

paid exclusively from CETA funds allocated to the balance of state CETA prime sponsor, shall be placed in the classified civil service of the state after receiving a passing score on an examination appropriate for the position. Persons passing the examination shall be placed in the proper classifications by the commissioner of personnel with such compensation as the classifications carry. All rights of the persons as state employees with respect to status, length of service credit, seniority under the provisions of a collective bargaining agreement negotiated pursuant to sections 179.61 to 179.77, and annual and sick leave accrual, shall commence upon the effective date of this act.

Sec. 2. This act shall become effective upon final enactment.

Approved March 28, 1978.

CHAPTER 646-H.F.No.2023

An act relating to retirement; the highway patrolmen's retirement fund; payment of survivor benefits; amending Minnesota Statutes 1976, Sections 352B.02, Subdivision 1; and 352B.11, Subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 352B.02, Subdivision 1, is amended to read:

352B.02 **RETIREMENT ASSOCIATION.** Subdivision 1. There is hereby established a highway patrolmen's retirement association, the membership of which shall consist of all persons defined in section 352B.01, subdivision 2. Each member shall pay a sum equal to ~~eight~~ seven percent of his monthly salary. Such amounts shall be deducted monthly by the department head, who shall cause the total amount of said monthly deductions to be paid to the state treasurer, and shall cause a detailed report of all monthly deductions to be made each month to the secretary of the association. In addition thereto, there shall be paid out of money appropriated for this purpose, monthly, by the department heads, a sum equal to 12 percent of the salary upon which deductions were made, and a sum equal to ~~ten~~ nine percent of the salaries upon which deductions were made for the purpose of amortizing the actuarial deficit of the fund, the same to be credited to the highway patrolmen's retirement fund. All moneys received by said association shall be deposited by the state treasurer in the highway patrolmen's retirement fund. Out of said fund shall be paid the expenses of the association, and the benefits and annuities as hereinafter provided.

Sec. 2. Minnesota Statutes 1976, Section 352B.11, Subdivision 2, is amended to read:

Subd. 2. **DEATH; PAYMENT TO SPOUSE AND CHILDREN.** In the event any member of the association serving actively as a member, a member receiving the disability benefit provided by section 352B.10, clause (1), or a former member with 20 or more

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years of allowable service credit receiving a disability benefit as provided by section 352B.10, clause (3) shall die from any cause, ~~the association shall grant annuities or benefit payments from the retirement fund to his surviving spouse and to a dependent child or dependent children; the surviving spouse and dependent child or dependent children shall be entitled to annuity benefit payments as follows:~~

(a) ~~To~~ The surviving spouse of a member who had credit for less than ten years of service shall receive, for her natural life, a monthly annuity equal to 20 percent of that portion of the average monthly salary of the member from which deductions were made for retirement. If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.

(b) The surviving spouse of a ~~former~~ member who; had credit for at least ten years of service and who dies after attaining 55 years of age, ~~elected to receive a joint and survivor annuity; shall, notwithstanding her remarriage, may elect to receive such a 100 percent joint and survivor annuity, for her natural life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed by this subdivision in clause (a). In the event such former member did not elect to receive a joint and survivor annuity his surviving spouse shall receive the annuity provided herein.~~

(b) (c) ~~Notwithstanding the provisions of clause (a);~~ The surviving spouse of any member who had served credit for 20 ten years or more and who was not 55 years of age at his death, shall receive the benefit equal to 20 percent of the average monthly salary as described in clause (a) until the deceased member would have reached his or her 55th birthday, and beginning the first of the month following that date, ~~she shall be entitled may elect~~ to receive the 100 percent joint and survivor annuity designated as option 4 under the administrative procedure of the association dated November 4, 1965. If the surviving spouse remarries prior to the deceased member's 55th birthday, all benefits or annuities shall cease as of the date of remarriage. The provisions of this clause shall be retroactive to July 1, 1969; but no payments shall be made until July 1, 1973. Remarriage subsequent to the deceased member's 55th birthday shall not affect the payment of the benefit.

(e) (d) ~~To~~ Each dependent child; shall receive a monthly annuity equal to ten percent of that portion of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over the age of 18 years and under the age of 22 years also may receive the monthly benefit provided herein, if said child is continuously attending an accredited school as a fulltime student during the normal school year as determined by the board of the fund director. If said child does not continuously attend school but separates himself during any portion of a school year, the annuity shall cease at the end of the month of separation. In addition, ~~the association shall make~~ a payment of \$20 per month to shall be prorated equally to such children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child shall be made to the surviving spouse, or if there be none, to the legal guardian of such child. The maximum monthly benefit shall not exceed \$400 for any number of children. The provisions of this clause are effective retroactively to March 1, 1967; provided that the increase in the maximum monthly benefit shall not take effect until July 1, 1973; and provided further that the increase in

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the maximum monthly benefit from \$200 to \$400 shall not be effective retroactively.

(d) (e) If the member shall die under circumstances which entitle his the surviving spouse and dependent children to receive benefits under the workers' compensation law, the amounts so received by them shall not be deducted from the benefits payable under this section. The provisions of this clause are effective retroactively to June 30, 1964.

(e) (f) In the event any former member who had separated from service prior to having completed 20 ten years of service, except former members permanently disabled in performance of duty, and was not employed by the state in a capacity entitling him the former member to accumulate allowable service credit at the time of his death, his widow and the surviving spouse, or if none, the children or heirs shall be entitled to receive any funds he the former member may have left on deposit in the highway patrolmen's retirement fund, but shall receive no further benefits under this chapter. The surviving spouse of such deceased former member who had credit for ten or more years of allowable service, but excluding the spouse of a former member receiving a disability benefit under the provisions of section 352B.10, clause (3) based on less than 20 years of service, shall be entitled to receive the 100 percent joint and survivor annuity at such time as the deceased member would have reached his or her 55th birthdate, provided he or she has not remarried prior to that date.

Sec. 3. Section 1 shall be effective July 1, 1978. Section 2 shall be effective the day following final enactment and shall be applicable to former members on deferred status or receiving a disability benefit on the effective date of section 2.

Approved March 28, 1978.

CHAPTER 647-H.F.No.2024

An act relating to courts; disqualification of a presiding judge without a showing of prejudice; amending Minnesota Statutes 1976, Sections 487.40, Subdivision 2; and 542.16.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 487.40, Subdivision 2, is amended to read:

Subd. 2. **AFFIDAVIT OF PREJUDICE.** Any party or his attorney, to a cause pending in a court, on or before ten days prior to the first day of a general, or five days prior to a special, term thereof, or, in any district having two or more judges, within one day after it is ascertained which judge is to preside at the trial or hearing thereof, or at the hearing of any motion, order to show cause, or argument on demurrer, may make and file with the clerk of the court in which the action is pending and serve on the opposite party an affidavit stating that, on account of prejudice or bias on the part of such judge, he has good reason to believe, and does believe, that he cannot have a fair trial or hearing thereof, a notice to remove and thereupon such judge shall forthwith, without any further

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