

quired, upon approval by resolution adopted by the vote of a majority of the members of the board of park district commissioners of the Hennepin county park reserve district and by resolution adopted by the vote of a majority of the members of the board of county commissioners of Hennepin county, and upon compliance with Minnesota Statutes, Section 645.021.

Approved May 24, 1967.

CHAPTER 722—S. F. No. 1275

An act relating to retirement allowances for employees of cities of the first class, amending Minnesota Statutes 1965, Sections 422.05; 422.063, Subdivision 6; and 422.09.

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

Section 1. Minnesota Statutes 1965, Section 422.09 is amended to read:

422.09. Cities of the first class; retirement; refunds. If an employee to whom this chapter applies becomes absolutely separated from the service prior to attaining the minimum retirement age established in Section 422.04, the net accumulated amount of deduction from his or her salary, pay, or compensation, made for the purpose of accumulating a fund from which to pay retirement allowances, shall be returned to such employee, with interest.

Any contributing employee who is absolutely separated from the service of the city after attaining the minimum retirement age established in Section 422.04, who has five years or less of creditable service, as determined by the retirement board, shall have the option of accepting a refund of the net accumulated amount of deductions from his or her salary, pay, or compensation, to his or her credit, and if said employee accepts said refund all present and future rights to a retirement allowance shall be forfeited.

Any contributing employee who separates from a department, board or commission of a city whose employees are covered by a fund organized under this chapter, and becomes an employee of a department or board of the same city, whose employees are covered by a retirement fund or relief association by whatever name known, organized under any other law and supported in whole or in part by taxes on the same city, shall have the option of:

1. Retaining their membership in the fund organized under

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this chapter, regardless of the provisions of any law, rule, bylaw or other action requiring membership in any other retirement fund or relief association however organized.

2. Transferring to the fund or association covering the employees of the department or board to which they are transferring, providing they are eligible for membership therein.

Any contributing employee who elects to transfer to another fund or association as herein provided, shall make such election within one year from the date of separation from the city service covered by this fund or the passage of this section, whichever applies.

If the contributing employee elects to transfer to another fund as herein provided, a refund of the net accumulated contributions made by such employee to the fund organized under this chapter, providing they are eligible for membership therein, shall be returned to the employee with interest.

Any person who has had 15 years or more of service as a member of the contributing class prior to July 1, 1967, and who separates from his then employment and becomes an employee or an elected or appointed official of a county containing a city which has adopted a pension or retirement system pursuant to the provisions of this chapter, shall have the option of retaining his membership in this fund regardless of the provisions of any law which would otherwise require membership in some other retirement fund, or of taking any retirement allowance or refund to which he would otherwise be entitled upon such separation. The election of such contributing member to so retain his membership in this fund shall be made within 100 days from the date of such separation by giving a written notice of such election to the retirement board and a copy thereof to the employing county. The employer cost of the retirement allowances and all other benefits inuring to such member subsequent to his entering the service of said county shall be an obligation of and paid by the said county to the retirement fund upon certification of such costs by the retirement board in the same manner as provided in section 422.13 for the payment of such costs by public corporations referred to therein. Any person who so elects to remain in this fund shall be entitled to all the benefits and subject to all the restrictions of this chapter 422.

Any employee in any city to which this act applies shall waive the pension benefits under this act while holding non-elective employment in any other governmental subdivision for which they receive compensation, provided that this provision shall not apply to any person so employed at the time this act takes effect.

No employee in any city to which this act applies shall be eligi-

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ble to be a member of or receive benefits from more than one fund or association of such city by whatever name known, supported in whole or in part by taxes levied by such city-, *provided that this prohibition shall not apply so as to prevent employees who are contributing members under this chapter from receiving survivors benefits, as widows, from any such other fund or association of such city.*

Upon the death of a contributing member while still in the service of the city, and before reaching the compulsory age of retirement there shall be paid to such person or persons as he or she shall have nominated by written designation filed with the retirement board, in such form as the retirement board shall require, the net accumulated amount of deductions from his or her salary, pay or compensation, to his or her credit on date of death.

If the employee fails to make a designation, or if the person or persons designated by such employee pre-deceases such employee, the net accumulated amount of deductions from his or her salary, pay, or compensation, to the credit of such employee on date of death shall be paid to such employee's estate.

If a contributing member dies after having been in the service ten or more years, and before actual retirement, as determined by the retirement board, the present worth of the city's annual installments of \$60 then to the credit of the contributing member, and the supplementary allowance, as defined in this act, shall be paid to a beneficiary designated by such contributing member in such form as the retirement board shall require, who shall be the surviving spouse, or surviving child, or children of such member, if there be no surviving spouse, *or surviving child or children then to a person actually dependent on and receiving principal support from such member or surviving mother or father, or surviving brother or sister, or surviving children of the deceased brother or sister of such member.*

If the beneficiary designated by the member is not one of the class of persons named in the preceding sentence, such benefit from the accumulation of city deposits shall be paid in the following order: (1) to the surviving spouse, the whole thereof; (2) if there be no surviving spouse, to the surviving children, share and share alike; (3) if there be no surviving spouse or child or children, to the dependent or dependents as those terms are herein defined, of the member, share and share alike; (4) if there be no surviving spouse, child or children, or dependents, to the surviving mother and father, share and share alike; (5) if there be no surviving mother and father, to the surviving brothers and sisters of the member, in equal shares; (6) and if there be no surviving brothers and sisters, to the surviving children of the deceased brothers and sisters of the member, in equal

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shares; (7) and if there is no person named in the preceding sentence who survives the member, the accumulation of the city deposits shall be cancelled.

Upon the death of a contributing member after having been in the city service not less than 18 months but before the effective date of retirement, such board shall in lieu of the settlement hereinbefore provided pay to the surviving dependent spouse and/or dependent children under the age of 18 *or under the age of 22 if a full time student at an accredited school, college or university, and is single*, the following monthly benefit:

- (a) Surviving widow or widower ~~\$65~~ *\$100* per month.
- (b) Each dependent child ~~\$45~~ *\$65* 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 \$255~~ *\$300* for any one family.

The widow of a deceased member, who has not remarried and was living with and dependent upon the member at the time of his death, shall be entitled to the monthly benefit herein provided unless such widow has an income in excess of \$2400 for a 12-month period commencing with the first day of the month following the month in which the employee died, in which case all income in excess of \$2400 for the previous 12-month period shall be prorated over the succeeding 12-month period and deducted from the surviving spouse benefit herein provided. This process shall be continued for each succeeding 12-month period. *The widow's survivors benefits above referred to shall be suspended when there are no dependent children qualified to receive the \$65 monthly allowance, said suspension of benefits to said widow to continue until the widow reaches age 62 when payments shall again commence if the widow has not been remarried; provided, however, (1) that the suspension shall not apply to a widow who is totally and permanently disabled as certified by the Medical Board, (2) that this provision for suspension shall apply only to widows of employees who first become contributing members of this fund subsequent to July 1, 1967, and (3) that in any event the widow shall receive the monthly allowance for one year after the contributor's death.*

The widower of a deceased member, if such widower has not remarried and was living with the deceased member at the time of her death, and was receiving at least one-half of his support from

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the deceased member at the time of her death and has attained the age of 65 or is totally and permanently disabled, shall be entitled to the monthly benefit herein provided.

Benefits herein provided shall commence with the first day of the month following the month in which the employee dies and shall end with the last day of the month preceding the month in which eligibility ceases.

Eligibility for the benefits herein provided shall be determined by the retirement board and its determination shall be final. Each beneficiary or parent or guardian of a dependent child or legal representative shall furnish such information as the board may deem necessary to determine eligibility for the benefits provided by this section, and failure to furnish such information shall be sufficient grounds for the discontinuance of such benefits.

If the widow or widower of the deceased member becomes entitled to a retirement allowance by reason of his or her membership in this fund, *such widow or widower shall have the option of either receiving such retirement allowance or to continue receiving the ~~such~~ widow's or widower's benefit shall be discontinued.*

The cost of all monthly survivor's benefits provided in this section shall be an obligation of the members and of the city and any of its boards, departments, commissions or public corporations as hereinafter provided.

The retirement board shall increase the contribution rate to the fund of each member provided by one-fourth of one percent, such additional contribution to be credited to a reserve for survivor's benefit account, which shall remain a separate account from which shall be paid on an actuarial basis all such survivor benefits due and payable. Any deficiency in such account shall be an obligation of the city, and any of its boards, departments, commissions or public corporations and shall be paid for in the same manner as other benefits. Any surplus in the survivor's account shall inure to the credit of the retirement fund.

The retirement board shall cause an annual actuarial valuation of the survivor's benefit account to be made by the board's actuary.

The retirement board shall reduce or increase the contribution rate of one-fourth of one percent if and when it is actuarially determined that such rate is in excess of or less than the amount necessary to pay for 50 percent of the cost of the survivor benefits herein provided.

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The additional member contribution provided for herein shall commence as of July 1, 1959.

If the contributing member dies after having been in the service of the city 20 or more years, and before the effective date of retirement, as determined by the retirement board, such board shall pay a monthly allowance under the option 4-five year certain life income plan of retirement, as adopted by the board, to the designated beneficiary of such employee, providing such employee prior to the date of his death filed a written request therefor with the board on forms provided by such board. The monthly allowance herein provided for shall be the actuarial equivalent of a single life retirement allowance which would have been payable to the employee on the date of his death had he been eligible to retire and retired.

The beneficiary designated by the employee shall be the surviving spouse of such employee. If there is no surviving spouse, the designated beneficiary may be a dependent surviving child or dependent parent of such employee as dependency is defined in this chapter. If the beneficiary designated by the employee is not of the class of persons provided for in this paragraph, or if the designated beneficiary predeceases the employee, a refund shall be made as provided for in section 422.09, in lieu of a life income under the option 4-five year certain plan.

If the employee does not elect to designate a beneficiary to receive a life income under the option 4-five year certain plan, as herein provided, the designated beneficiary, if of the class of persons set forth in the preceding paragraph, may elect within 60 days after the date of death of the employee to receive a life income computed and determined as though the employee had retired on the date of his death under the option 2 plan of retirement, as provided for in this act, and had designated such person as his beneficiary.

If any employee who has contributed to the survivor's benefit account as herein provided dies before the effective date of retirement on a service or disability pension and is not survived by a beneficiary eligible to receive a monthly allowance as herein provided, there shall be paid from the survivor's benefit account to a beneficiary designated by the employee a death benefit of \$500 if death occurs prior to the end of the employee's tenth year of service or of \$1000 if the employee had prior to his death completed 10 or more calendar years of service.

Upon reinstatement of a former employee to the service, credit for such past service or for any part thereof shall be granted only upon repayment of the amount of the separation refund, with interest, from the time of separation; provided this provision shall not

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apply to service rendered prior to the date that Sections 422.01 to 422.23 become effective.

Sec. 2. Minnesota Statutes 1965, Section 422.05, is amended to read:

422.05 Classification of employees. Employees of the city shall be divided into a contributing class, a non-contributing class, and an exempt class.

The contributing class shall consist of all employees not included in either of the other two classes, and shall be subdivided into present incumbents, employees in the service of the city at the date this chapter becomes effective therein, who elect to become contributors to and prospective beneficiaries of the fund created by this chapter, and future entrants, employees who enter the service of the city subsequent to the date this chapter becomes effective therein.

Any employee in the service of any public corporation now or hereafter created in and for any two or more contiguous cities, the funds of which public corporation are in whole or in part raised by taxation on the property in such cities, may become a member of the contributing class by giving a written notice to the retirement board of his acceptance of and his desire to avail himself of the provisions of this chapter, within six months from the date of the passage of Laws 1945, Chapter 181, or of his employment, whichever is the later date.

The non-contributing class shall consist of all employees, including common laborers, whose individual pay or compensations do not exceed \$750 per annum; provided, that when the compensation of an employee who is paid on a monthly basis equals or exceeds \$62.50 per month on a 12-month basis, such employee shall be classified as a contributor and shall from and after such time contribute to the fund and assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, specifically set forth in this chapter.

From and after the end of the calendar year in which the average annual compensation of an employee who is paid on a day basis equals or exceeds \$750 per calendar year during his period of service with the city, such employee from and after such date shall be classified as a contributor and shall assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as specifically set forth in this chapter.

Any employee in the non-contributing class may, upon written application filed with the retirement board prior to attaining the age

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of 50 years, elect to become a member of the contributing class, and shall then assume all the obligations imposed upon and be entitled to all the benefits conferred upon members of the contributing class, as specifically set forth in this chapter.

The exempt class shall consist of:

(1) Employees who are members of an organization or association of such city on behalf of which a tax is levied by the city for the purpose of paying retirement allowances to disabled or super-annuated employees.

(2) Persons filling elective position. Provided that any elective officer holding an elective position, as those terms are defined herein, including judges of a municipal court, shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance, which shall be granted only upon completion of 15 or more years of service. All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, as in this act defined, or member of an executive board or commission or any combination thereof. *Persons who have served in elective positions which qualified them for membership in the fund prior to July 1, 1967, and who immediately thereafter hold elective office, first being appointed to that elective office in a county containing the city of the first class or other employing jurisdiction in which they served as an elected official, may retain or resume membership in the fund as an elective officer of the county. The county shall collect and pay to the retirement fund the employee contribution. The employer cost of allowances and benefits credited to an elected officer set forth above shall be paid from the county revenue fund of such county by the proper county officials upon certification of such costs by the retirement board in the same manner as prescribed in section 422.13 for the payment of costs by public corporations. A tax shall be levied by such county to defray the cost of such retirement allowances which may be in addition to all other taxes levied by such county. Before receiving a retirement allowance, or any other benefit, any person who claims credit for service under this section shall contribute to the fund herein provided for an amount which shall be equal to the amount of contributions to the fund which such person would have made had he been a contributor to the fund since January 1, 1922, or date of election or employment, first becoming eligible for membership in the*

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fund, whichever is later, in accordance with the method of contribution herein provided for, plus four percent compound interest.

Any pension due and payable to an elective officer who claims credit for service as a member of an executive board or commission shall not exceed \$200 per month computed under the single life plan but subject to the option selections provided for in section 422.08;

(3) Persons serving without pay;

(4) Persons serving on executive boards. Provided that any person serving on an executive board or commission shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance which shall be granted only upon completion of 20 or more years of service.

All retirement allowances shall be computed, determined and paid for in the same manner as for employees, as provided herein, except that in determining the number of years of service, credit shall be given for time served as a member of an executive board or commission, employee, or elective officer, or any combination thereof.

Before receiving this retirement allowance, or any other benefit, the person who claims credit for service under this section shall contribute to the fund an amount which shall be equal to the amount of contributions to the fund which would have been made had he been a contributor to the fund since January 1, 1922, or date of becoming a member of an executive board or commission or elective officer or employee whichever is later, in accordance with the method of contribution in this chapter provided, plus four percent compound interest.

Said service shall include periods of service at different times and service for one or more executive boards or commissions, but periods of separation from the service shall not be included.

Any pension due and payable to any person who claims credit for service as a member of an executive board or commission shall not exceed \$100 per month computed under the single life plan but subject to the option selections provided for in section 422.08.

(5) Nurses, pupil nurses, internes and staff physicians employed at the city hospitals; provided that any nurse employed by the city at a city hospital who is not otherwise prohibited from membership may make application to become a contributing member of the fund, such application to be final and irrevocable, and thereafter

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the provisions of this chapter shall fully apply to said nurse upon the contribution to the fund by said nurse of six percent of all salaries, wages or other compensation paid to him or her by the city from the date of his or her original employment by the city as a nurse to the date said application is made plus the further payment to the fund by said nurse of interest compounded annually at four percent on such delayed contribution. Provided that the provisions of this subsection shall not apply to nurses who are presently contributing members of the fund.

(6) Employees in the service of the city at the time this chapter is adopted, who, after such adoption, have not given written notice of a desire to accept the provisions of this chapter;

(7) Persons not citizens of the United States;

(8a) Persons employed after July 1, 1959, who have attained the age of 56, unless such person was previously employed by the city or any of its boards, departments or commissions or by a public corporation whose employees are members of or eligible to be members of a fund operating under the provisions of Chapter 422, Minnesota Statutes, and was a contributing member of the fund at the time of separation from the service, and unless the service rendered by such employee after July 1, 1959 when added to the service rendered by the employee prior to July 1, 1959 will equal or exceed 10 years, as determined by the retirement board, regardless of the provisions of the veterans preference act or any law, rule or bylaw to the contrary.

(8b) Persons employed after July 1, 1959 on a temporary basis, including persons employed on permits issued by a Civil Service Commission; doorkeepers, ticket takers, and attendants at a municipal auditorium, park recreation facilities, or like activities, employed less than 1000 hours, or its equivalent if employed on any other basis than an hourly basis, in any calendar year from January 1 to December 31, inclusive, provided that employees who are contributing members of the fund on July 1, 1959 shall not be affected by the exclusions contained in this section.

(8c) Any person who is employed by the city or any of its boards, departments, commissions or a public corporation, as herein outlined, and is excluded from participation in the fund by section 422.05-8a, 8b shall be separated from the service upon reaching the age of 65 regardless of the provision of the veterans preference act.

(9) Employees of a public corporation now or hereafter created in and for two or more contiguous cities of the first class, who do not within six months from the date of the passage of Laws

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1945, Chapter 181, or the date when they enter the service of said corporation, whichever is later, give written notice to the retirement board of the acceptance of and desire to avail themselves of the provisions of this chapter. Any such employee who failed to give notice to the retirement board within the six months here required may by written application to the retirement board made within 60 days after the passage of Laws 1953, Chapter 681, become a contributing member of the retirement fund.

Any employee who makes an application as herein provided shall receive credit for service in such public corporation only upon contribution to the retirement fund of the amount which would have been contributed to such fund at the required percentage rate, plus four percent compound interest, had such application been made within the time prescribed by Laws 1945, Chapter 181, and only upon approval of the governing board or commission of such public corporation.

Sec. 3. Minnesota Statutes 1965, Section 422.063, Subdivision 6, is amended to read:

Subd. 6. Minimum retirement allowance, additional allowance. All contributing members who, at the time of retirement, shall have fulfilled the conditions necessary to enable them to retire, shall be entitled to a combined minimum pension and supplementary allowance of \$2 per month for each year of service, which pension and supplementary allowance shall be in addition to the annuity as defined in the pension act.

The pension and supplementary allowance provided for herein shall be the actuarial equivalent of the accumulated annual installments and supplementary allowance credits, now designated by law to be now defined as normal earned credits, plus such extra credit to be furnished by the city as will produce such minimum pension and supplementary allowance of \$2 per month for each year of service. Said sum of \$2 shall be computed under the single life plan, as defined in said pension act, and subject to the same option selections as set forth in said act.

The extra credit herein provided for shall be used only for the purpose of producing such minimum pension and supplementary allowance and shall not in any other way inure to the benefit of the contributing member or his beneficiaries.

The pension, supplementary allowance and annuity provided for herein shall be first paid from the contributing member's own contributions and normal earned credits, plus interest, until such credits

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are exhausted, and from and after such time shall be paid from the extra credit provided for herein.

In addition to the pension, supplementary allowance and annuity provided for in Minnesota Statutes 1961, Chapter 422, and section 422.52, there shall be paid to each retired employee who retired or will retire subsequent to January 1, 1943, an additional pension equal to 25 percent of such pension, supplementary allowance and annuity, provided, that the additional pension herein provided for shall not exceed \$25 per month; and for each retired employee who retired prior to January 1, 1943, 40 percent of such pension, supplementary allowance and annuity, provided, that the additional pension shall not exceed \$25 per month. The additional pensions provided for in this paragraph shall be retroactive to January 1, 1955.

Provided, however, that in lieu of the pension, supplementary allowance, annuity and additional pension herein provided for, each employee who is eligible and who ceases to be employed and who retires subsequent to July 1, 1954 shall have the option of electing to receive what shall be known as a "formula pension and annuity" equal to 1/60th of his arithmetic average annual salary, wages or compensation from the city for any five calendar years out of the last ten calendar years of service which may include the year in which the employee retires, as selected by the employee, multiplied by his years of service with the city, the option to become effective July 1, 1955.

Provided also, however, that in lieu of the pension, supplementary allowance, annuity and additional pension herein provided for, each employee who is eligible and who retired between July 1, 1952 and July 1, 1954 having served in the employment of the city for forty or more years shall have the option of election to receive what shall be known as a "formula pension and annuity" equal to 1/60th of his arithmetic average annual salary, wages or compensation from the city for any five calendar years out of the last ten calendar years which may include the year in which the employee retires, as selected by the employee, multiplied by his years of service with the city, the option to become effective July 1, 1967.

The formula pension and annuity shall be computed on the single life plan but subject to the option selections provided for in section 422.08.

In order to be entitled to the formula pension and annuity herein provided for, the retiring employee at the time of cessation of employment and of actual retirement must have attained the age of 60 years or have been employed by the city not less than 30 years, and

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must in addition thereto have contributed to the retirement fund at the percentage rate prescribed by the retirement law prior to the passage of this act on all salaries, wages, or compensation received from the city from January 1, 1922 to July 1, 1955, and at the percentage rate of six percent on all salaries, wages or compensation received from the city subsequent to July 1, 1955.

The years of service to be applied in the formula pension and annuity shall be found and determined by the retirement board.

Voluntary additions to the employee's deposits made by the employee under the provisions of section 422.10 may be withdrawn by the retiring employee or, with the approval of the retirement board, applied to the purchase of an additional annuity computed and determined by the retirement board.

Approved May 24, 1967.

CHAPTER 723—S. F. No. 1278

[Coded]

An act relating to the vacation of town roads and county highways; amending Minnesota Statutes 1965, Section 164.07, by adding a subdivision and Minnesota Statutes 1965, Chapter 163, by adding a section.

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

Section 1. Minnesota Statutes 1965, Section 164.07, is amended by adding a subdivision to read:

*Subd. 3a. **Counties and towns; highways; vacation; drainage facilities.** On consideration of a petition for vacation of a road, the town board shall determine whether the lateral ditches of said road are essential for surface drainage of adjacent lands, or for drainage of public highways, in the area. If the board finds that preservation of such drainage facilities is for the general health and welfare of the public, then the board may cause the road to be vacated with a provision that the town shall retain the right of access for the purpose of maintaining such drainage facilities. An owner of land adjacent to the vacated portion of the road shall not interfere with the functioning of such drainage facilities.*

Sec. 2. Minnesota Statutes 1965, Chapter 163, is amended by adding a section to read:

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