

## CHAPTER 935—H. F. No. 1439

[Coded in Part]

*An act relating to the public employee retirement association; and appropriating money therefor; amending Minnesota Statutes 1953, Section 353.01 as amended; repealing Minnesota Statutes 1953, Sections 353.01, Subdivisions 8 and 9, 353.02 as amended, 353.04, 353.09, 353.10 as amended, 353.11 as amended, 353.12 as amended, 353.21 as amended, and 465.58, Subdivision 2.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1953, Section 353.01, Subdivision 2, as amended by Laws 1955, Chapter 815, Section 11, is amended to read:

Subd. 2. **Public employee.** (1) "Public employee" means any person performing personal services for a governmental subdivision as an officer or employee, whose salary is paid, in whole or in part, through taxation, or by fees, assessments, or other revenue accruing to such governmental subdivision. The term "public employee" shall also mean any person serving as an elected member of the legislature of the state of Minnesota, *the secretary of the senate and the chief clerk of the house of representatives*, or any person appointed as a district court reporter in this state and any officer or employee of the public employees retirement association, or *any employee of the league of Minnesota Municipalities.*

(2) "Public employee" does not mean

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

(b) *election officers;*

(c) *persons engaged in public work for the governmental subdivision but employed by contractors where the performance of such contract is authorized by competent authority;*

(d) *patient and inmate help in governmental subdivision charitable, penal and correctional institutions;*

(e) *members of boards, commissions, volunteer fire departments, bands and others who serve the governmental subdivision intermittently and are paid on a per diem per meeting or per fire basis;*

(f) *temporary, emergency and seasonal employees as defined by rules prescribed by the retirement board;*

(g) *public 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;*

Sec. 2. Minnesota Statutes 1953, Section 353.01, is amended by adding a new subdivision to read:

[Subd. 14.] **Actuarial equivalent.** "*Actuarial equivalent*" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

Sec. 3. Minnesota Statutes 1953, Section 353.01, is amended by adding a new subdivision to read:

[Subd. 15.] **Dependent child.** "*Dependent child*" means any natural or adopted child of a deceased member under the age of 18, unmarried and actually dependent for his support upon such member.

Sec. 4. Minnesota Statutes 1953, Section 353.01, is amended by adding a new subdivision to read:

[Subd. 16.] **Allowable service.** "*Allowable service*" means:

(1) *Any service rendered by a public employee for which on or before June 30, 1958 he received credit to his account in the retirement fund by reason of employee contributions in the form of deductions from salary or otherwise as authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or*

(2) *Any service rendered by a public employee for which on or before June 30, 1958, he elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815 in the manner agreed upon with the retirement board or*

(3) *Any service rendered by a public employee after July 1, 1957 for any calendar month when the member receives salary from which deductions are made, deposited and credited in the fund, or*

(4) *Any service rendered by a person after July 1, 1957 for any calendar month where payments in lieu of salary deductions are made, deposited and credited into the fund, as provided in section 20.*

Sec. 5. Minnesota Statutes 1953, Section 353.01, is amended by adding a new subdivision to read:

[Subd. 17.] **Approved actuary.** "Approved actuary" means any actuary who is a fellow of the society of actuaries or who has at least 15 years of service to major public employee funds or any firm retaining such an actuary on its staff.

**Sec. 6. [353.26] Public employees retirement association.** *Subdivision 1.* The public employee retirement association created by Laws 1981, Chapter 307, as amended is confirmed and continued. The credited allowable service in the association shall consist only of public employees. Except as provided in this subdivision, any person who was a member of the association on June 30, 1957 shall continue his membership with the association. Any member over 60 years of age on June 30, 1957 with less than six years of membership is ineligible for further membership. The retirement board shall refund to such person his accumulated deductions on deposit with the fund after retaining for payment to the federal government such employee's share of the social security taxes retroactive to January 1956 if any.

*Subd. 2.* Except as provided in this subdivision, every new public employee after June 30, 1957, entering the service of any governmental subdivision, except persons specially excluded, shall become a member of the association by the acceptance of such employment. Acceptance of employment is deemed consent to have deductions made from salary for deposit to the credit of the members account in the fund. Any new public employee over the age of 55 shall not be eligible to become a member unless he has accumulated deductions on deposit with the fund for a number of prior years equal to the number of years his age is greater than 55.

*Subd. 3.* Any elected public officer or any person appointed to fill a vacancy in an elective office within any governmental subdivision shall have the right to exercise an option to become a member, but such option, once exercised, may not be withdrawn during the incumbency of such person in office. Such person may exercise this option by filing a request with the retirement board within six months from the date he took office.

*Subd. 4.* Any public employee made ineligible for membership in the association by the terms of this section, shall be eligible for membership after January 1, 1958, if on that date, such employee is not covered by the provisions of the federal social security act as a governmental employee. In that event, membership shall be retroactive to July 1, 1957.

Such public employee shall pay to the fund an amount equal to six percent of his monthly salary as a public employee

not exceeding \$400 per month for such retroactive coverage. He shall also repay to the fund any refundments paid to him pursuant to subdivision 1. In addition to these payments, he shall pay interest at the rate of four percent per annum compounded annually. The matching employer contribution and additional contribution shall be paid by the governmental subdivision employing such person.

**Sec. 7. [353.27] Public employees retirement fund.**  
**Subdivision 1.** There is a special fund known as the "Public Employees Retirement Fund." In that fund there shall be deposited employee contributions, employers' contributions and other amounts authorized by law including amounts in the fund when this act takes effect. From this fund there is appropriated the payments authorized by this chapter in the amounts, in the manner and at such time, provided herein.

**Subd. 2.** The employee contribution to the fund shall be an amount equal to six percent of the salary of every member. This contribution shall be made by deduction from salary in the manner provided in subdivision 4. No deduction shall be made from any salary in excess of \$4,800 in any calendar year. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the entire salary received limited to \$4,800 in any calendar year.

**Subd. 3.** The employer contribution to the fund shall be an amount equal to four percent of the salary of each member not exceeding \$4,800 in any calendar year for the period commencing July 1, 1956 to June 30, 1957, five percent for the following 12 month period and six percent thereafter. This contribution shall be made in the manner provided in section 8.

**Subd. 4.** The head of each department of the various governmental subdivisions is hereby directed to cause employee contributions to be deducted at least once each month from the salary of each member and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries and to cause the same to be remitted within 15 days thereafter to the secretary of the retirement board together with a statement showing the amount of each of such deductions, the amount of salaries from which such deductions have been made and the names of the public employees on whose accounts the same have been made. Such statement may be furnished in the form of a carbon or duplicate copy of departmental payroll abstracts and if not submitted in such form, the head of each department is hereby required to furnish the secretary of the retirement board with a carbon or duplicate copy of his departmental payroll abstract

for the first pay period during the months of January and July, respectively, in each year and it shall be the duty of said secretary to check the copies of all such payroll abstracts against the membership records so as to ascertain whether or not any omissions have been made by the several department heads in the reporting of any new public employees, as required by section 353.07. Upon notice from the secretary of omission of a deduction from the salary of a public employee, the head of the department shall deduct the amount of the omitted salary deduction from the next salary of the public employee and forthwith remit it to the secretary. All remittances so received by the secretary of the retirement board shall be promptly deposited with the state treasurer. Deductions from the salary of a district court reporter in a judicial district consisting of two or more counties shall be made by the auditor of the county in which the bond and official oath of such district court reporter are filed from the portion of his salary paid by such county.

Subd. 5. An additional contribution shall be made to the fund based on two and one-half percent of the salary of each member not to exceed \$4,800 in any calendar year for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision in the manner provided in section 8. This subdivision takes effect July 1, 1959.

Subd. 6. All contributions shall be credited to a fund and all interest and other income of the association shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities herein provided upon retirement shall be paid only from said fund.

Subd. 7. (1) Any deductions taken from the salary of an employee for the retirement fund in error shall, upon discovery and verification by the department making the deduction, be refunded to the employee.

(2) 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 refundment 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 retirement board. The department's payments shall be refunded to the department if the amount of the required adjustment is more than \$1.00.

**Sec. 8. [353.28] Contributions to retirement fund.**  
*Subdivision 1. After July 1, 1957, each governmental subdivision shall secure its employer contributions and its contributions to amortize the deficit in the retirement fund from the sources and by the means provided in this section. Each governmental subdivision shall pay these contributions to the retirement fund out of moneys collected from taxes or other revenue of the government subdivision as its obligation for all members employed by such subdivision and these contributions shall be charged as administrative costs.*

*Subd. 2. Not later than September 30 of each year beginning with 1957 the total amount due from each governmental subdivision shall be determined by the retirement board and certified by the secretary or an authorized officer of the board to each governmental subdivision affected by this section. This certification covers a period of 12 months ending on June 30 immediately preceding. A duplicate copy of the certification shall be forwarded to the county auditor.*

*Subd. 3. If the governmental subdivision fails to include the amount so certified in its levy for the year in which the certification is required to be made, the county auditor shall levy in that year upon all taxable property within the governmental subdivision a tax in the amount so certified, which is to be added to the levy of the governmental subdivision. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected, and apportioned. The proceeds of any taxes levied under this subdivision shall be remitted directly to the association.*

*Subd. 4. The association shall deposit these proceeds in the retirement fund to the credit of the governmental subdivision. When payments are to be made by a governmental subdivision from revenues other than revenues derived from taxes, the governmental subdivision shall notify the county auditor of that fact and the county auditor shall thereupon reduce the levy accordingly. For the express purposes of this section, the payment of all such contributory share of retirement cost is hereby made an obligation of the governmental subdivision concerned in the proportion and to the extent provided.*

*Subd. 5. In the event any governmental subdivision fails or neglects to pay into the retirement fund in full the amount properly certified by the board, through failure to collect the full amount, the deficiency shall be added to the next levy made by the governmental subdivision but no interest shall accrue on the delinquent payment.*

*Subd. 6. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation upon the power of a county, city, village, borough, town, or school district to levy taxes, the governmental subdivision concerned may levy taxes in excess of the limitation in such amount as is necessary to meet its obligations under this section. The expenditures authorized to be made under this chapter by any municipality are not included in computing the cost of government as defined in any home rule charter of any municipality affected by this chapter.*

*Subd. 7. The governing body of any governmental subdivision affected by this chapter may make contributions to the retirement fund of the retirement association from moneys derived from revenues other than general taxes. The use of these contributions by the retirement association may be limited to certain specific purposes and these limitations are binding upon the retirement association. The retirement board may refuse to accept any conditional contribution.*

*Subd. 8. For the purposes of this section only, the state of Minnesota is considered a governmental subdivision and assumes a liability with respect to legislative officers who are members for any year for which a certification may be made pursuant to the provisions of this section. The certification in such case shall be made to the state auditor who shall include the same as an item in the budget of his office for presentation to the legislature for appropriate action at the next succeeding biennial session.*

**Sec. 9. [353.29] Retirement benefit upon separation from public service.** *Subdivision 1. After separation from public service any person who has attained the age of at least 65 years and who received credit for not less than ten years allowable service as a member of the association, or any person who has attained the age of at least 58 years and who received credit for not less than 20 years allowable service of which at least ten years are as a member of the association, is entitled upon application to a retirement benefit.*

*Subd. 2. The retirement annuity hereunder shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3, hereof, on the basis of each member's average salary for the period of his allowable service.*

*(a) For years prior to July 1, 1957, "average salary" for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest*

salary upon which deductions were based for any five consecutive years prior to that date;

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding in any one year \$4,800 and for which he had made contribution to the retirement fund by payroll deduction.

Subd. 3. The average salary, as defined in subdivision 2 (a) and (b), of any member multiplied by the applicable percentages indicated below shall determine the amount of the annuity to which the member qualifying therefor is entitled:

| Years of Allowable Service  | Percentages at the Rate of:    |
|---|--------------------------------|
| (a) First ten years   | 1 percent per year of service  |
| (b) Second ten years or completed months of service less than such period | 2 percent per year of service  |
| (c) Third ten years of completed months of service less than such period  | 2½ percent per year of service |
| (d) Subsequent years or completed months of service less than such period | 3 percent per year of service  |

Subd. 4. Retirement may be made upon application of the member or of some one acting in his behalf, or in the case of an employee in active service, upon the application of the head of the department in which the member is employed.

Subd. 5. Each member shall fix in his application for an annuity a date for retirement under this act. This date cannot be less than 30 days nor more than 60 days after filing said application. Such application may be filed in the office of the association not less than 30 days nor more than 60 days prior to the last day for which the member will receive salary. In no event shall an application for an annuity be filed prior to the time the member is eligible to retire by reason of both age and service requirements of this act. Upon proof in the form of a certificate signed by a licensed medical practitioner certifying to the satisfaction of the board that a member is no longer able to continue in state service because of physical or mental disability, the retirement board shall waive the 30-day waiting period for fixing the date of retirement. Nothing in this subdivision alters any requirements relative to the effective date of an election to take an annuity which provides for payments to a surviving spouse.

If application for the retirement benefit is received at the



office of the association within 30 days from the date salary ceases, the first payment shall be prorated for any fraction of a calendar month elapsing after the date salary ceases, but no retirement allowance shall commence prior to the date through which the member is paid for any accumulated leave, whether payment is made in a lump sum or otherwise. A retirement benefit shall cease upon the last payment received by the retired employee during his lifetime unless the retired employee elected an optional annuity.

**Sec. 10. [353.30] Annuities upon retirement.** Subdivision 1. Where any member retires prior to age 65, he shall be paid an annuity which is the actuarial equivalent of the annuity provided at age 65, in section 9. The retirement board shall determine the amount of such annuity by submitting the qualifications of such person to an approved actuary and receiving a written recommendation from the actuary. This recommendation and the board's determination shall be a part of the permanent records of the board.

Subd. 2. Where any member retires after age 65, he shall be paid an annuity determined in a manner provided in section 9.

Subd. 3. The retirement board shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter; or as a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the forms provided in sections 9 and 10. In establishing these 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.

**Sec. 11. [353.31] Surviving spouse and children, benefits.** Subdivision 1. Upon the death of a member before retirement who has had at least 18 months of credited allowable service, his surviving spouse and dependent children under the age of 18 shall receive the monthly benefit provided below.

|     |                      |                |
|-----|----------------------|----------------|
| (a) | Surviving spouse     | \$65 per month |
| (b) | Each dependent child | \$45 per month |

In addition to the amounts provided in (a) and (b) hereof, \$20 per month shall be paid to be divided equally among the dependent children. Payments for the benefit of any dependent child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit shall not exceed \$200 for any

one family. The surviving spouse benefit shall terminate upon his or her remarriage, and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

Subd. 2. Upon the death of a member before retirement who has had at least 20 years of credited allowable service, his surviving spouse shall be paid a deferred annuity in an amount equal to 75 percent of the members annuity computed on the basis provided in sections 9 and 10 not to exceed \$150 per month. This annuity shall be paid when such surviving spouse reaches the age of 62 and shall terminate upon remarriage. *The surviving spouse has the option, if qualified, to receive the benefits provided in subdivision 1 or 2 but not both.*

Subd. 3. *Where an annuitant dies after his retirement or after he has qualified for disability benefits, there shall be paid to his beneficiary or legal representative as the case may be, an amount equal to the annuity for the entire month in which death occurs plus a lump sum of \$250, if no optional or reversionary annuity was designated by the member.*

Sec. 12. [353.32] **Refundment to beneficiary.** *Subdivision 1. Where a member dies before retirement and no survivors benefit, optional annuity, or reversionary annuity is payable as provided herein, a refundment shall be paid to his beneficiary in an amount equal to his accumulated deductions plus interest thereon at the rate of two percent per annum compounded annually.*

Subd. 2. *If a member or former member dies without having designated a beneficiary or if the beneficiary should die before making application for refundment, and if there is no surviving spouse, and if the legal representative of such member or former member does not apply for refundment within five years from the date of death of the member or former member, the accumulated deductions to his credit at the time of death shall be credited to and become a part of the retirement fund.*

Subd. 3. *If a member or former member dies without having designated a beneficiary, or if the beneficiary should die before making application for refundment of the sum to the credit of such deceased member or former member, and the amount of the refundment is \$500 or less, the retirement board may 90 days after the date of death of the member or former member in the absence of probate proceedings make payment to the surviving spouse of the deceased member or former*

members, or, if none, to the next of kin under the laws of descent of the state of Minnesota and such payment shall be a bar to recovery by any other person or persons. Any retirement allowance or annuity which shall have accrued at the time of death of an annuitant may be paid in like manner.

Subd. 3. The beneficiary or surviving spouse of any deceased member or former member entitled to receive a refundment as provided in this act shall have the option of having the amount due him paid in monthly installments in such amounts as may be agreed upon with the retirement board.

Sec. 13. [353.33] **Permanent disability benefits.** Subdivision 1. Where any member becomes totally and permanently disabled after 10 years of credited allowable service or after age 50 whichever is sooner he shall be entitled to a disability benefit in an amount provided in subdivision 2. If such disabled person's public service has terminated at any time, at least five of the required ten years of credited allowable service must have been rendered after last becoming a member. If a disabled person receives disability benefits under the provisions of the federal Social Security Act, his benefits computed under subdivision 2 of this act shall be reduced by the amount of disability benefits paid under the federal act. A total and permanent disability for the purposes of this act is one which results from some impairment of mind or body that substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation that he would be competent to perform were it not for that impairment, whose impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely.

Subd. 2. If written application for disability benefit has not been filed with the board within 90 days from the commencement of disability, the annuity shall begin to accrue as of the day 30 days prior to the receipt of such application. If salary is being received for either annual or sick leave during said 30-day period, payments shall accrue from the date salary ceases. This benefit shall begin to accrue upon the expiration of 90 days following the commencement of disability unless the member is receiving salary for either annual or sick leave for a period of more than 90 days in which event payment shall accrue from the date salary ceased. This disability benefit is an amount equal to the normal annuity based on his age when disabled provided in sections 9 and 10 plus a supplementary monthly annuity computed in accordance with the following table:

| <i>Age when Disabled</i> | <i>Supplementary Annuity</i> |
|--------------------------|------------------------------|
| <i>Under 56</i>          | <i>\$50</i>                  |
| <i>56</i>                | <i>45</i>                    |
| <i>57</i>                | <i>40</i>                    |
| <i>58</i>                | <i>35</i>                    |
| <i>59</i>                | <i>30</i>                    |
| <i>60</i>                | <i>25</i>                    |
| <i>61</i>                | <i>20</i>                    |
| <i>62</i>                | <i>15</i>                    |
| <i>63</i>                | <i>10</i>                    |
| <i>64</i>                | <i>5</i>                     |

Subd. 3. A member shall be considered totally and permanently disabled after the board has received written certification by at least two licensed physicians selected by the board, that the member is totally and likely to be permanently disabled for the further performance of the duties of any assigned position in the service of the employer, and upon consideration of the report of such physicians and such other evidence as shall have been presented to it by the member or others interested therein, the board finds the member to be totally and permanently disabled, it shall grant him a disability allowance upon written certification from the employer that the member has been separated from the service of the employer because of total disability of such nature as to reasonably prevent further service for the employer, and as a consequence is not entitled to compensation from the employer. The fact an employee is placed on leave of absence without compensation because of disability shall not bar him from receiving a disability allowance. Any person receiving a disability benefit shall not be required to undergo a medical examination after reaching the age of 65.

Subd. 4. The disability benefit shall be reduced by any amounts received or receivable by a member from the employer under applicable workman's laws.

Subd. 5. At least once each year during the first five years following the allowance of a disability annuity to any member, and at least once in every three-year period thereafter, the board shall require the disability annuitant to undergo a medical examination to be made at the place of residence of the annuitant, or at any other place mutually agreed upon, by a physician or physicians engaged by the board. If any examination indicates that he is no longer physically or mentally incapacitated for service, or that he is engaged or is able to engage in a gainful occupation, payments of the disability benefit by the fund shall be discontinued as soon as he is reinstated to the payroll following sick leave, but in no case

shall payment be made for more than 60 days after physicians engaged by the board find the annuitant is no longer incapacitated for service.

Subd. 6. Should such disabled annuitant 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.

Subd. 7. Should any such disabled annuitant refuse to submit to a medical examination as herein provided, payments by the fund shall be discontinued, and all rights of the member in any disability annuity shall be revoked by the board.

Subd. 8. Any disabled annuitant who is restored to active service shall have deductions taken for the retirement fund and upon subsequent retirement have his retirement allowance based upon all allowable service including that upon which the disability allowance was based. No person shall be entitled to receive disability benefits and retirement benefits at the same time.

**Sec. 14. [353.34] Termination of public service.**  
*Subdivision 1. Any member who ceases to be a public employee by reason of termination of public service, shall be entitled to a refundment provided in subdivision 2, or a deferred retirement annuity as provided in subdivision 3. Application for refundment may be made no sooner than 90 days after the termination of public service if the applicant has not again become a public employee.*

*Subd. 2. Except as provided in subdivision 1, any person who ceases to be a public employee shall receive a refundment in an amount equal to his accumulated deduction without interest.*

*Subd. 3. Any person with more than ten years of credited allowable service when such termination occurs may at his option leave his accumulated deductions in the fund and thereby be entitled to a deferred retirement annuity commencing at age 65. This annuity shall be computed in the manner provided in section 9 on the basis of allowable service prior to termination of service. Application for the accumulated deduction left on deposit with the fund may be made at any time after 90 days following the date of his termination of service.*

*Subd. 4. Former members who hold numbered certificates of deferred annuity and who again become members of the retirement association shall surrender such certificates and shall be entitled to full credit for the service covered by the surrendered certificates. Former members who hold numbered certificates of deferred annuity may surrender them at any time prior to receiving an annuity and receive a refundment of their accumulated deductions upon application. Membership in the retirement association of any person shall terminate upon his ceasing to be a "public employee" whether by resignation, dismissal or termination of temporary or provisional appointment.*

*Subd. 5. The right of refundment provided in this act is not restricted as to time unless specifically provided and the statute of limitation does not apply thereto.*

**Sec. 15. [353.35] Restoration of rights and benefits.** *When any member accepts a refundment provided in section 14, all existing service credits and all rights and benefits to which the member was entitled prior to the acceptance of such refundment shall terminate and shall not again be restored until the former member acquires not less than five years allowable service credit subsequent to taking his last refundment. In that event he may repay all refundment taken plus interest at four percent per annum compounded annually. If more than one refundment has been taken, all refundments must be repaid with interest at four percent per annum compounded annually.*

**Sec. 16. [353.36] Payments in lieu of salary deductions.** *Subdivision 1. After June 30, 1958, no member shall be entitled to make payments in lieu of salary deductions to the retirement board to receive credit for any period of service prior to that date for which employee contributions were not deducted from his salary. Prior to that date credit for such service may be received in the manner provided in this section. After that date credit can only be received for services rendered for which employee contributions are made as a deduction from salary, except as provided in section 20.*

*Subd. 2. From July 1, 1957 until June 30, 1958, any member may make payments to receive credit in any case where these payments were authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815. The amount of these payments however, shall be six percent of the average salary for each year for which credit is sought. The member shall pay in addition interest at the rate of four percent per annum compounded annually from the year of service purchased to the date payment is made. The retirement*

board may make any agreement with the member it deems proper, providing for installment payments if the member cannot pay the amount due before the cut-off date. The employing governmental subdivision shall match all payments made pursuant to this subdivision. Any governmental subdivision which desires to make the employer contribution herein provided, is hereby authorized to appropriate money for such purpose. These installment payments shall be paid in full within five years.

Subd. 3. Before July 1, 1957, any member may make payments to the retirement board to receive credit in any case where the payments were authorized by Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815. The retirement board may make any agreement with the member it deems proper, providing for installment payments if the member cannot pay the amount due before the cut-off date. The amount of payment and interest rate charged to the member shall be as provided in Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815.

Subd. 4. Service credits as provided in this section may not be purchased in excess of ten years.

Sec. 17. [353.37] **Limitations on eligibility for retirement benefits.** A person otherwise eligible for retirement benefits under this chapter may not receive or be paid an annuity if he (a) re-enters public service as an officer or employee of a political subdivision, or becomes a state employee as defined in Chapter 352 if such service exceeds 60 days in any 12 consecutive months, or (b) he is receiving any other retirement benefit or pension authorized by law for public employees or state employees, if contributions therefor had been required from that person and if any period of public service required for benefits under this chapter was requisite in establishing eligibility for this other retirement benefit or pension. The monthly annuity payment is suspended during ineligibility of any person by reason of this subdivision. Payment for a full month is suspended for any portion of a month in which this ineligibility exists. Upon proper showing by an annuitant that this ineligibility no longer exists the retirement board shall order that the monthly annuity payments be resumed. Public service performed by any annuitant subsequent to his application for a retirement annuity under this chapter does not increase or decrease any benefit 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. Provided, however, that the foregoing shall not apply to any benefits authorized

by federal law to which any public employee and public official may be entitled.

**Sec. 18. [353.38] Rights limited.** *Nothing done under the terms of this chapter shall create or give any contract rights to any person, except the right to receive back upon withdrawal from the association through separation from the public service, the accumulated deductions, as by law defined, standing to his credit on the books of the association.*

**Sec. 19. [353.39] Leave of absence, return to service.** *Any employee given a leave of absence to enter military service and who returns to public service upon discharge from military service as provided in Minnesota Statutes, Section 192.262 shall obtain credit for his period of military service, but he 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. Such member shall obtain such credit by paying into the fund an employee contribution based upon his salary at the date of return from military service. The amount of this contribution shall be six percent of his salary not to exceed \$4800 in any fiscal year plus interest at four percent per annum compounded annually. In such cases the matching employer contribution and additional contribution provided in section 7 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 and such contributions shall be made at the time and in the manner provided in section 7.*

**Sec. 20. [353.40] Annual leave.** *Any person whose service with any governmental subdivision has terminated and who has been paid for any unused portion of his annual leave allowance, the unused portion of his annual leave for which he was so paid shall be deemed allowable service if no refundment is taken. If application for refundment is made, the last working day is deemed the date public service terminates and credit for such service ceases on that date.*

**Sec. 21. [353.41] Year of allowable service.** *Year of allowable service is deemed any 12 calendar months not necessarily consecutive in which a member received compensation from the governmental subdivision or was eligible to credit for service. It also means 12 months credit each year for employees who are paid on a yearly basis and who may or may not receive compensation in every calendar month in the year.*

**Sec. 22. [353.42] Salary for calendar month.** *Any*



salary paid for a fractional part of any calendar month is deemed compensation for the entire calendar month unless state service has terminated.

**Sec. 23. [353.43] Limitation for payment of refundment.** *If a former member of the association does not apply for refundment 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. In the event the former member should return to public service the amount so credited to the retirement fund shall be restored to his individual account.*

**Sec. 24. [353.44] Retirement allowance may be placed in retirement fund.** *Subdivision 1. Any retirement allowance or annuity which is payable after the death of an annuitant shall be paid to the beneficiary whom the annuitant had last designated. If no beneficiary has been so designated, or, if the designated beneficiary should die before making claim for payment of such retirement allowance or annuity, and if there is no surviving spouse, and if the legal representative of such annuitant does not make such claim within five years, the amount of the retirement allowance or annuity payable to him at the time of his death shall be credited to and become a part of the retirement fund.*

*Subd. 2. If a member or former member dies without having designated a beneficiary or if the beneficiary should die without having made application for benefits and if the legal representative of such member or former member does not apply for benefits within five years from the date of death of the member or former member, the accumulated deductions to his credit shall be credited to, and become a part of the fund.*

**Sec. 25. [353.45] Payment to minor.** *If a member or former member dies having named as his beneficiary a person who is a minor at the time of the application for benefit, and the amount of the benefit does not exceed \$500, the retirement board in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of such minor beneficiary, for the benefit of such child. Any retirement allowance or annuity payable at the time of death of an annuitant, which is payable to a beneficiary who is a minor, may be paid in the same manner and such payment shall be a bar to recovery by any other person or persons.*

**Sec. 26. [353.46] Options.** *Subdivision 1. Any*

*person who on July 1, 1957 has ten or more years of allowable service as a member and whose deductions from salary continues at the rate in effect under this act shall have the option when he retires to receive the retirement benefits computed under Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or the benefits computed under this act.*

*Subd. 2. Any person who ceased to be a public employee prior to July 1, 1957 and who left his accumulated deductions in the fund for the purpose of receiving, when eligible, a retirement annuity or allowance in accordance with the law in effect at the date public service terminated, shall have his annuity or retirement allowance computed in accordance with the law in effect on the date he ceased to be a public employee.*

*Subd. 3. Any survivor benefits selected by a member prior to July 1, 1957 pursuant to Laws 1955, Chapter 815, Section 10, shall continue in effect until the member retires. Such survivor shall have the option of receiving the payments provided under such election or the survivor benefits provided in this act.*

**Sec. 27. Repealer.** Minnesota Statutes 1953, Sections 353.01, Subdivisions 8, 9; 353.02, as amended by Laws 1955, Chapter 815, Sections 1, 2; 353.04, 353.09, 353.10, as amended by Laws 1955, Chapter 815, Section 3; 353.11, as amended by Laws 1955, Chapter 815, Section 4 to 7; 353.12, as amended by Laws 1955, Chapter 815, Section 8; 353.21, as amended by Laws 1955, Chapter 815, Section 10; 465.58, Subdivision 2, are repealed.

**Sec. 28.** This act takes effect July 1, 1957.

Approved April 29, 1957.

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CHAPTER 936—H. F. No. 1553

[Coded]

*An act prescribing the salaries of elected and appointed officers and employees in the unclassified service in the executive branch of the state government, repealing Minnesota Statutes 1953, Sections 15.21, 15.22 and 15.23.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. [350.16] Unclassified service in executive branch.** The following annual salaries are established for the elected and appointed officers and employees in the un-