

Thus, then, a foreign mutual health and accident insurance company operating on the assessment plan and admitted to do business in Indiana pursuant to the provisions of chapter 195 of the Acts of 1897 is not subject to the payment of a premium tax but is obligated to pay only those fees chargeable under section 25 of chapter 195 of the said Acts of 1897.

**ACCOUNTS, STATE BOARD OF: Teachers' pension fund,
amount of withdrawals by those paying arrearages.**

November 4, 1937.

Hon. W. P. Cosgrove,
State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of November 3, 1937, in which you submit the following question:

"The actuarial report on the Teachers' Retirement Fund Board at the time the board was organized under the 1921 amendment to the original teachers' retirement fund law sets out certain tables which were adopted for the operation of the board. One of the tables adopted sets out the amount of arrearage to be paid by teachers claiming service prior to 1921.

"This table sets up in one figure the amount due from a teacher who was eighteen years of age at the time she began teaching and who had twenty years of prior service when she became a member of the fund. The question which has arisen is, would the lump sum set out in the table constitute the teacher's contribution, or would twenty times the annual payment according to age at beginning as set out in the Act be construed as the teacher's contribution? We are referring to section 9 of the Teachers' Retirement Fund Act of 1921."

In reply to this question your attention is directed to section 28-4506, Burns Indiana Statute, 1933 Revision, subsection (c) of which statute sets out the rates of assessment and

establishes the annual contribution that shall be made by each teacher, which assessment is based on the teacher's age at the beginning of service.

Subsection (g), section 28-4511, Burns Indiana Statute, 1933 Revision, contains the following provision:

"Teachers coming under the provisions of this Act shall be required to pay as arrearages an amount equal to the amount which would have accumulated from their contributions with four (4) per cent compound interest had they been members under this Act for the number of years which they claim for prior service, provided that a teacher may waive his or her right to former service and pay only current rates from the time when the membership begins and receive no credit for prior service."

It will be noted from this provision that they are required to pay an amount equal to the amount which would have accumulated from their contributions had they been members under this Act for the number of years which they claim for prior service.

It is my opinion that this language contemplates a contribution based upon the age rate at the beginning of the period of service which they claim. This interpretation of the statute places the teacher desiring to come under the provisions of the pension program in the same position as to its benefits and burdens as such teacher would have been had they availed themselves of this privilege at the beginning of their service. The only penalty imposed for not so doing is a charge of 4 per cent compound interest on the amount which would have been contributed had such teacher joined at the beginning of their teaching service.

Your question is accordingly specifically answered by saying that the amount of the teacher's contribution is in my opinion determined by allowing such teacher the annual payment according to the age at the beginning of the period of service which such teacher claims.

Having paid in such amount plus 4 per cent interest compounded annually thereon, your second question asks an interpretation of the amount such teacher is entitled to withdraw in the event such teacher should leave the service. The answer to this question is found in subsection (c), section

28-4506, Burns Indiana Statute, 1933 Revision, which reads as follows:

"In the event that any teacher, a member of the fund, leaves the service of the public schools for any reason, such teacher shall be entitled to withdraw the following portions of her contributions:

* * * After ten years 100%."

The question therefore arises as to what constitutes 100 per cent of a teacher's contributions as specifically applied to the amount required in the payment of arrearages. It is my opinion that this question turns upon the interpretation of the word "contribution" as used in the above quoted Act. Webster defines "contribution" as follows: "A payment imposed upon a body or person * * * that portion which an individual furnishes to the common stock."

A reading of the entire Act which creates the teachers' pension program requires that the funds paid in by the members be invested in interest bearing securities to the end that the fund may be increased by such earnings. This was doubtless the reason that a teacher coming into the program and claiming prior service was required to contribute 4 per cent compound interest on such teacher's arrearages in order that such teacher might share in the benefits of the fund and contribute such teacher's portion to its increase.

It is my opinion, therefore, that such teacher's contribution covers both principal and interest and that such teacher upon withdrawing from the fund would be entitled under the statute to withdraw 100 per cent of the amount actually contributed by such teacher.

VETERINARIAN, STATE: Fees to be paid for last half of year for operation of reduction plants.

November 6, 1937.

Dr. J. L. Axby,
State Veterinarian,
Statehouse,
Indianapolis, Indiana.

Dear Sir:

I have before me and have given consideration to your request for an opinion on the following facts: