

Section 7. The amount of aid to be paid annually to each city and town is the amount they were entitled to receive for 1975 under the provisions of Minnesota Statutes 1974, Section 298.32.

Approved April 20, 1976.

CHAPTER 329—S.F.No.2177

[Coded in Part]

An act relating to retirement; miscellaneous amendments to the public employees retirement law; providing for a medical adviser in disability cases; inclusions and exclusions under the Minnesota state retirement system; mandatory retirement age for correctional officers; miscellaneous amendments to the elective state officers retirement plan and the unclassified employees retirement plan; providing for privacy of individual retirement data; limitation on average salary for benefits; service credit for teachers on parental or maternity leave; elections to receive a combined service annuity; amending Minnesota Statutes 1974, Sections 352.01, Subdivision 2B; 352C.02, Subdivisions 2, 3, and by adding a subdivision; 352C.04, Subdivisions 1 and 2a; 352C.05; 352C.09, Subdivision 1; 353.01, Subdivisions 2b, 16, and 30; 353.03, Subdivision 1; 353.27, Subdivision 7; 353.30, Subdivision 3; 353.33, Subdivision 11, and by adding subdivisions; 353.34, Subdivision 6; 353.35; 353.656, Subdivision 6; Chapter 352C, by adding a section; Chapter 353, by adding a section; Chapter 354, by adding a section; Chapter 356, by adding sections; and Minnesota Statutes, 1975 Supplement, Sections 43.051, Subdivision 3; 352D.02, Subdivision 1; 353.01, Subdivision 2a; 353.03, Subdivision 2a; 353.15; 353.29, Subdivision 7; 354.44, Subdivision 1a; and 354A.21; and repealing Minnesota Statutes 1974, Section 352C.04, Subdivisions 2 and 2b.

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

Section 1. Minnesota Statutes, 1975 Supplement, Section 43.051, Subdivision 3, is amended to read:

Subd. 3. **RETIREMENT; MISCELLANEOUS AMENDMENTS.** Notwithstanding the provisions of subdivision 1, any employee of the state of Minnesota in a covered classification as defined in the special retirement program for correctional personnel defined in chapter 352, must retire from such covered classification upon having reached or upon reaching the mandatory retirement age as of the effective dates established herein:

Effective Date	Mandatory Retirement Age
July 1, 1974	65
January 1, 1975	62
July 1, 1975	59
January 1, 1976	57
July 1, 1976	55

A covered correctional employee may be employed beyond the

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mandatory retirement age for a period of ~~one year~~ not to extend beyond ~~July 1, 1976, July 1, 1980~~, but in no event beyond age of 62, subject to an annual medical examination and the written approval of the commissioner of corrections, whose decision shall be final. A correctional employee desiring employment beyond mandatory retirement age shall be examined at his own expense and the results and findings of the medical examination shall be transmitted to the commissioner of corrections prior to the date the employee would otherwise have to retire pursuant to this subdivision.

Sec. 2. Minnesota Statutes 1974, Section 352.01, Subdivision 2B, is amended to read:

Subd. 2B. **EXCLUDED EMPLOYEES.** The following persons are excluded from the meaning of state employee:

(1) Elective state officers;

(2) Students employed by the University of Minnesota, the state ~~colleges-universities~~, and community colleges unless approved for coverage by the board of regents, the state ~~college-university~~ board or the state board for community colleges, as the case may be;

(3) Employees who are eligible to membership in the state teachers retirement association except employees of the department of education who have elected or may elect to be covered by the Minnesota state retirement system instead of the teachers retirement association;

(4) Employees of the University of Minnesota who are excluded from coverage by action of the board of regents;

(5) Officers and enlisted men in the national guard and the naval militia and such as are assigned to permanent peacetime duty who pursuant to federal law are or are required to be members of a federal retirement system;

(6) Election officers;

(7) Persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

(8) Officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed ~~and these employees of the legislative research committee who are intermittently employed when needed~~ ;

(9) All courts and all employees thereof, referees, receivers, jurors, and notaries public, except employees of the supreme court and referees and adjusters employed by the department of labor and industry;

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(10) Patient and inmate help in state charitable, penal and correctional institutions including the Minnesota veterans home;

(11) Persons employed for professional services where such service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(12) Employees of the Sibley House Association;

(13) Employees of the Grand Army of the Republic and employees of the ladies of the G.A.R.;

(14) Operators and drivers employed pursuant to section 16.07, subdivision 4;

(15) Members of the tax court, the personnel board, and the members of any other state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of such boards if their compensation is \$500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service therefor is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless he is also its full time secretary;

(16) State highway patrolmen;

(17) Temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of the same year; also persons employed at any time or times by the state fair administration for special events held on the fairgrounds;

(18) Emergency employees in the classified service except emergency employees who within the same pay period become provisional or probationary employees on other than a temporary basis, shall be deemed "state employees" retroactively to the beginning of the pay period;

(19) Persons described in section 352B.01, subdivision 2, clauses (b) and (c) formerly defined as state police officers;

(20) All temporary employees in the classified service, all temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one year period and all seasonal help in the unclassified service employed by ~~either the motor vehicle division or the department of revenue to perform clerical duties~~ ;

(21) Trainees paid under budget classification number 41, and other trainee employees, except those listed in subdivision 2A(10);

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(22) Persons whose compensation is paid on a fee basis;

(23) State employees who in any year have credit for 12 months service as teachers in the public schools of the state and as such teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(24) Employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(25) Chaplains and nuns who have taken a vow of poverty as members of a religious order;

(26) Labor service employees ~~who are entitled to receive a pay differential because they are not entitled to annual or sick leave, or pay for holidays, or insurance coverage~~ employed as a laborer $\frac{1}{2}$ on an hourly basis;

(27) Examination monitors employed by departments, agencies, commissions, and boards for the purpose of conducting examinations required by law;

(28) Members of appeal tribunals, exclusive of the chairman to which reference is made in section 268.10, subdivision 4;

(29) Persons appointed to serve as members of fact finding commissions, adjustment panels, arbitrators, or labor referees under the provisions of chapter 179;

(30) Temporary employees employed for limited periods of time under any state or federal program for the purpose of training or rehabilitation including ~~needy~~ persons employed thereunder for limited periods of time from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(31) Full time students employed by the Minnesota historical society who are employed intermittently during part of the year and full time during the summer months; ~~and~~

(32) Temporary employees, appointed for not more than six months, of the Metropolitan council and of any of its statutory boards, the members of which board are appointed by the Metropolitan council;

(33) Persons employed in positions designated by the department of personnel as student workers; and

(34) Any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employ-

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ment, unless such employee gives notice to the director within 60 days following his appointment that he desires coverage.

Sec. 3. Minnesota Statutes 1974, Section 352C.02, Subdivision 2, is amended to read:

Subd. 2. "Commissioner" means a person who was duly elected and qualified and is serving as ~~a-an~~ elected member of the department of public service of Minnesota. "Constitutional officer" means a person who was duly elected and qualified and is serving as a governor, a lieutenant governor, an attorney general, a secretary of state, a state auditor, or a state treasurer of the state of Minnesota. "Former constitutional officer or commissioner" means a person who has ceased to be a constitutional officer or commissioner subsequent to the effective date of this act for any reason, including but not limited to expiration of the term of office for which elected, retirement, or death.

Sec. 4. Minnesota Statutes 1974, Section 352C.02, Subdivision 3, is amended to read:

Subd. 3. "Widow" "Surviving spouse" means the surviving wife or husband of a constitutional officer or commissioner or former constitutional officer or commissioner.

Sec. 5. Minnesota Statutes 1974, Section 352C.02, is amended by adding a subdivision to read:

Subd. 4. "Dependent child" means any natural or adopted child of a deceased constitutional officer or commissioner or former constitutional officer or commissioner who is under the age of 18, or who is under the age of 22 and is a full time student, and who in either case is unmarried and was actually dependent for more than one-half of his support upon such constitutional officer or commissioner for a period of at least 90 days immediately prior to the death of the constitutional officer or commissioner. It also includes a posthumous child of such constitutional officer or commissioner.

Sec. 6. Minnesota Statutes 1974, Section 352C.04, Subdivision 1, is amended to read:

352C.04 SPOUSE'S AND DEPENDENT CHILDREN'S SURVIVOR BENEFITS. Subdivision 1. Upon the death of a constitutional officer or commissioner ~~who on the date thereof was entitled to a retirement allowance, his-while serving in such office, or a former constitutional officer or commissioner with at least eight years of allowable service,~~ the surviving ~~widow~~-spouse is entitled to a survivor benefit in the amount of one-half of the retirement allowance of such constitutional officer or commissioner computed as though such constitutional officer or commissioner had not died-were at least age 65 on the date of death and based upon the attained allowable service or eight years whichever is greater. Such benefit shall be paid to a ~~widow~~-surviving spouse eligi-

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ble therefor during the remainder of ~~her~~ the spouse's natural life or until ~~she remarries~~ remarriage. Upon remarriage such ~~widow~~ spouse shall no longer be eligible for such benefit except as provided by Minnesota Statutes, 1975 Supplement, Section 356.31.

Sec. 7. Minnesota Statutes 1974, Section 352C.04, Subdivision 2a, is amended to read:

Subd. 2a. Upon the death of a constitutional officer or commissioner ~~who on the date thereof was in all respects entitled to a retirement allowance except that (a) he had not retired or (b) he had not reached the age of 65, while serving in such office, or a former constitutional officer or commissioner with at least eight years of allowable service,~~ each dependent child of such ~~member~~ deceased constitutional officer or commissioner shall be paid a survivor benefit in the following amount: First dependent child a monthly ~~allowance~~ benefit which equals 25 percent of the monthly ~~retirement~~ allowance of the constitutional officer or commissioner computed as though the constitutional officer or commissioner ~~had retired at the age of~~ were at least age 65 on the date of his death and based upon the attained allowable service or eight years whichever is greater; for each additional dependent child a monthly ~~allowance~~ benefit which equals 12 1/2 percent of the monthly ~~retirement~~ allowance of the constitutional officer or commissioner computed as in the case of the first child; but the total amount paid to the surviving spouse and dependent children shall not exceed in any one month 100 percent of the monthly allowance of the constitutional officer or commissioner computed as in the case of the first child. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent child, if there is one. A posthumous child qualifies as a dependent child for benefits provided herein from the date of its birth.

Sec. 8. Minnesota Statutes 1974, Section 352C.05, is amended to read:

352C.05 APPLICATION FOR SURVIVOR BENEFIT. ~~Widows~~ Surviving spouses or guardians of the estate of the dependent children entitled to payment of benefits under section 352C.04 shall file their applications therefor with the executive director of the Minnesota state retirement system, and payments shall commence as of the first of the month next following the filing of the application, but shall be retroactive to the first of the month following the death of the constitutional officer or commissioner, but no payment shall be retroactive for more than 12 months prior to the month the application is filed with the director.

Sec. 9. Minnesota Statutes 1974, Section 352C.09, Subdivision 1, is amended to read:

352C.09 CONTRIBUTIONS. Subdivision 1. Every constitutional officer or commissioner shall contribute ~~seven~~ eight percent of his or ~~Changes or additions indicated by underline deletions by strikethrough~~

~~her total salary paid after January 1, 1967, beginning the first full pay period after July 1, 1976, by payroll deduction, to be paid into the state treasury and deposited in the general fund. Deductions as to total salary for the period between January 1, 1967 and July 1, 1967 shall become immediately payable or if not so paid, payroll deductions during the ensuing six months shall be increased sufficiently to amount to total payment.~~ In case of retirement any unpaid deductions shall be deducted from any retirement allowance that becomes payable. All deductions and payments, if any, in lieu of deductions are to be paid into the state treasury and deposited in the general fund. It shall be the duty of the executive director of the Minnesota state retirement system to record the contributions of each constitutional officer or commissioner and credit such contribution to such officer's or commissioner's account.

Sec. 10. Minnesota Statutes 1974, Chapter 352C, is amended by adding a section to read:

[352C.091] ADMINISTRATION. Subdivision 1. The provisions of Minnesota Statutes, Chapter 352C, shall be administered by the Minnesota state retirement system.

Subd. 2. Sections 4 to 11 of this act shall apply to constitutional officers in office on and after the effective date of this act.

Sec. 11. Minnesota Statutes, 1975 Supplement, Section 352D.02, Subdivision 1, is amended to read:

352D.02 COVERAGE. Subdivision 1. The following employees in the unclassified service of the state who are eligible for coverage under the Minnesota state retirement system shall participate in the unclassified program unless such employee gives notice to the executive director of the state retirement system within one year following June 5, 1975 or the commencement of his employment, whichever is later, that he desires coverage under the regular employee plan. For the purposes of this chapter, an employee who does not file such notice with the executive director shall be deemed to have exercised his option to participate in the unclassified plan. The employee and applicable employer contributions for those employees covered by the regular plan on June 5, 1975, who after such date participate in the unclassified plan, shall be transferred to the supplemental fund in accordance with sections 352D.02, subdivision 4 and 352D.03 as though the employee had elected to participate when first eligible to make such election. This subdivision shall also be applicable to any person who was an employee in an eligible position on or after January 1, 1975, has terminated service before June 5, 1975 with less than ten years of allowable service, and has not taken a refund of his contributions.

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

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(2) Any department, division, or agency head, the assistant department head or deputy, or any employee enumerated in sections 15A.081, subdivision 1 or 15A.083, subdivision 3, ~~and~~

(3) Any permanent, full-time unclassified employee of the legislature or any commission or agency of the legislature or a part-time legislative employee having shares in the supplemental retirement fund whether or not eligible for coverage under the Minnesota state retirement system :

(4) Any person employed in a position established pursuant to section 43.09, subdivision 2a which is at the deputy or assistant head of department or agency or director level, and

(5) The chairman, 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, and the chairman, 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 shall be made without approval of the board of directors of the Minnesota state retirement system.

The eligibility to participate of those employees specified in clauses (4) and (5) employed in such positions on the effective date of this act, shall be retroactive to their date of appointment to such positions.

Sec. 12. Minnesota Statutes 1974, Section 353.01, Subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** The following persons are excluded from the meaning of "public employee":

(a) Persons employed for professional services where such service is incidental to regular professional duties.

(b) Election officers:

(c) Independent contractors and their employees.

(d) Patient and inmate help in governmental subdivision charitable, penal and correctional institutions.

(e) Members of boards, commissions, bands and others who serve the governmental subdivision intermittently.

(f) Employees who hold positions of an essentially temporary or seasonal character, provided such employment does not continue for a period in excess of 120 working days in any calendar year. In the event

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such employees receive compensation on a monthly salary basis, each calendar month for which they are so paid shall constitute 30 working days; however, immediately following the expiration of such 120 working days if such employees continue in public service and earn in excess of \$150 in any one calendar month, the department heads must then report all such employees for membership and must cause employee contributions to be made on behalf of such employees in accordance with section 353.27, subdivision 4.

(g) Part-time employees who receive monthly compensation not exceeding \$150, and part-time employees and elected officials whose annual compensation is stipulated in advance to be not more than \$1,800 per year.

(h) Persons who first occupy an elected office after February 1, 1969, the compensation for which does not exceed \$150 per month.

(i) Emergency employees who are employed by reason of work caused by fire, flood, storm or similar disaster.

(j) Employees who by virtue of their employment are required to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision, except as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; provided that this clause shall not prevent a person who belongs to the public employees retirement association from also belonging to or contributing to a volunteer firemen's relief association that does not determine its benefits or contributions on the basis of the salary or compensation of the fireman.

(k) Police matrons employed in a police department of any city who are transferred to the jurisdiction of a joint city and county detention and corrections authority.

(l) Persons who make application to be exempted from membership in the public employees retirement association, due to membership in any religious organization which has been organized five years or more, and whose customs, rites or religious beliefs forbid their membership in any public retirement association, providing such persons file an application stating the applicable provisions of their religious organization, confirmed by such organization, and waive all claims for retirement annuities or benefits of any kind pursuant to this chapter.

(m) Students who are occasionally employed part time by a governmental subdivision in any capacity and full time students who are enrolled and are regularly attending classes at an accredited school, college or university ; provided, no full time public employees shall be exempt under this paragraph and any such employees presently ex-

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empt hereunder shall become members as of July 1, 1976 .

(n) Resident physicians, medical interns and pharmacist interns who are serving in public hospitals.

(o) Appointed or elected officers, paid entirely on a fee basis, and who were not members on June 30, 1971.

(p) Nothing in Laws 1973, Chapter 753 shall be interpreted to impair or revoke any option exercised under Laws 1963, Chapter 793.

Sec. 13. Minnesota Statutes 1974, Section 353.01, Subdivision 16, is amended to read:

Subd. 16. **ALLOWABLE SERVICE.** "Allowable service" means:

(1) Service during years of actual membership in the course of which employee contributions were currently made; periods covered by payments in lieu of salary deductions made as provided in section 353.35, and service in years during which the public employee was not a member but for which he later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(2) Any period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(3) Any period of authorized leave of absence without pay or temporary layoff, during or for which a member obtained credit by payments to the fund made in lieu of salary deductions, provided that such payments are made in an amount or amounts based on his average salary on which deductions were paid (a) for the last six months of public service, or (b) that portion of the last six months while he was in public service, to apply to the period in either case immediately preceding commencement of such leave of absence or temporary layoff; provided, however, that if the employee elects to pay employee contributions for the period of any leave of absence without pay or temporary layoff, or for any portion thereof, he shall also, as a condition to the exercise of such election, pay to the fund an amount equivalent to both the required employer and additional employer contributions therefor, such payment to be made currently or within one year from the date the leave of absence or temporary layoff terminates, unless the employer by appropriate action of its governing body and made a part of its official records, prior to the date of the first payment of such employee contribution, certifies to the association in writing that it will cause to be paid such employer and additional employer contributions from the proceeds of a tax levy made pursuant to section 353.28. Payments under this clause shall include interest at the rate of six percent per annum from the date of the termination of the leave of absence or temporary layoff to the date payment is made.

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(4) Any period during which a member is on an authorized sick leave of absence, with or without pay, an authorized seasonal leave of absence, or an authorized temporary layoff.

(5) Any period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service pursuant to section 192.262, and pays into the fund employee contributions based upon his salary at the date of return from military service. The amount of these contributions shall be in accord with the contribution rates and salary limitations, if any, in effect during such leave, plus interest thereon at six percent per annum compounded annually from the date of return to public service to the date payment is made. In such cases the matching employer contribution and additional employer contribution provided in section 353.27, subdivisions 3 and 3a, shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor. Such member shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty.

Sec. 14. Minnesota Statutes, 1975 Supplement, Section 353.01, Subdivision 24, is amended to read:

Subd. 24. **OPTIONAL ANNUITY.** "Optional ~~survivors~~ annuity" means the allowance paid or payable by the fund to ~~a survivor~~ the designated optional annuity beneficiary of a member or former member, ~~or deferred annuitant~~, 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. 15. Minnesota Statutes 1974, Section 353.01, Subdivision 30, is amended to read:

Subd. 30. **DESIGNATED OPTIONAL ANNUITY BENEFICIARY.** "Designated ~~survivor~~ optional annuity beneficiary" means the person designated by a former member to receive a joint and survivor annuity or a modified joint and survivor annuity.

Sec. 16. Minnesota Statutes 1974, Chapter 353, is amended by adding a section to read:

[353.019] RETIREMENT; PUBLIC EMPLOYEES RETIREMENT ASSOCIATION; MINNESOTA MUNICIPAL UTILITIES ASSOCIATION EMPLOYEES. Subdivision 1. From and after July 1, 1976, employees of the Minnesota Municipal Utilities Association, hereinafter referred to as the association, shall become coordinated members of the public employees retirement association unless specifically exempt under section 353.01, subdivision 2b, and the association shall be deemed to be a governmental subdivision for purposes of this chapter.

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Subd. 2. A person who becomes a member of the public employees retirement association pursuant to subdivision 1 may purchase prior service credit with respect to full time employment with the association subsequent to October 19, 1975 by (a) paying to the public employees retirement association prior to August 1, 1976 an employee contribution in an amount equal to four percent of his or her salary at the time the prior service was rendered, as certified by the association, plus interest at the rate of six percent per annum; (b) the member at the same time shall pay additionally an amount equal to five and one-half percent of salary at the time the prior service was rendered, plus interest at the rate of six percent per annum; provided the association may, in its sole discretion, for all employees included hereunder, pay the public employees retirement association the obligation under (b).

Sec. 17. Minnesota Statutes 1974, Section 353.03, Subdivision 1, is amended to read:

353.03 BOARD OF TRUSTEES. Subdivision 1. MANAGEMENT; COMPOSITION; ELECTION. The management of the public employees retirement fund is hereby vested in a board of trustees consisting of ~~13~~ 14 members, who shall be known as the board of trustees. This board shall consist of three trustees, one of whom shall be designated by each of the following associations, Minnesota school boards association, League of Minnesota Municipalities, and Association of Minnesota Counties ; ~~and~~; nine trustees, who shall be elected from the membership by the members of the retirement association ; ~~and except members of the police and fire fund~~; one trustee who shall be a retired annuitant elected by other annuitants ; and one trustee who is a member of the police and fire fund elected by the membership of the police and fire fund . Elected trustees shall hold office for a term of four years. For seven days beginning December 1 of each year, except 1974 and every fourth year thereafter, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. The candidate shall submit at the time of ~~his~~ filing a nominating petition signed by 25 or more members of the fund, ~~and in the case of a retired annuitant candidate~~ , a nominating petition signed by 25 or more such annuitants , and a police and fire fund candidate, a nominating petition signed by 25 or more members of such fund . No nominee may withdraw his name from nomination after December 15. Candidates shall file at large for all seats vacant at the forthcoming election. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members and annuitants ballots listing the candidates, the number of positions to be filled and blank lines for write in votes. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund shall be January 31. All terms expire on January 31 of the fourth year, and the position shall remain vacant until the newly elected member is qualified. The ballot envelopes shall be so designed and the ballots shall be counted in such a manner as to insure that each vote is secret. ~~The election~~ elections shall be supervised by the secretary of state. It shall be the duty of the board of trustees to faithfully administer the law

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without prejudice and consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers of the governmental subdivisions which aid in financing it and the public employees who are its beneficiaries.

Sec. 18. Minnesota Statutes, 1975 Supplement, Section 353.03, Subdivision 2a, is amended 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~~ shall be extended for one year until the date of the board election held in the year 1977. A board election shall be held prior to October 1, 1977.

Sec. 19. Minnesota Statutes, 1975 Supplement, 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, including actions for divorce, separate maintenance, and child support, or to any state income tax or state inheritance 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, disabilitant, or survivor upon such terms as the secretary may prescribe.

Sec. 20. Minnesota Statutes 1974, Section 353.27, Subdivision 7, is amended to read:

Subd. 7. **ADJUSTMENT FOR ERRONEOUS RECEIPTS OR DISBURSEMENTS. (1) ERRONEOUS DEDUCTIONS.** Any deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association shall be refunded to the employee; and the employer contribution and the additional employer contribution, if any, for the erroneous employee contribution shall be refunded to the employer, provided, however, the association and the state social security agency may make proper adjustments of moneys taken as employee and employer deductions.

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(2) **ERRONEOUS DISBURSEMENT.** In the event a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum so deducted, or any portion of it as is required to adjust the deductions, shall be made to the department or institution ~~provided application for it is made on a form furnished by the board of trustees~~.

Sec. 21. Minnesota Statutes, 1975 Supplement, 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~~ for more than three months prior to that month in which application therefor shall be filed with the association.

Sec. 22. Minnesota Statutes 1974, Section 353.30, Subdivision 3, is amended to read:

Subd. 3. **OPTIONAL ANNUITIES.** The board of trustees shall establish optional annuities ~~at retirement~~ which shall take the form of a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the forms provided in section 353.29 and this section. In establishing those optional forms the board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board. ~~Upon retirement~~ A member or former member may select an optional form of annuity in lieu of accepting any other form of annuity which might otherwise be available.

Sec. 23. Minnesota Statutes 1974, Section 353.33, is amended by adding a subdivision to read:

Subd. 6a. MEDICAL ADVISER. The executive officer of the state board of health or such other licensed physician on the staff of the state board of health as he may designate shall be the medical adviser of the executive director.

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Sec. 24. Minnesota Statutes 1974, Section 353.33, is amended by adding a subdivision to read:

Subd. 6b. DUTIES OF THE MEDICAL ADVISER. The medical adviser shall designate licensed physicians to examine applicants for disability benefits. The medical adviser shall pass upon all medical reports based upon such examinations required to determine whether applicants are totally and permanently disabled as defined in section 353.01, subdivision 19, or disabled as defined in section 353.656, and shall investigate all health and medical statements and certificates by or on behalf of said applicants in connection with disability benefits, and shall report in writing to the executive director, his conclusions and recommendations on all matters referred to him.

Sec. 25. Minnesota Statutes 1974, Section 353.33, Subdivision 11, is amended to read:

Subd. 11. RETIREMENT STATUS AT AGE 65. No person shall be entitled to receive disability benefits and a retirement annuity at the same time. The disability benefits paid to a person hereunder shall terminate when he reaches age 65, if he is still totally and permanently disabled. At that time he shall be deemed to be on retirement status and may at his option be paid either a normal retirement annuity as provided in section 353.29 or normal retirement annuity equal to the disability benefit paid to him before he reached age 65, whichever amount is greater. Any disabled person who becomes age 65 after June 30, 1973, shall have his annuity computed in accordance with the law in effect on July 1, 1973. A person who elects an annuity under section 353.29 may, prior to age 65, select an optional annuity pursuant to section 353.30, subdivision 3.

Sec. 26. Minnesota Statutes 1974, Section 353.34, Subdivision 6, is amended to read:

Subd. 6. ADDITIONS TO FUND. The board of trustees may credit to the fund any moneys received in the form of contributions, donations, gifts, appropriations, bequests, or otherwise. If a former member does not apply for refund within five years after the last deduction was taken from his salary for the retirement fund, and the total amount of his accumulated deductions is not over \$25, such accumulated deductions shall be credited to and become a part of the retirement fund proper. Refundable accumulated deductions of any former member, if over \$25 in amount and if unclaimed for a period of five years after separation from public service, shall be credited to a donations suspense account. The board of trustees may pay refunds of accumulated deductions, from such donations suspense account, upon proper application therefor. After the refundable accumulated deductions of any former member have remained in such donations suspense account for a period of ten years, without application for a refund thereof having been made, such deductions shall be transferred to and credited to the retirement fund proper. In the event the former member should return

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to public service, the amount so credited to the retirement fund shall be restored to his individual account.

Sec. 27. Minnesota Statutes 1974, Section 353.35, is amended to read:

353.35 CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED. When any former member accepts a refund all existing service credits and all rights and benefits to which the member was entitled prior to the acceptance of such refund shall terminate and shall not again be restored until the former member acquires not less than 18 months allowable service credit subsequent to taking his last refund: ~~In that event he may repay and repays~~ all refund refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at six percent per annum compounded annually. If more than one refund has been taken, all refunds must be repaid with interest at six percent per annum compounded annually.

Sec. 28. Minnesota Statutes 1974, Section 353.656, Subdivision 6, is amended to read:

Subd. 6. **RETIREMENT STATUS AT AGE 55.** All disability benefits payable under this section shall terminate when the disabled fireman or police officer becomes 55 years of age. Thereafter, retirement benefits shall be paid to the disabled fireman or police officer in the same amount as the disability benefits which he was previously receiving. Any disabled person who becomes age 55 after June 30, 1973, shall have his annuity computed in accordance with the law in effect on July 1, 1973. Prior to reaching age 55, a disabled person may select an optional annuity pursuant to section 353.30, subdivision 3.

Sec. 29. Minnesota Statutes 1974, Chapter 354, is amended by adding a section to read:

[354.093] MATERNITY LEAVE. A member of the fund granted parental or maternity leave of absence by the employing authority shall be entitled to service credit not to exceed one year for the period of leave upon payment to the fund by the end of the fiscal year following the fiscal year in which the leave of absence terminated. The amount of such payment shall include the required employee, employer and amortization contributions for the period of leave prescribed in section 354.42. Such payment shall be based on the member's average monthly salary upon return to teaching service, and shall be without interest. Repayment shall be accompanied by a certified or otherwise adequate copy of the resolution or action of the employing authority granting or approving the leave.

Sec. 30. Minnesota Statutes, 1975 Supplement, Section 354.44, Subdivision 1a, is amended to read:

Subd. 1a. **MANDATORY RETIREMENT.** Notwithstanding the ~~changes~~ changes or additions indicated by underline deletions by ~~strikeout~~

provisions of sections 43.30 or 197.45 to 197.48, a member shall terminate employment on August 31, 1976, or at the end of the academic year in which he reaches the age of 65, whichever is later. For purposes of this subdivision, an academic year shall be deemed to end August 31. A member who terminates employment at any time during the academic year at the end of which such person is required to terminate employment pursuant to this subdivision shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at age 65 or earlier pursuant to this subdivision. Nothing contained in this subdivision shall preclude a district from employing a retired teacher as a substitute teacher; provided, no teacher required to terminate employment by this subdivision shall resume membership in the retirement association by virtue of employment as a substitute teacher; provided further that upon having earned \$3,000 in any academic year from employment as a substitute teacher, any person over the age of 65 years shall terminate employment for the remainder of that academic year.

Sec. 31. Minnesota Statutes, 1975 Supplement, Section 354A.21, is amended to read:

354A.21 MANDATORY RETIREMENT; PROPORTIONATE ANNUITY. Notwithstanding the provisions of sections 197.45 to 197.48 or 354A.05, a teacher subject to the provisions of this chapter shall terminate employment on August 31, 1976, or at the end of the academic year in which such teacher reaches the age of 65, whichever is later. For purposes of this section, an academic year shall be deemed to end August 31. A teacher who terminates employment at any time during the academic year at the end of which such person is required to terminate employment pursuant to this section and who has less than the minimum required number of years of service to otherwise qualify for a retirement annuity shall be entitled upon application to a proportionate retirement annuity based on service prior to termination. Nothing contained in this subdivision shall preclude a district from employing a retired teacher as a substitute teacher; provided, no teacher required to terminate employment by this section shall resume membership in the retirement association by virtue of employment as a substitute teacher; provided further that upon having earned \$3,000 in any academic year from employment as a substitute teacher, any person over the age of 65 years shall terminate employment for the remainder of that academic year.

Sec. 32. Minnesota Statutes 1974, Chapter 356, is amended by adding a section to read:

[356.34] LIMITATION ON AVERAGE SALARY FOR BENEFITS. Subdivision 1. Effective for any disability benefit or retirement annuity commencing after June 30, 1977 from a fund enumerated in subdivision 2, which benefit or annuity is based on a final average salary, no year of salary used in determining the final average salary as defined by the laws governing the fund shall exceed the salary paid in the pre-

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vious year by more than 15 percent.

Subd. 2. The provisions of this section shall apply to the following retirement funds:

(1) state employees retirement fund, established pursuant to chapter 352;

(2) correctional employees retirement program, established pursuant to chapter 352;

(3) highway patrolmen's retirement fund, established pursuant to chapter 352B;

(4) public employees retirement fund, established pursuant to chapter 353;

(5) public employees police and fire fund, established pursuant to chapter 353;

(6) teachers retirement fund, established pursuant to chapter 354.

Sec. 33. Notwithstanding any law to the contrary, a person who retired as a member of any fund enumerated in Minnesota Statutes, 1975 Supplement, Section 356.30, Subdivision 3, between May 1, 1975 and January 1, 1976 and who failed to elect to receive a combined service annuity authorized by section 356.30, subdivision 1, may make such election and repay any refund until January 1, 1977. Benefits shall be adjusted and paid on the basis of the election from and after the date of election.

Sec. 34. The surviving spouse of a member of the public employees retirement association who died between May 1, 1974 and June 1, 1974 and who as of the date of death had attained the age of not less than 63 years, received credit for not less than 33 years of allowable service, and had selected an optional 100 percent joint and survivor annuity, may elect to receive benefits which would have been payable pursuant to the 100 percent joint and survivor annuity had the member been qualified therefor on his date of death. Payments pursuant to this section shall be in lieu of further payments pursuant to Minnesota Statutes, Section 353.31, Subdivision 1, and shall commence on the first day of the month following application therefor.

Sec. 35. [356.325] HENNEPIN COUNTY; CERTAIN EMPLOYEES; PROPORTIONATE ANNUITIES. Employees and former employees of Hennepin county who were members of the public employees retirement association on May 1, 1975 and have at least three years but less than ten years of allowable service in such fund, or a combination of such fund and funds listed in Minnesota Statutes, 1975 Supplement, Section 356.32, Subdivision 2, shall be entitled to proportionate annuities under Minnesota Statutes, 1975 Supplement, Section 356.32,

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even if they are over 65 years of age. With respect to such persons who are over 65 years of age and whose public service terminated between May 1, 1975 and the effective date of this act, proportionate annuity payments may be made retroactive to January 1, 1976 or the date of termination of public service, whichever is later.

Sec. 36. Minnesota Statutes 1974, Section 352C.04, Subdivisions 2 and 2b, are repealed.

Sec. 37. This act shall be effective the day following final enactment. Any person then employed in a position excluded from Minnesota state retirement system coverage by section 2 shall be paid an immediate refund of employee contributions.

Approved April 20, 1976.

CHAPTER 330—S.F.No.2313

An act relating to commitment and discharge of inebriate persons; limiting length of commitment for inebriates; amending Minnesota Statutes 1974, Section 253A.07, Subdivision 25; Minnesota Statutes, 1975 Supplement, Sections 253A.07, Subdivision 17; and 253A.15, Subdivision 1.

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

Section 1. Minnesota Statutes, 1975 Supplement, Section 253A.07, Subdivision 17, is amended to read:

Subd. 17. INEBRIATES; COMMITMENT AND DISCHARGE. If, upon completion of the hearing and consideration of the record which shall be made pursuant to the rules of evidence, the court finds the proposed patient is:

(a) A mentally ill person, and (1) that the evidence of the proposed patient's conduct clearly shows that his customary self-control, judgment, and discretion in the conduct of his affairs and social relations is lessened to such an extent that hospitalization is necessary for his own welfare or the protection of society; that is, that the evidence of his conduct clearly shows: (i) that he has attempted to or threatened to take his own life or attempted to seriously physically harm himself or others; or (ii) that he has failed to protect himself from exploitation from others; or (iii) that he has failed to care for his own needs for food, clothing, shelter, safety or medical care; and (2) after careful consideration of reasonable alternative dispositions, including but not limited to, dismissal of petition, out-patient care, informal or voluntary hospitalization in a private or public facility, appointment of a guardian, or release before commitment as provided for in section 253A.12, and finds no suitable alternative to involuntary hospitalization, the

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