

CHAPTER 239—S.F.No. 162

An act relating to retirement; retirement coverage for state university and community college personnel; providing coverage for unclassified managerial employees in temporary, acting, or interim positions; providing default plan for employee selection; adding conforming language to clarify eligibility between plans; relating to the individual retirement account plan; increasing the employer contribution rate; providing for repayment of missed contributions; providing for administrative expenses; providing for contributions during period of sabbatical leave; permitting certain coverage transfers; relating to the supplemental retirement plan; providing conforming language for previous oversight of eligible members; relating to marriage dissolutions; providing alternate method of retirement asset distribution for individual retirement account plan; providing alternative coverage for certain state university and community college personnel; amending Minnesota Statutes 1992, sections 352D.02, subdivisions 1 and 1a; 354B.01, by adding a subdivision; 354B.02, subdivisions 1, 3a, and by adding a subdivision; 354B.04, subdivisions 1 and 2, and by adding a subdivision; 354B.05, by adding a subdivision; 356.24, subdivision 1; and 518.58, subdivision 4; and Laws 1990, chapter 570, articles 3, section 11, and 10, section 7; proposing coding for new law in Minnesota Statutes, chapter 354B; repealing Minnesota Statutes 1992, section 354B.02, subdivision 3.

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

ARTICLE 1**UNCLASSIFIED EMPLOYEES RETIREMENT PLAN**

Section 1. Minnesota Statutes 1992, section 352D.02, subdivision 1, is amended to read:

Subdivision 1. **COVERAGE.** (a) Employees enumerated in paragraph (b), if they are in the unclassified service of the state and are eligible for coverage under the general state employees retirement plan under chapter 352, are participants in the unclassified program under this chapter unless the employee gives notice to the executive director of the Minnesota state retirement system within one year following the commencement of employment in the unclassified service that the employee desires coverage under the general state employees retirement plan. For the purposes of this chapter, an employee who does not file notice with the executive director is deemed to have exercised the option to participate in the unclassified plan.

(b) Enumerated employees are:

(1) an employee in the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, or an employee of the state board of investment;

(2) the head of a department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed to the

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position, or an employee enumerated in section 15A.081, subdivision 1 or 15A.083, subdivision 4;

(3) a permanent, full-time unclassified employee of the legislature or a commission or agency of the legislature or a temporary legislative employee having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota state retirement system;

(4) a person other than an employee of the state board of technical colleges who is employed in a position established under section 43A.08, subdivision 1, clause (3), or subdivision 1a, or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level;

(5) the chair, chief administrator, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan waste control commission as designated by the commission; the chair, executive director, and not to exceed three positions at the division director or assistant to the chair level of the regional transit board; a chief administrator who is an employee of the metropolitan transit commission; and the chair, executive director, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan council as designated by the council; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations may be made without approval of the board of directors of the Minnesota state retirement system;

(6) the executive director, associate executive director, and not to exceed nine positions of the higher education coordinating board in the unclassified service, as designated by the higher education coordinating board before January 1, 1992, or subsequently redesignated with the approval of the board of directors of the Minnesota state retirement system, unless the person has elected coverage by the individual retirement account plan under chapter 354B;

(7) the clerk of the appellate courts appointed under article VI, section 2, of the Constitution of the state of Minnesota;

(8) the chief executive officers of correctional facilities operated by the department of corrections and of hospitals and nursing homes operated by the department of human services;

(9) an employee whose principal employment is at the state ceremonial house;

(10) an employee of the Minnesota educational computing corporation;

(11) an employee of the world trade center board;

(12) an employee of the state lottery board who is covered by the managerial plan established under section 43A.18, subdivision 3; and

(13) an employee of the state board of technical colleges employed in a position established under section 43A.08, subdivision 1, clause (3), or 1a, unless the person has elected coverage by the individual retirement account plan under chapter 354B; and

(14) an employee of the higher education board in a position established under section 136E.04, subdivision 2, unless the person has elected coverage by the individual retirement account plan under chapter 354B.

Sec. 2. Minnesota Statutes 1992, section 352D.02, subdivision 1a, is amended to read:

Subd. 1a. ~~STATE UNIVERSITY HIGHER EDUCATION PERSONNEL.~~ Unless the person has elected coverage by ~~the individual retirement account plan under chapter 354B~~ the retirement program governed by this chapter, the chancellor, university presidents, and unclassified managerial employees in the state university system, the higher education board, the higher education coordinating board, and the technical college system chancellor's office shall participate in the individual retirement account plan under chapter 354B, if they are eligible for coverage under the state employees retirement fund, or the teachers retirement association, or would have been eligible for coverage under those funds but for this subdivision, subject to the provisions of subdivision 5. These employees also shall have social security coverage under the agreement between the state and the secretary of health and human services. Acting, temporary, or interim employees who would otherwise be covered by this section shall retain coverage by the general state employees retirement plan of the Minnesota state retirement system, teachers retirement association, or other Minnesota public employee retirement plan governed by section 356.30, whichever applies, during the pendency of the acting, temporary, or interim appointment and shall be covered by the unclassified plan governed by this chapter or the individual retirement account plan provided in section 354B.02, subdivision 3a, only if their appointment becomes permanent.

Sec. 3. Minnesota Statutes 1992, section 354B.01, is amended by adding a subdivision to read:

Subd. 6. COVERED EMPLOYMENT; HIGHER EDUCATION BOARD MANAGERIAL EMPLOYEES. "Covered employment," with respect to employment by the higher education board, means employment in a position described in section 352D.02, subdivision 1, paragraph (b), clause (14).

Sec. 4. Minnesota Statutes 1992, section 354B.02, subdivision 1, is amended to read:

Subdivision 1. **PLAN PARTICIPANTS.** (a) Except as provided in subdivision 2, or unless the person has elected retirement coverage under section 352D.02, subdivision 1a, a person who was first employed in covered employment under section 354B.01, subdivision 2 or 3, after June 30, 1989, shall participate in the plan.

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(b) Except as provided in subdivision 2, or unless the person has elected retirement coverage under section 352D.02, subdivision 1, paragraph (b), clause (6) or (13), a person who was first employed in covered employment after July 1, 1992, shall participate in the plan.

(c) Participants or employees who would be participants in this plan but for prior participation in the teachers retirement association or other Minnesota public employee retirement plan governed by section 356.30, whichever applies, and who are subsequently appointed to a position with the community college system or the state university system designated as an acting, temporary, or interim position, shall remain in the teachers retirement association or the other Minnesota public employee plan during the term of the acting, temporary, or interim position. If the participant's status becomes permanent, the participant has the option to make a new election appropriate to the plan in which the position should be located.

Sec. 5. Minnesota Statutes 1992, section 354B.02, subdivision 3a, is amended to read:

Subd. 3a. **UNCLASSIFIED STATE UNIVERSITY SYSTEM EMPLOYEES.** State university system employees who would otherwise be covered by section 352D.02, subdivision 1a, may elect coverage under the plan governed by this chapter shall be covered by the plan governed by this section unless they elect coverage under the plan governed by section 352D.02, subdivision 1a. Election to participate in the plan governed by the unclassified employees plan must be made within 120 days of July 1, 1992, or the start of covered employment, whichever is later. If the employee does not elect to participate in the unclassified employees plan upon the start of covered employment, the employee shall participate in the individual retirement account plan. If no election is made within the 120 days, this participation must be permanent. Employees in covered employment on July 1, 1992, who would otherwise be covered by this section, but are already participating in the teachers retirement association governed by chapter 354 or the general state employees retirement plan governed by chapter 352, shall remain in the applicable plan unless an election is made to transfer to the plan governed by this chapter. The election must be made within 120 days of eligibility under the state unclassified employees retirement program governed by chapter 352D. An election to participate in the unclassified program or this plan is irrevocable during any period of service that would have been covered under chapter 352D or this chapter. This election must be made in the form prescribed in section 352D.12. Upon receipt of notice of transfer, the individual retirement account plan administrator shall transfer to the employee's account in this plan an amount equal to the employee and matching employer contributions to the credit of the person in the teachers retirement association, plus six percent compound annual interest thereon from the date that each contribution was made until the date that the transfer is made.

Sec. 6. Minnesota Statutes 1992, section 354B.02, is amended by adding a subdivision to read:

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Subd. 3c. HIGHER EDUCATION BOARD EMPLOYEES. Employees in covered employment under section 354B.01, subdivision 6, may elect coverage under the plan. Election to participate in the plan must be made by December 31, 1993, or within 120 days of the start of covered employment, whichever is later, and is irrevocable during any period of covered employment in a position listed in section 352D.02, subdivision 1, paragraph (b), clause (14), which is established by the higher education board or the higher education facilities authority. These employees are not eligible for the supplemental retirement plan specified in sections 354B.07 to 354B.09.

Sec. 7. EFFECTIVE DATE.

Sections 2, 4, and 5 are effective July 1, 1993.

ARTICLE 2

INDIVIDUAL RETIREMENT ACCOUNT PLAN

Section 1. Minnesota Statutes 1992, section 354B.04, subdivision 1, is amended to read:

Subdivision 1. **MEMBER CONTRIBUTIONS.** (a) Persons in covered employment who would otherwise be eligible to participate in the teachers retirement association, but who participate in the plan, shall make a member contribution in an amount equal to the amount prescribed by section 354.42, ~~subdivision 2~~ of 4-1/2 percent of salary.

(b) Persons in covered employment who would otherwise be eligible to participate in the state unclassified employees retirement program, but who participate in the plan, shall make a member contribution in an amount equal to the member contribution amount prescribed in section 352D.04, subdivision 2, paragraph (a).

(c) The contribution must be made by payroll deduction each pay period.

Sec. 2. Minnesota Statutes 1992, section 354B.04, subdivision 2, is amended to read:

Subd. 2. **EMPLOYER CONTRIBUTIONS.** (a) The employer of persons described in subdivision 1, paragraph (a), shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 354.42, ~~subdivision 3~~ of six percent of salary.

(b) The employer of persons described in subdivision 1, paragraph (b), shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 352D.04, subdivision 2.

Sec. 3. Minnesota Statutes 1992, section 354B.04, is amended by adding a subdivision to read:

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Subd. 4. OMITTED CONTRIBUTIONS. (a) Except as provided in paragraph (b), if the state university board or the community college board fails to make the deduction from an employee's salary required by section 354B.08 and this section in a timely fashion, the deduction must be made by subsequent payroll deductions.

(b) If a board fails to make required employee deductions within 60 days of the date on which the deductions should have been made, the board shall pay the employer contributions and an amount equivalent to 8.5 percent of the total amount due in lieu of interest. If an employee deduction is not made within 60 days of the date upon which it should have been made, the employer and employee may agree to an alternate deduction amount for the omitted employee contribution. The omitted employee deduction must be made within one year of the date upon which the deduction should have been made.

Sec. 4. [354B.045] SABBATICAL LEAVE; CONTRIBUTIONS.

Subdivision 1. DEFINITION. A "sabbatical leave" for the purpose of this section means a sabbatical leave as defined in the applicable personnel policy of the state university and community college boards.

Subd. 2. REQUIRED EMPLOYEE AND EMPLOYER CONTRIBUTIONS. Deductions for the employer contribution as specified in section 354B.04, subdivision 2, must be made by the employing unit from salary paid to the member for a sabbatical leave. The employer must make a contribution based on the contribution rate in section 354B.04, subdivision 2, based on the salary paid to the member for a sabbatical leave.

Subd. 3. OPTIONAL CONTRIBUTION. A plan participant who is on a sabbatical leave may make an optional employee contribution. The maximum optional employee contribution permitted is determined by the difference between the salary received for the sabbatical leave and the salary received for a comparable period during the year immediately preceding the leave, multiplied by the employee contribution rate specified in section 354B.04, subdivision 1. If an employee payment is made under this subdivision, the payment must be made by the end of the fiscal year following the fiscal year in which the leave terminates, and may not include interest. If an employee makes a contribution under this subdivision, the employer must make the employer contribution, at the rate specified in section 354B.04, subdivision 2, for the salary that was the basis for the employee payment under this subdivision. The employer contribution must be made within 60 days of the date on which the employee contribution was made.

Subd. 4. REINSTATEMENT RIGHTS. Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made under this section if the member does not retain the right to full reinstatement both during and at the end of the sabbatical leave.

Sec. 5. Minnesota Statutes 1992, section 354B.05, is amended by adding a subdivision to read:

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Subd. 5. ADMINISTRATIVE EXPENSES. (a) Plans covered by this chapter or administered by governing boards as provided in section 354B.05 may provide for administrative fees or charges to be paid by participants in the following manner:

(1) from participants whose contributions are invested with the state investment board the plan administrator may recover administrative expenses in the manner provided by section 11A.17, subdivisions 10a and 14; or

(2) from participants whose contributions are invested through contracts purchased in the manner authorized by subdivision 2, the plan administrator may assess an amount of up to two percent of the employer and employee contributions.

(b) Any amounts not needed for administrative expenses of the plan must be refunded to member accounts.

Sec. 6. [354B.085] PAYMENT OF BENEFITS.

Withdrawal of or a retirement benefit based on individual participant contributions and employer contributions plus accrued investment income is payable immediately upon the death or termination of a participant. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Sec. 7. Laws 1990, chapter 570, article 3, section 11, is amended to read:

Sec. 11. TRANSFERS IN CERTAIN CASES.

Notwithstanding any provision of Minnesota Statutes, section 354B.03, to the contrary, a person in covered employment under Minnesota Statutes, chapter 354, who was first employed for at least 25 percent of a full academic year, exclusive of summer session, by the state university system board or the community college board after June 30, 1988, and before July 1, 1989, and who has ~~no~~ less than one year of prior allowable service under chapter 354, and who elected, or elects before January 1, 1991, to have ~~their~~ the person's employee contributions transferred under Minnesota Statutes, chapter 354B, shall have an amount equal to the employer contributions made on behalf of the person under Minnesota Statutes, section 354.42, subdivision 3, plus annual interest compounded annually at a rate of six percent, transferred by the executive director of the teachers retirement association from the teachers retirement fund to the individual retirement account plan under Minnesota Statutes, chapter 354B. The election must be made on a form prescribed by the executive director and must be made by January 1, ~~1991~~ 1994.

Sec. 8. REPEALER.

Minnesota Statutes 1992, section 354B.02, subdivision 3, is repealed.

Sec. 9. EFFECTIVE DATE.

New language is indicated by underline, deletions by ~~strikeout~~.

(a) Sections 1, 2, 3, 4, 5, 6, and 8 are effective July 1, 1993.

(b) Section 7 is effective on the day following final enactment, and applies retroactively to persons who elected a transfer under Laws 1990, chapter 570, article 3, section 11. The amount to be transferred is the employer contribution described in that section, plus annual interest compounded annually at a rate of six percent until the date of transfer.

ARTICLE 3

SUPPLEMENTAL RETIREMENT PLAN

Section 1. Minnesota Statutes 1992, section 356.24, subdivision 1, is amended to read:

Subdivision 1. **RESTRICTION; EXCEPTIONS.** (a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits, to the individual retirement account plan established by sections 354B.01 to ~~354B.04~~ 354B.05;

(3) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;

(4) for employees other than personnel employed by the state university board or the community college board and covered by section 354B.07, subdivision 1, to:

(i) the state of Minnesota deferred compensation plan under section 352.96;
or

(ii) payment of the applicable portion of the premium on a tax sheltered annuity contract qualified under section 403(b) of the federal Internal Revenue Code, purchased from a qualified insurance company; if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of public employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee; or

(5) for personnel employed by the state university board or the community

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college board and covered by ~~section~~ sections 352D.02, subdivision 1a and 354B.07, subdivision 1, to the supplemental retirement plan under sections 354B.07 to 354B.09, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year for each employee.

(b) A qualified insurance company is a company that:

(1) meets the definition in section 60A.02, subdivision 4;

(2) is licensed to engage in life insurance or annuity business in the state;

(3) is determined by the commissioner of commerce to have a rating within the top two rating categories by a recognized national rating agency or organization that regularly rates insurance companies; and

(4) is determined by the state board of investment to be among the ten applicant insurance companies with competitive options and investment returns on annuity products. The state board of investment determination must be made on or before January 1, 1993, and must be reviewed periodically. The state board of investment shall retain actuarial services to assist it in this determination. The state board of investment shall establish a budget for its costs in the determination process and shall charge a proportional share of that budget to each insurance company selected by the state board of investment. All contracts must be approved before execution by the state board of investment. The state board of investment shall establish policies and procedures under section 11A.04, clause (2), to carry out this paragraph.

(c) A personnel policy for unrepresented employees or a collective bargaining agreement may establish limits on the number of vendors under paragraph (b), clause (4), that it will utilize and conditions under which the vendors may contact employees both during working hours and after working hours.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective July 1, 1993.

ARTICLE 4

MARRIAGE DISSOLUTIONS

Section 1. Minnesota Statutes 1992, section 518.58, subdivision 4, is amended to read:

Subd. 4. **PENSION PLANS.** (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

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(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump sum amount from pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

Sec. 2. EFFECTIVE DATE.

Section 1 is effective July 1, 1993.

ARTICLE 5

MISCELLANEOUS PROVISIONS

Section 1. Laws 1990, chapter 570, article 10, section 7, is amended to read:

Sec. 7. EFFECTIVE DATE.

Sections 1 ~~to~~, 3, 4, 5, and 6 are effective the day following final enactment. Section 2 is effective June 30, 1989.

Sec. 2. COVERAGE ELECTION.

Individuals covered by Minnesota Statutes, section 354.05, subdivision 2a, and meeting the requirements of Minnesota Statutes, section 352.021, subdivision 5, who were employed by the state university or community college system after June 30, 1989, and before May 9, 1990, may elect coverage in the general state employee retirement plan. Election of coverage must be made before Octo-

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ber 1, 1993, on a form approved by the director of the Minnesota state retirement system. For an individual electing coverage in the general state employees retirement plan under this section, the value of the individual's account in the individual retirement account plan under Minnesota Statutes, chapter 354B, will be transferred to the retirement fund for the general state employees retirement plan within 30 days of the election, and the individual will receive allowable service credit in the general state employees plan for the period during which the individual was a member of the individual retirement account plan.

Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective July 1, 1993.

Presented to the governor May 14, 1993

Signed by the governor May 17, 1993, 3:08 p.m.

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CHAPTER 240—S.F.No. 207

An act relating to occupations and professions; boards of social work and marriage and family therapy; providing for data classifications; changing board membership; adding certain licensing requirements to the board of social work; amending Minnesota Statutes 1992, sections 13.99, subdivision 49; 148B.04, by adding a subdivision; 148B.08, subdivision 1; 148B.18, subdivisions 8 and 10; 148B.19, subdivisions 1 and 2; 148B.21, subdivisions 3, 4, 5, 6, and by adding a subdivision; 148B.26, subdivision 1; 148B.27, by adding a subdivision; and 148B.28, subdivision 2.

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

Section 1. Minnesota Statutes 1992, section 13.99, subdivision 49, is amended to read:

Subd. 49. **CLIENT, LICENSEE, AND REPORTING OF VIOLATIONS RECORDS OBTAINED BY BOARDS ON MENTAL HEALTH AND SOCIAL WORK.** Client records obtained by a board conducting an investigation under chapter 148B are classified by section 148B.09. Certain licensing data and data in reports of violations under chapter 148B are classified by sections 148B.04 and 148B.08.

Sec. 2. Minnesota Statutes 1992, section 148B.04, is amended by adding a subdivision to read:

Subd. 6. CLASSIFICATION OF CERTAIN RESIDENCE ADDRESSES AND TELEPHONE NUMBERS. Notwithstanding section 13.41, subdivision 2 or 4, the residence address and telephone number of an applicant or licensee are private data on individuals as defined in section 13.02, subdivision 12, if the applicant or licensee provides an alternative address and telephone number.

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