure, require any beneficiary who has been retired for disability and who has not attained the age of 65 to undergo medical examination, such examination to be made by a physician or surgeon appointed by the board, at the place of residence of such beneficiary or other place mutually agreed upon. Upon the basis of such examination and report, the board shall determine whether such disabled beneficiary is still incapacitated, physically or mentally, for service in the office or department of the city where he was employed and in the position held by him when retired for disability. If the board shall determine that such beneficiary is not so incapacitated, his retirement benefits shall be cancelled forthwith, and he shall be reinstated to the same position or employment as that held by him when retired for disability.

(Code 1982, § 2-323)

### **Sec. 58-109. Refusal to take physical examination.**

Should any beneficiary retired for disability refuse to submit to medical examination, as provided in this division, his pension or retirement benefits may be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, his retirement benefits may be cancelled.

(Code 1982, § 2-324)

### **Sec. 58-110. Reentry into service after disability retirement.**

Should a beneficiary, after retirement for disability, reenter the city service, he shall receive credit for prior service in the same manner as if he had never been retired for disability.

(Code 1982, § 2-325)

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### **Sec. 58-111. Cost of living adjustments for retired employees and beneficiaries.**

Notwithstanding any other provision in the Charter, on any or all general wage adjustments in city salaries made to active city employees on or after January 2, 1968, the same percent increase or decrease shall be applied to all retired city employees or their beneficiaries retired under the noncontributory city pension programs. The provisions of this section shall apply to city employees who were retired prior to the enactment of this section and their beneficiaries as well as to those city employees who are retired after such enactment and their beneficiaries, except that no decrease shall be applied to retired city employees who were retired prior to the enactment of this section or to their beneficiaries.

(Code 1982, § 2-326)

### **Sec. 58-112. Sick leave.**

- (a) Employees of the city, except teachers, employees of the department of public works, members of the police department and members of the fire department, shall be allowed to accumulate one day of sick leave per month, a total of 12 days per year, accumulating to a maximum of 120 days.
- (b) Upon retirement pursuant to the state employees retirement system or the city pension plan, an employee shall receive compensation at his rate of pay at the time of retirement for one-half of the number of days of his unused sick leave. This clause will be retroactive to January 1, 1969.

(Code 1982, § 2-327)

### **Secs. 58-113--58-125. Reserved.**

## **DIVISION 2. FIRE DEPARTMENT RETIREMENT AND DISABILITY**

### **Sec. 58-126. Retirement age.**

Any member of the fire department who shall have arrived at the age of 65 years in active service and who shall have served not less than 25 years shall be retired and shall be entitled to a pension equal to one-half of the pay which such member received at the time of his retirement. The city administrator may retain the services of any member of the department who has reached the age of retirement, from year to year, if he consents, while they deem it for the best interests of the department. In such cases he shall be entitled to his pension from the date of actual retirement.

(Code 1982, § 2-351)

### **Sec. 58-127. Pension for retirement.**

- (a) Any member of the fire department who shall have served not less than 25 years shall be retired upon his petition, and thereupon shall be entitled to a pension equal to one-half of the pay which such member received at the time of his retirement.
- (b) The death of an active member of the fire department resulting from injury or illness incurred in the line of duty shall entitle the beneficiaries described in this division to

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pension benefits. If such member so meets his death, the pension benefits payable as a result thereof shall be the continued payment of one-half of the salary he was then receiving. The death of a member of the department retired under the provisions of this section or section 58-126 shall entitle the beneficiaries described in this division to pension benefits. The pension benefits payable as a result thereof shall be the continued payment of the full pension he was then receiving. In either event such benefits shall be paid to his widow until her death or remarriage, and if there be no such widow, then to his minor child or children in accordance with section 58-151.

(Code 1982, § 2-352)

### **Sec. 58-128. Qualifications of permanent members for disability pensions.**

Any permanent member of the fire department who has become permanently disabled while in the actual performance of duty in the department shall be entitled to a pension equal to one-half of the pay which such member received at the time of his permanent disability.

(Code 1982, § 2-353)

### **Sec. 58-129. Pensions for ordinary or nonservice connected disability.**

- (a) Any permanent member of the fire department who has completed ten or more but less than 25 years of total service in such department, and who has become permanently disabled, mentally or physically, for further performance of duty in the fire department because of injury or illness which was not incurred while in the actual performance or discharge of his duties as a member of such department, or which was not connected with his service as a member of such department, shall be retired and shall be entitled to a pension equal to  $1/50$  of the annual pay he was receiving at the time of such permanent disability, multiplied by the total number of years of service completed. For the purpose of computing the amount of pension to be paid, half and whole years as defined in this section shall be counted. Six months but less than nine months shall be deemed a half year, and nine months or more through 12 months shall be deemed a full year. For the purpose of computing years of service under this section, service rendered prior to the enactment of this section shall also be counted.
- (b) The death of a member retired under this section shall entitle his beneficiaries, as defined in section 58-127, to the continued payment of the full pension in the amount the member was receiving under this section at the time of his death.

(Code 1982, § 2-354)

### **Sec. 58-130. Pensions.**

The death of an active member of the department who shall have served not less than 17 years therein shall entitle the beneficiaries described in section 58-127 to pension benefits equaling one-half of the salary he was last receiving. (Code 1982, § 2-355)

### **Sec. 58-131. Payment of pensions.**

The pensions specified in this division shall be paid monthly by the city treasurer and no pension shall be allowed unless application therefor shall have been approved by the pension board.

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(Code 1982, § 2-356)

### **Sec. 58-132. Application for disability pensions.**

When application is made for pension because of permanent disability incurred while in the performance of duty in the fire department, the applicant shall satisfy the pension board that he is permanently disabled and that his disability was incurred in the discharge of his duties as a member of the department.

(Code 1982, § 2-357)

### **Sec. 58-133. Pensions, applications for ordinary or nonservice connected disability.**

When application is made for a pension as provided in section 58-129, the applicant shall satisfy the pension board that he is permanently disabled, mentally or physically, for further performance of duty in the fire department and that he is otherwise qualified for such pension under the provisions of section 58-129.

(Code 1982, § 2-358)

### **Sec. 58-134. Granting of pensions.**

The pension board shall investigate and pass upon all matters pertaining to the pensions of firefighters, in accordance with the provisions of this division, and shall have authority to grant such pensions as provided in this division.

(Code 1982, § 2-359)

### **Sec. 58-135. Pensions previously granted to remain valid.**

Nothing contained in this division shall be held to deprive any member of the fire department who may be receiving a pension when the 1939 Charter took effect of the benefits of such pension.

(Code 1982, § 2-360)

### **Sec. 58-136. Limitations.**

- (a) The provisions of this article with reference to the retirement benefits in favor of the members of the city fire department shall not apply to the members thereof who elect to participate in any contributory employees' retirement system which may be established, authorized or approved by the city council upon the recommendation of the finance committee, nor to any person who shall become employed in the fire department after the date of the establishment of any contributory employees' retirement system which may be established, authorized or approved by the city council upon the recommendation of the finance committee.
- (b) Any person who shall become a permanent member of the fire department after the effective date of the establishment of any contributory employees' retirement system which may be established, authorized or approved by the city council upon recommendation of the finance committee shall, as a condition of employment, become a participating member in such contributory employees' retirement system.

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(Code 1982, § 2-361)

### **Sec. 58-137. Sick leave.**

- (a) Members of the fire department shall be allowed to accumulate 1 1/2 days of sick leave per month, a total of 18 days per year, accumulating to a maximum of 120 days.
- (b) Upon retirement pursuant to the state employees retirement system or city pension plan, an employee shall receive compensation at his rate of pay at the time of retirement for one-half the number of days of his unused sick leave. This clause will be retroactive to January 1, 1969.

(Code 1982, § 2-362)

**Secs. 58-138--58-150. Reserved.**

## **DIVISION 3. POLICE DEPARTMENT RETIREMENT AND DISABILITY**

### **Sec. 58-151. Retirement; permanent disability.**

- (a) Any member of the police department who shall have arrived at the age of 65 years in active service, or any member who while in the performance of duty has become permanently disabled, or any police officer of the city who was a member of the police department at the time of the enactment of chapter 37 of the Private and Special Laws of 1917 and who thereafterwards, but prior to the enactment of chapter 8 of the Private and Special Laws of 1939, arrived at the age of 65 years, while in active service, shall be retired and shall be entitled to a pension equal to one-half of the pay which such member received at the time of his retirement or permanent disability.
- (b) The death of an active member of the police department resulting from injury or illness incurred in the line of duty shall entitle the beneficiaries described in this section to pension benefits. If such member so meets his death, the pension benefits payable as a result thereof shall be the continued payment of one-half of the salary he was then receiving. The death of a member of the department retired under this section or section 58-158 shall entitle the beneficiaries described in this section to pension benefits. The pension benefits payable as a result thereof shall be the continued payment of the full pension he was then receiving. In either event, such benefits shall be paid to his widow until her death or remarriage, and if there is no such widow, then to the guardian of his child until that child reaches the age of 18 years. When two or more children under the age of 18 years are the survivors, such pension or compensation shall be divided pro rata, and the pro rata share due each child shall be paid to the guardian of that child until the child shall reach the age of 18 years.

(Code 1982, § 2-376)

### **Sec. 58-152. Pensions.**

The death of an active member of the police department who shall have served not less than 17 years therein shall entitle the beneficiaries described in section 38-151 to pension benefits equaling one-half of the salary he was last receiving.

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(Code 1982, § 2-377)

### **Sec. 58-153. Pensions, ordinary or nonservice connected disability.**

- (a) Any permanent member of the police department who has completed 19 or more but less than 25 years of total service in such department, and who has become permanently disabled, mentally or physically, for further performance of duty in the police department because of injury or illness which was not incurred while in the actual performance or discharge of his duties as a member of such department, or which was not connected with his service as a member of such department, shall be retired and shall be entitled to a pension equal to  $1/50$  of the annual pay he was receiving at the time of such permanent disability, multiplied by the total number of years of service completed. For the purpose of computing the amount of pension to be paid, half and whole years as defined in this section shall be counted. Six months but less than nine months shall be deemed one-half year, and nine months or more through 12 months shall be deemed a full year. For the purpose of computing years of service under this section, service rendered prior to the enactment of this section shall also be counted.
- (b) The death of a member retired under this section shall entitle his beneficiaries, as defined in section 38-151, to the continued payment of the full pension in the amount the member was receiving under this section at the time of his death.

(Code 1982, § 2-378)

### **Sec. 58-154. Application for disability pensions.**

When application is made for pension because of permanent disability while in active service, or while on authorized leave, the applicant shall satisfy the pension board that he is permanently disabled and that his disability was incurred in the discharge of his duties as a member of the department.

(Code 1982, § 2-379)

### **Sec. 58-155. Application for ordinary or nonservice connected disability.**

When application is made for a pension as provided in section 58-153, the applicant shall satisfy the pension board that he is permanently disabled, mentally or physically, for further performance of duty in the police department and that he is otherwise qualified for such pension under the provisions of section 58-153.

(Code 1982, § 2-380)

### **Sec. 58-156. Granting of pensions.**

The pension board shall investigate and pass upon all matters pertaining to the pensions of policemen, in accordance with the provisions of this division, and shall have authority to grant such pensions as provided in this division. (Code 1982, § 2-381)

### **Sec. 58-157. Payment of pensions.**

The pensions specified in this division shall be paid monthly by the city treasurer and no pension

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shall be allowed unless application therefor shall have been approved by the pension board.  
(Code 1982, § 2-382)

### **Sec. 58-158. Petition for retirement.**

Any member of the police department who has served not less than 25 years shall be retired on his petition, and thereupon become entitled to a pension equal to one-half of the pay which such member received at the time of his retirement. Any special patrolman of the department who has served continuously with pay until his regular appointment shall be given credit for such time served towards his retirement. (Code 1982, § 2-383)

### **Sec. 58-159. Pension benefits; computation of service credit.**

For the purpose of pension benefits, service credit shall be computed from the time that an applicant was accepted as a member of the police department and whose name has been listed as eligible for appointment as a permanent member of the department, and who has been on call on a 24-hour duty basis, and has responded to calls for employment during the time that he is eligible and before he was made a permanent member of the department. (Code 1982, § 2-384)

### **Sec. 58-160. Pension provisions for chief of police.**

The chief of police, after having served 25 years in any capacity in the police department, or if permanently disabled while in the performance of some duty devolving upon him as a member of the department, shall be retired upon his petition; whereupon he shall be entitled to a pension equal to one-half of the pay which he received at the time the disability occurred or at the time his application was filed with the pension board petitioning for retirement benefits. Nothing in this section shall be construed to deprive the incumbent chief of the years of service presently accrued as chief of such department. (Code 1982, § 2-385)

### **Sec. 58-161. Pensions previously granted to remain valid.**

Nothing contained in this division shall be held to deprive any member of the police department who may be receiving a pension when the 1939 Charter took effect of the benefits of such pension. (Code 1982, § 2-386)

### **Sec. 58-162. Limitations.**

- (a) The provisions of this article with reference to the retirement benefits in favor of the members of the police department, including the chief of police and police matron, shall not apply to those who elect to participate in any contributory employees' retirement system which may be established, authorized or approved by the city council upon the recommendation of the finance committee, nor to any person who shall become employed in the police department after the date of the establishment of any contributory employees' retirement system which may be established, authorized or approved by the city council upon the recommendation of the finance committee.
- (b) Any person who shall become a permanent member of the police department after the effective date of the establishment of any contributory employees' retirement system which may be established, authorized or approved by the city council upon

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recommendation of the finance committee shall, as a condition of employment, become a participating member in such contributory employees' retirement system.

(Code 1982, § 2-387)

### **Sec. 58-163. Sick leave.**

- (a) Members of the police department shall be allowed to accumulate one day of sick leave per month, a total of 12 days per year, accumulating to a maximum of 120 days.
- (b) Upon retirement pursuant to the state employees retirement system or city pension plan, an employee shall receive compensation at his rate of pay at the time of retirement for one-half that number of days of his unused sick leave. This clause will be retroactive to January 1, 1969.

(Code 1982, § 2-388)

### **Secs. 58-164--58-175. Reserved.**

## **DIVISION 4. PUBLIC WORKS DEPARTMENT RETIREMENT AND DISABILITY**

### **Sec. 58-176. Pensions for widows and children of deceased employees.**

If an employee of the city department of public works should die, whether he is retired or on active duty, as a result of injury received in the line of duty, his widow, or, if none, his minor child or children, shall continue to receive the pension he was receiving at the time of his death. If on active duty, the compensation or pension shall be one-half of the pay the member was receiving at the time of his death. Such pension or compensation will be paid subject to the following conditions:

- (1) The widow shall receive such compensation or pension until she dies or as long as she remains a widow.
- (2) If no widow survives, a pension or compensation of the same amount shall be paid to the guardian of his child until that child reaches the age of 18 years. When two or more children under the age of 18 years are the survivors, such pension or compensation shall be divided pro rata, and the pro rata share due each child shall be paid to the guardian of that child until the child shall reach the age of 18 years.

(Code 1982, § 2-401)

### **Sec. 58-177. Sick leave; compensation for unused sick leave upon retirement.**

- (a) Employees of the department of public works shall be allowed to accumulate one day of sick leave per month, a total of 12 days per year, accumulating to a maximum of 120 days.
- (b) Upon retirement pursuant to the state employees retirement system or city pension plan, an employee shall receive compensation at his rate of pay at the time of retirement for one-half of the number of days of his unused sick leave. This clause will be retroactive to January 1, 1969.

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(Code 1982, § 2-402)

**Secs. 58-178--58-190. Reserved.**

### **DIVISION 5. STATE RETIREMENT SYSTEM**

#### **Sec. 58-191. Membership.**

- (a) Any person who shall become an employee of any department of the city after the effective date of the participation of the city in the state retirement system may become a contributing member of the state retirement system, if also participating in the social security system. Employees not participating in the social security system shall, as a condition of employment, become a contributing member of the state retirement system. Participation in the state retirement system shall be under the provisions of title 5, Maine State Retirement System, rules and regulations promulgated by the state retirement system, and acts amendatory thereof, to the extent of the benefits made applicable to the members of such departments by terms of the city's participation in such retirement system.
- (b) Any appointed or elected official may become a contributing member of the state retirement system at the beginning of his term. Should the appointed or elected official choose not to become a contributing member at that time, then such person shall be barred from becoming a contributing member during his term of office.

(Code 1982, § 2-426)

#### **Sec. 58-192. Teachers excluded.**

The provisions of this division shall not apply to those employees who are eligible for membership in the teachers' retirement system of the state. (Code 1982, § 2-428)

#### **Sec. 58-193. Certification of creditable prior service.**

It shall be the duty of the pension board of the city to establish and institute the procedure and machinery necessary to investigate and properly certify the creditable prior service of all the employees in the various departments of the city now subject to any existing noncontributory retirement or pension plan, and of those employees who shall participate in the state retirement system, and to maintain a complete file of the data pertaining to the employment and service of all employees in the employment of the city. It shall be the duty of the pension board to certify to the proper authorities the creditable prior service of all employees in the employ of the city, under any retirement or pension system. (Code 1982, § 2-430)

**State law references:** Prior service certificate and credit, 5 M.R.S.A. § 1094(6), (7).

#### **Sec. 58-194. Determining retirement allowance.**

- (a) *Full-time employees.* The retirement allowance for full-time employees is to be determined by the application of the current retirement formula in effect or the application of the current minimum retirement allowance in effect, whichever is greater.

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(b) *Other than full-time employees.* The retirement allowance for other than full-time employees is to be solely determined by the application of the current retirement formula in effect excluding the current monthly minimum retirement allowance in effect.

(Code 1982, § 2-432)

**Sec. 58-195. Purchasing creditable prior membership service.**

Any employee may purchase creditable prior membership service at any time, subject to the limitations imposed by the state retirement system.

(Code 1982, § 2-433)

**Sec. 58-196. State laws adopted.**

The following provisions of the state retirement system laws are adopted:

<i>Standard provisions</i>	<i>Section of the law (title 5)</i>
Prior service	18352
Computation of benefits	18452
Retirement allowances	18451
Cost-of-living adjustment	18407
Disability	18504/18505/18506
Survivor benefits	18553
Accidental death benefits	18601/18602/18603
Automatic option 2	18554
Military leave	18258
Termination pay	17001, 13
Vacation/sick leave credits	18356
Transferability	18253
Option withdrawal	18252/18359
Optional membership	18251
Special plans	18453
Out-of-state service credit	18354

(Code 1982, § 2-435)

**Sec. 58-197. Human resources director's duty to assist.**

The human resources director, under the direction of the pension board and city council, shall submit to the board of trustees of the state retirement system such information and shall cause to be performed such duties in respect to the employees of the city aforesaid as shall be

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prescribed by the board of trustees in order to carry out the provisions of the state retirement system. In addition, he shall perform all acts, file all certifications, furnish all statements of data and agreements as are necessary or required by the administrators or trustees of the state retirement system, or both, to implement the effect of this division.

(Code 1982, § 2-436; Ord. No. 99-7, 4-15-99)