

, or is being sold, delivered, or offered for sale in violation of section 4 of this act, he shall affix thereto an appropriate marking, giving notice that ~~such the~~ article is, or is suspected of being, adulterated ~~or~~, misbranded or sold, delivered, or offered for sale in violation of section 4 of this act and has been embargoed, and warning that it is unlawful for any person to remove or dispose of ~~such the~~ embargoed article by sale or otherwise without permission from the agent or the court.

(2) When an embargoed article has been found by ~~such the~~ agent to be adulterated; or misbranded, or is being sold, delivered, or offered for sale in violation of section 4 of this act, the board shall, within 30 days, petition the district court in whose jurisdiction the article is embargoed for an order of condemnation. When an embargoed article is not so found by the agent he shall remove the marking.

(3) If the court finds that an embargoed article is adulterated or misbranded, or is being sold, delivered, or offered for sale in violation of section 4 of this act, ~~such the~~ article shall be destroyed at the expense of the claimant thereof, who shall also pay all court costs and fees, storage and other proper expenses; ~~provided, that when~~, if the adulteration or misbranding, or lack of manufacturer disclosure as required by section 4 of this act can be corrected by proper labeling or processing of the article, or by filing the proper documents with the court, the court, after ~~such the~~ costs, fees, and expenses have been paid and a sufficient bond has been executed, may order that ~~such the~~ article be delivered to the claimant for ~~such labeling or~~, processing or filing under supervision of an agent of the board. The expense of ~~such the~~ supervision shall be paid by claimant. The bond shall be returned to the claimant on the representation to the court by the board that the article is no longer in violation of this chapter and that the expenses of ~~such~~ supervision have been paid.

Sec. 6. Sections 3 and 4 shall be effective January 1, 1976.

Approved May 14, 1975.

## CHAPTER 102—H.F.No.584

[Coded in Part]

*An act relating to retirement; miscellaneous amendments to the public employees retirement law; providing that workmen's compensation payments are not salary; venue in law suits to be Ramsey county; monthly benefits payable to a public body under certain circumstances; if spouse survives a deceased annuitant, annuity shall be paid through date of death and survivor benefits to commence with first day following date of death; disability benefits to be reduced by amounts paid under workmen's compensation law after deduction of attorney fees; amending Minnesota Statutes 1974, Sections 353.01, Subdivisions 6, 10 and 24; 353.03, Subdivision 3, and by adding subdivisions; 353.08; 353.15; 353.29, Subdivisions 7 and 8;*

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353.31, Subdivision 8; 353.32, Subdivision 5; 353.33, Subdivisions 2, 5, and 7; 353.37; 353.46, Subdivision 3; 353.656, Subdivisions 1 and 2; 353.657, by adding a subdivision; 353.71, by adding a subdivision; and Chapter 353, by adding a section.

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

Section 1. Minnesota Statutes 1974, Section 353.01, Subdivision 6, is amended to read:

Subd. 6. **PUBLIC EMPLOYEES RETIREMENT; REVISIONS; GOVERNMENTAL SUBDIVISION.** "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, the League of Minnesota Municipalities, or any public body whose revenues are derived from taxation, fees, assessments or from other sources, but does not mean any municipal housing and redevelopment authority organized under the provisions of sections 462.415 to 462.711; or any port authority organized pursuant to chapter 458; or any soil conservation district organized pursuant to chapter 40; or any hospital district organized or reorganized prior to the effective date of this act pursuant to legislation enacted by the 1959 Legislature.

Sec. 2. Minnesota Statutes 1974, Section 353.01, Subdivision 10, is amended to read:

Subd. 10. **SALARY.** "Salary" means the periodical compensation of any public employee, before deductions for deferred compensation or supplemental retirement plans, and also means "wages" and includes net income from fees. Lump sum annual leave payments and annual leave payments made after termination of public service shall not be deemed to be salary. Prior to the time that all sick leave has been used amounts paid to an employee, under a disability insurance policy where the employer paid the premiums, shall be considered salary; after all such sick leave has been used, such payment shall not be considered salary. Workmen's compensation payments are not salary.

Sec. 3. Minnesota Statutes 1974, Section 353.01, Subdivision 24, is amended to read:

Subd. 24. **OPTIONAL SURVIVORS ANNUITY.** "Optional survivors annuity" means the allowance paid or payable by the fund to a survivor of a member or former member, or deferred annuitant, ~~or to the spouse of a deceased member under section 353.32, subdivision 1a;~~ pursuant to an optional annuity form selected by such member or former member at or before retirement, or to the spouse of a deceased member under section 353.32, subdivision 1a.

Sec. 4. Minnesota Statutes 1974, Chapter 353, is amended by adding a section to read:

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**[353.017] EMPLOYEES OF LABOR ORGANIZATIONS.** Subdivision 1. QUALIFICATIONS. A former member of the association who is an employee of a labor organization that represents public employees who are association members may elect pursuant to subdivision 2 to be a coordinated member with respect to his service with such labor organization unless specifically exempt under section 353.01, subdivision 2b.

Subd. 2. ELECTION. A person described in subdivision 1 will be covered by the association if written election to be covered is delivered to the board before July 1, 1976 or within 30 days of being employed by such labor organization, whichever is later.

Subd. 3. CONTRIBUTIONS. The employee, employer and additional employer contributions shall be the obligation of the employee who elects coverage herein in accord with chapter 353; provided, however, the employer, labor organization, may pay the employer and additional employer contributions. The employer shall, in any event, deduct the necessary contributions from the employee's salary and remit all contributions to the public employees retirement association pursuant to section 353.27, subdivisions 4, 7, 10, 11, and 12.

Subd. 4. PURCHASE OF PRIOR SERVICE CREDIT. Any former member who elects membership pursuant to this section shall be allowed to make payment for service rendered prior to July 1, 1975 in a labor organization designated in subdivision 1 provided the organization makes satisfactory certification of such service. Payment shall be limited to five years of service beginning with the service last rendered and shall include all employee, employer and additional employer contributions at the rates in effect when the service was rendered plus interest at the rate of six percent per annum from the year of purchase to the date payment is made. Payment must be made in one lump sum prior to July 1, 1980 or prior to retirement, whichever is earlier, and no allowable service with respect to such payment shall be credited to the employee's account until payment is received in the public employees retirement association office.

Subd. 5. BOARD MEMBERSHIP EXCLUDED. Persons who become association members pursuant to this section shall not be eligible for election to the board of trustees.

Sec. 5. Minnesota Statutes 1974, Section 353.03, is amended by adding a subdivision to read:

Subd. 2a. EXTENSION OF TERMS. Notwithstanding the provisions of subdivision 1, no board election shall be held in the year 1975 and the terms of office of all board members are hereby extended for one year.

Sec. 6. Minnesota Statutes 1974, Section 353.03, Subdivision 3, is amended to read:

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Subd. 3. **OFFICERS; EMPLOYEES; BYLAWS.** The board shall elect a chairman and vice chairman, and shall appoint a ~~secretary~~ an executive director and ~~such~~ other employees and may adopt bylaws, ~~retain an approved actuary~~ and procure other services as it may reasonably deem necessary and fix their compensation subject to subdivision 2 hereof. Except in subdivision 3a, whenever the terms "secretary", "secretary of the board" or "secretary of the board of trustees" appear in this chapter the revisor of statutes is herein directed to substitute therefor, "executive director".

Sec. 7. Minnesota Statutes 1974, Section 353.03, is amended by adding a subdivision to read:

**Subd. 3a. DUTIES AND POWERS OF THE EXECUTIVE DIRECTOR.** The management of the association is vested in the executive director who shall be the executive and administrative head of the association. He shall act as adviser to the board on all matters pertaining to the association. He shall also act as the secretary of the board. It is the duty of the executive director and he has the power to:

- (1) Attend all meetings of the board;
- (2) Prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of chapter 353;
- (3) Establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) Designate an assistant director with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said chapter, and with the approval of the board fix their compensation;
- (5) Organize the work of the association as he deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe;
- (6) With the approval of the board, contract for actuarial services, professional management services, and consulting services as may be necessary and fix the compensation therefor. Such contracts shall not be subject to the competitive bidding procedure prescribed by chapter 16. Professional management services may not be contracted for more often than once in every six years. Copies of all professional management survey reports shall be sent directly to the legislature and the legislative auditor at the same time reports are furnished the board. Only management firms experienced in conducting management surveys of federal, state or local public retirement systems shall be qualified to contract with the director hereunder;

- (7) With the approval of the board provide inservice training for

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all employees of the association;

(8) Make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, all as provided in chapter 353;

(9) Determine the amount of the annuities and disability benefits of members covered by the association and authorize payment thereof beginning as of the dates such annuities and benefits begin to accrue, all in accordance with the provisions of said chapter;

(10) Pay annuities, refundments, survivor benefits, salaries and all necessary operating expenses of the association;

(11) Prepare and submit to the board and the legislature an annual report covering the operation of the association, as required by Minnesota Statutes, Chapter 356;

(12) With the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 8. Minnesota Statutes 1974, Section 353.03, is amended by adding a subdivision to read:

Subd. 5. APPLICATION OF LAWS. Laws applicable to state agencies and agencies with statewide jurisdiction shall not be construed to apply to the association unless such laws make specific reference to this subdivision; provided, however, the applicable provisions of Minnesota Statutes, Chapters 355 and 356 shall apply to the association.

Sec. 9. Minnesota Statutes 1974, Section 353.08, is amended to read:

**353.08 LEGAL ADVISER, ATTORNEY GENERAL.** The attorney general shall be the legal adviser of the board of trustees. The board may sue or be sued in the name of the board of trustees of the public employees retirement association and, in all actions brought by it or against it, the board shall be represented by the attorney general. The venue of all actions against and by the public employees retirement association shall be Ramsey county.

Sec. 10. Minnesota Statutes 1974, Section 353.15, is amended to read:

**353.15 NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS AND TAXATION.** No money, annuity, or benefit provided for in this chapter is assignable or subject to a power of attorney, execution, levy, attachment, garnishment, or legal process, or to any state income tax or state inheritance

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tax, except that none shall be exempt from taxation under chapter 291, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit. Provided, however, the association may pay an annuity, benefit or refund to a trust company, qualified under chapter 48, that is trustee for a person eligible to receive such annuity, benefit or refund. Upon the request of a retired, disabled or former member, the association may mail the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such person's account or joint account with his spouse. The association may prescribe the conditions under which such payment will be made. If in the judgment of the secretary conditions so warrant, payment may be made to a public body in behalf of an annuitant, disabled, or survivor upon such terms as the secretary may prescribe.

Sec. 11. Minnesota Statutes 1974, Section 353.29, Subdivision 7, is amended to read:

Subd. 7. **ANNUITIES; ACCRUAL.** Except as to elected public officials, all retirement annuities granted under the provisions of this chapter shall commence with the first day of the first calendar month next succeeding the date of termination of public service and shall be paid in equal monthly installments commencing one month thereafter, but no payment shall be made for the month, or any portion thereof, in which entitlement to such annuity has terminated; however, if an annuitant dies leaving a surviving spouse who is or will become eligible for monthly survivor benefits, such spouse shall be entitled to the payment of such annuity through the date of annuitant's death. Any annuity granted to an elective public official shall accrue on the day following expiration of his public office or right thereto, and his annuity for that month shall be prorated accordingly. No annuity, once granted, shall be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive beyond the first day of the calendar month in which application therefor shall be filed with the association.

Sec. 12. Minnesota Statutes 1974, Section 353.29, Subdivision 8, is amended to read:

Subd. 8. **ANNUITIES; PAYMENT; EVIDENCE OF RECEIPT.** Payment of any annuity or benefit for a given month shall be mailed by the association to the annuitant, recipient of a disability benefit, or survivor, during the first week of the next ensuing month. Evidence of receipt of every warrant issued by the association in payment of an annuity or benefit shall be submitted by the payee thereof to the association quarterly beginning with the June, 1975 payments, together with a written declaration that the annuitant or recipient of a disability benefit has or has not returned to public service; that the surviving dependent spouse has or has not remarried; and shall be furnished on forms provided by the secretary thereof, before the association shall pay to the annuitant, disability recipient, or survivor for the

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next ensuing month, the annuity or benefit to which he otherwise may be entitled.

Sec. 13. Minnesota Statutes 1974, Section 353.31, Subdivision 8, is amended to read:

Subd. 8. **ACCRUAL OF BENEFITS.** All benefits under this section and survivor benefits otherwise provided in this chapter when payable to persons qualifying therefor shall accrue on the first day of the ~~month~~ following the death of a "basic member" or annuitant, whichever is applicable. No payment may be made (a) retroactively for more than 12 months prior to that month in which the application is filed, or (b) for the month, or any portion thereof, in which entitlement to such benefits has terminated. This subdivision shall have retroactive effect to January 1, 1969.

Sec. 14. Minnesota Statutes 1974, Section 353.32, Subdivision 5, is amended to read:

Subd. 5. **\$500 OR LESS, LIMITED.** If a member or former member dies without having designated a beneficiary, or if the beneficiary should die before making application for refund of the sum to the credit of such decedent, and the amount of the refund is \$500 or less, the board of trustees may 90 days after the date of death in the absence of probate proceedings, make payment to the surviving spouse of the said decedent, or, if none, to the next of kin under the laws of descent of the state of Minnesota. Such payment shall be a bar to recovery by any other person or persons. Any retirement annuity, disability or survivor benefit which shall have accrued at the time of death of an annuitant, disability or survivor may be paid in like manner.

Sec. 15. Minnesota Statutes 1974, Section 353.33, Subdivision 2, is amended to read:

Subd. 2. **APPLICATIONS; ACCRUAL OF BENEFITS.** Every claim or demand for a total and permanent disability benefit shall be initiated by written application in the manner and form prescribed by the board of trustees, filed in the office of the retirement association, showing compliance with the statutory conditions qualifying the applicant for such total and permanent disability benefit. A member or former member who became totally and permanently disabled during his period of membership may file his application for total and permanent disability benefits within three years next following termination of public service, but not thereafter; ~~provided, however, that if he is otherwise qualified therefor, benefits shall not be paid retroactively for more than three months immediately preceding the month in which he files his application.~~ This benefit shall begin to accrue 90 days following the commencement of disability or ~~30 days after the application is filed~~ 90 days preceding the filing of the application, whichever is later. If annual or sick leave is paid for more than the said 90 ~~or 30~~ day pe-

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riod, ~~whichever applies~~, the benefit shall accrue from the date salary ceased.

Sec. 16. Minnesota Statutes 1974, Section 353.33, Subdivision 5, is amended to read:

Subd. 5. **BENEFITS PAID UNDER WORKMEN'S COMPENSATION LAW.** The disability benefit shall be reduced by any amounts received or receivable by a member from the employer under applicable workmen's compensation laws, after deduction of amount of attorney fees, authorized under applicable workmen's compensation laws, paid by a disablitant.

Sec. 17. Minnesota Statutes 1974, Section 353.33, Subdivision 7, is amended to read:

Subd. 7. **PARTIAL RE-EMPLOYMENT.** Should such disabled person resume a gainful occupation and his earnings are less than his salary at the date of disability or the salary currently paid for similar positions, the board shall continue the disability benefit in an amount which when added to such earnings does not exceed his salary at the date of disability or the salary currently paid for similar positions, whichever is ~~lower~~-higher, provided the disability benefit in such case does not exceed the disability benefit originally allowed. No deductions for the retirement fund shall be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Sec. 18. Minnesota Statutes 1974, Section 353.37, is amended to read:

**353.37 PUBLIC RE-EMPLOYMENT OF ANNUITANT; EFFECT ON ANNUITIES.** The annuity of a person otherwise eligible therefor under this chapter shall be suspended if he re-enters and as long as he remains in public service as a non-elective employee of a governmental subdivision, if his earned compensation for such service exceeds ~~\$2,000~~ \$3,000 in any calendar year. The suspension of the annuity shall commence as of the first of the month in which the maximum permitted compensation is exceeded as herein provided, but shall not apply to any months in which the annuitant is not actually employed in non-elective service in a position covered by chapter 353. Any annuitant of the association, who is elected to public office after his retirement following June 30, 1959 shall be entitled to hold such office and receive his annuity otherwise payable from the public employees retirement association from and after July 1, 1959. Upon proper showing by an annuitant that this ineligibility no longer exists, the monthly annuity payments shall be resumed. Public service performed by an annuitant subsequent to his retirement under this chapter does not increase or decrease any annuity when payments thereof are resumed. The annuitant is not required to make any further contributions to the retirement fund by reason of this subsequent public service.

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Sec. 19. Minnesota Statutes 1974, Section 353.46, Subdivision 3, is amended to read:

Subd. 3. **CERTAIN ANNUITY RIGHTS PRESERVED.** The rights of a member who qualifies under Laws 1959, Chapter 650, ~~Subdivision-Section~~ Section 29, are herein preserved.

Sec. 20. Minnesota Statutes 1974, Section 353.656, Subdivision 1, is amended to read:

**353.656 DISABILITY BENEFITS.** Subdivision 1. **IN LINE OF DUTY; COMPUTATION OF BENEFITS.** Any member of the police and fire fund less than 55 years of age, who shall become disabled and physically unfit to perform his duties as a police officer or fire fighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which shall render him physically or mentally unable to perform his duties as a police officer or fire fighter, shall receive disability benefits during the period of such disability. The benefits shall be in an amount equal to 50 percent of the "average salary" pursuant to ~~section 353.656~~, subdivision 3 plus an additional two percent of said "average salary" for each year of service in excess of 20. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit shall be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Sec. 21. Minnesota Statutes 1974, Section 353.656, Subdivision 2, is amended to read:

Subd. 2. **BENEFITS PAID UNDER WORKMEN'S COMPENSATION LAW.** If a member, as described in subdivision 1, is injured under circumstances which entitle him to receive benefits under the workmen's compensation law, he shall receive the same benefits as provided in subdivision 1, less the amount paid to him in weekly benefits under the workmen's compensation law, after deduction of amount of attorney fees, authorized under applicable workmen's compensation laws, paid by a disabilitant.

Sec. 22. Minnesota Statutes 1974, Section 353.657, is amended by adding a subdivision to read:

Subd. 2a. SURVIVING SPOUSE OPTIONAL ANNUITY. If a member who has attained the age of at least 55 years and has credit for not less than 20 years allowable service dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, or survivor benefits otherwise payable pursuant

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to subdivisions 1 and 2, an annuity equal to the 50 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. The annuity shall cease with the last payment received by the surviving spouse in his or her lifetime. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter.

Sec. 23. Minnesota Statutes 1974, Section 353.71, is amended by adding a subdivision to read:

Subd. 5. EARLY RETIREMENT. The requirements and provisions for retirement prior to age 65 contained in section 353.30, subdivisions 1 and 1a shall also apply to a person fulfilling such requirements with a combination of service as provided in subdivision 1.

Sec. 24. This act is effective July 1, 1975.

Approved May 14, 1975.

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#### CHAPTER 103—S.F.No.287

*An act relating to natural resources; changing the name of Minnesota Memorial Hardwood State Forest; prescribing certain duties for the revisor of statutes.*

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

**Section 1. NATURAL RESOURCES; RICHARD J. DORER MEMORIAL HARDWOOD STATE FOREST.** The name of the Minnesota Memorial Hardwood State Forest is hereby changed to the Richard J. Dorer Memorial Hardwood State Forest.

Sec. 2. The revisor of statutes is directed to make appropriate changes in the next and any subsequent editions of Minnesota Statutes and any supplement thereof.

Sec. 3. This act is effective the day following its final enactment.

Approved May 14, 1975.

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