

CHAPTER 502—S.F.No.1908

An act relating to tax on tobacco products; providing a time limit for payment of tax; amending Minnesota Statutes 1969, Section 297.35, Subdivision 3.

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

Section 1. Minnesota Statutes 1969, Section 297.35, Subdivision 3, is amended to read:

Subd. 3. TOBACCO PRODUCTS; TAX; TIME LIMIT ON PAYMENT. If, within 20 days after mailing of notice of the proposed assessment, the taxpayer or his legal representative shall file a protest to said proposed assessment and request a hearing thereon, the commissioner shall give notice to that taxpayer or legal representative of the time and place fixed for the hearing, shall hold a hearing on such protest, and shall issue a final assessment to the taxpayer or legal representative for the amount found to be due as a result of the hearing. This hearing shall be held within 45 days after filing of the protest. If a protest is not filed within the time herein prescribed, the commissioner shall issue a final assessment to the taxpayer or legal representative, as such. Any tax due and owing after a final assessment order has been issued to the distributor or legal representative of such distributor shall be paid within 30 days. Any such assessment made by the commissioner shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Approved May 25, 1971.

CHAPTER 503—S.F.No.2018

[Coded in Part]

An act relating to the public employees retirement association; amending Minnesota Statutes 1969, Sections 353.01, Subdivisions 2 and 15; 353.07; and 353.26, by adding a subdivision.

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

Section 1. Minnesota Statutes 1969, Section 353.01, Subdivision 2, is amended to read:

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **P.E.R.A.; REVISION; PUBLIC EMPLOYEE.** (1) "Public employee" means any person performing personal services as an elected or appointed officer or employee for a governmental subdivision or for an elected officer thereof, including any municipal judge or special municipal judge, and whose salary is paid, in whole or in part, from revenue derived from taxation, or by fees, assessments, or from other sources. The term "public employee" also means 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 who are independent contractors and their employees;

(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) employees who hold positions of an essentially temporary or seasonal character, provided such employment does not continue for a period in excess of 90 working days in any calendar year, and in the event 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 90 working days if such employees continue in public service and earn in excess of \$75 in any one calendar month, the department heads of the various governmental subdivisions must then report all such employees for membership pursuant to section 353.07 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 \$75;

(h) emergency employees who are employed by a governmental subdivision by reason of emergency work caused by fire, flood, storm or similar disaster;

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(i) 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; provided that this paragraph 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;

(j) 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;

(k) 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 as of January 1, 1963, and whose customs, rites or religious belief forbids their membership in any public retirement association, providing such persons file an application stating the applicable provisions of their religious organization, and waive all claims for retirement annuities or benefits of any kind pursuant to this chapter;

(l) 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.

Sec. 2. Minnesota Statutes 1969, Section 353.01, Subdivision 15, is amended to read:

Subd. 15. **DEPENDENT CHILD.** "Dependent child" means any natural or adopted child of a deceased member, provided such child is (a) under the age of 18, (b) age 18 through 21 and a full time student, and in either case unmarried and actually dependent for more than one half of his support upon such member at the time of death and for not less than ninety days prior thereto ; provided, that effective retroactively to April 30, 1970 the child of a deceased member, who at the time of his death was receiving total and permanent disability benefits pursuant to section 353.33, shall be deemed dependent if he was dependent upon the decedent for more than one half of his support during the 90 days prior to his becoming totally and permanently disabled, except that no payment in behalf of such a dependent child shall commence prior to July 1, 1971 . It also includes any child of the member conceived during his lifetime and born after his death in any case where a member died after July 1, 1957. It also means any dependent child who is the subject of joint adoption proceedings filed by a member and his wife, and who within two years after death of the member, by judgment and decree duly entered, is adjudged to be the adopted child of the deceased member's surviving wife; subject, however, to the qualifying conditions of age

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and dependency aforesaid and the dependency of the child hereunder shall date from the decree of adoption.

Sec. 3. Minnesota Statutes 1969, Section 353.07, is amended to read:

353.07 EMPLOYERS RECORDING AND REPORTING REQUIREMENTS. Every head of a department in a governmental subdivision subject to the provisions of this chapter shall on the first day of each calendar month furnish the board of trustees with a statement for his department covering the preceding calendar month showing all new public employees, all removals, withdrawals, layoffs and leaves of absence affecting members during the same period. Additionally, all employing governmental subdivisions and their appropriate agencies shall furnish promptly to the association such other information relative to the employment status of ~~any member~~ all employees or former employees, including but not limited to payroll abstracts pertaining to all past and present employees, as may be requested by the association or its secretary, including schedules of salaries applicable to various categories of employment. In the event payroll abstract records have been lost or destroyed, for whatever reason or in whatever manner, so that such schedules of salaries cannot be furnished therefrom, the employing governmental subdivision, in lieu thereof, shall furnish to the association an estimate of the earnings of any ~~member~~ employee or former employee for any period as may be requested by the association or its secretary. Should the association receive such schedules of estimated earnings, the secretary is hereby authorized to use the same as a basis for making whatever computations might be necessary for determining obligations of the employee and employer to the retirement fund. If estimates are not furnished by the employer pursuant to the request of the association or its secretary, the association may estimate the obligations of the employee and employer to the retirement fund based upon such records as are in its possession. Where payroll abstracts have been lost or destroyed, the governmental agency need not furnish any information pertaining to employment prior to July 1, 1963. The association shall make no estimate of any obligation of any employee, former employee, or employer covering employment prior to July 1, 1963.

Sec. 4. Minnesota Statutes 1969, Section 353.26, is amended by adding a subdivision to read:

Subd. 6. APPOINTED STATE DEPARTMENT HEAD. Any member who is appointed by the governor to be a state department head and elects pursuant to Minnesota Statutes, Section 352.021, Subdivision 3, not to be covered by the Minnesota state retirement system, shall remain a member of the public employees retirement association.

Approved May 25, 1971.

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