

county; thence northwesterly and northerly to St. Croix state park in Pine county; thence northerly to Jay Cooke state park in Carlton county, and there terminate.

(b) The trail shall be developed primarily for riding and hiking.

Approved May 24, 1973.

CHAPTER 744—H.F.No.1675

[Coded]

An act relating to courts; providing for uniform retirement and survivors' annuities for judges and establishing a judges' retirement fund; appropriating money.

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

Section 1. **[490.121] COURTS; JUDGES; RETIREMENT; DEFINITIONS.** Subdivision 1. For purposes of sections 1 to 6, terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. "Court" means any court of this state established by the Minnesota Constitution and any municipal, county or probate court of record.

Subd. 3. "Judge" means a judge or justice of any court.

Subd. 4. "Year of service" means a whole year, and not any fraction thereof, served as a judge at any time, or served as a referee in probate for all such referees in office prior to January 1, 1974.

Subd. 5. "Judges' retirement fund", "retirement fund" or "fund" means that fund created by section 3 of this act.

Subd. 6. "Annuity" means the payments made each year to an annuitant from the judges' retirement fund, pursuant to the provisions of sections 1 to 6.

Subd. 7. "Annuitant" means a judge, surviving spouse or dependent child entitled to an annuity under the provisions of sections 1 to 6.

Subd. 8. "Normal retirement date" means the last day of the month in which a judge attains the age of 65.

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Subd. 9. Except as otherwise provided by this act, "normal retirement annuity" means an annuity to which a judge is entitled under section 4, subdivision 1, upon retirement on or after normal retirement date.

Subd. 10. "Early retirement date" means the last day of any month after a judge attains the age of 62 until normal retirement date.

Subd. 11. "Early retirement annuity" means an annuity to which a judge is entitled under section 4, subdivisions 1 and 3 upon retirement at any early retirement date.

Subd. 12. "Mandatory retirement date" means the last day of the month in which a judge has attained 70 years of age.

Subd. 13. "Disability" means permanent inability to perform the functions of judge by reason of physical or mental impairment resulting from sickness or injury.

Subd. 14. "Disability retirement date" means the last day of the first month after which the governor determines, upon voluntary application by the judge or otherwise, that a judge suffers from a disability.

Subd. 15. "Disability retirement annuity" means an annuity to which a judge is entitled under section 4, subdivisions 1 and 4 after retirement for reason of disability.

Subd. 16. "Surviving spouse" means the surviving husband or wife of a deceased judge.

Subd. 17. "Dependent child" means any natural or adopted child of a deceased judge who has not reached the age of 18 years, or having reached the age of 18, is under age 22 and is a full time student throughout the normal school year, unmarried and actually dependent for more than one-half of his support upon such judge for a period of at least 90 days prior to the judge's death. It also includes any natural child of the judge born after his death.

Subd. 18. "Survivor's annuity" means an annuity to which a surviving spouse or dependent child is entitled under section 4, subdivision 9.

Subd. 19. "Approved actuary" means any actuary who is either 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.

Subd. 20. "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

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Subd. 21. "Final average compensation" means the total amount of salary payable to a judge in the highest five years of the last ten years prior to the event of maturity of benefits, divided by five; provided, however, that if the number of years of service is less than ten, the highest five shall be counted, and if the number of years is less than five, the aggregate salary in such period shall be divided by the number of months in such period and multiplied by twelve.

Sec. 2. [490.122] **ADMINISTRATION OF JUDGES' RETIREMENT.** The judges' retirement fund shall be considered a part of the Minnesota state retirement system established by section 352.021 and shall be administered by the board of directors established by section 352.03. Except for section 352.03, and as used herein, judges are not, however, "employees" or "employees covered by the system" within the meaning and for the purposes of Minnesota Statutes, Sections 352.01 to 352.73, nor are those sections generally applicable to the judges' retirement fund.

Sec. 3. [490.123] **JUDGES' RETIREMENT FUND.** Subdivision 1. **CREATION; CONTRIBUTIONS.** There is hereby created a special fund known as the "judges' retirement fund". The fund shall be credited with all contributions, all interest and all other income authorized by law. From this fund there are appropriated the payments authorized by this act in the amounts and at times provided herein, including the expenses of administering the fund. Except as provided in section 8, subdivision 2, each judge shall contribute to the fund from each salary payment a sum equal to the salary multiplied by the rate of employee tax under the Federal Insurance Contributions Act as defined in Minnesota Statutes, Section 355.01, Subdivision 9. The balance of all money necessary for administering this act and the judges' retirement fund, including payment of retirement compensation and other benefits under this act, shall be contributed to the fund by the state. The amount required therefor is hereby annually appropriated from the general fund to the judges' retirement fund.

Subd. 2. **TREASURER.** The state treasurer shall be ex officio treasurer of the judges' retirement fund and his general bond to the state shall be so conditioned as to cover all liability for his acts as treasurer of this fund. All moneys received by him pursuant to this section shall be set aside in the state treasury to the credit of the judges' retirement fund. He shall transmit monthly to the executive director described in section 352.03, subdivision 5, a detailed statement of all amounts so received and credited by him to the fund. He shall pay out the fund only on warrants issued by the state auditor, upon vouchers signed by said executive director; provided that vouchers for investment may be signed by the secretary of the state board of investment.

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Subd. 3. **INVESTMENT.** The director referred to in subdivision 2 shall, from time to time, certify to the state board of investment such portions of the judges' retirement fund as in his judgment may not be required for immediate use. Assets from the judges' retirement fund shall be transferred to the Minnesota adjustable fixed benefit fund for retirement and disability benefits as provided in section 11.25 and section 352.119. The state board of investment shall thereupon invest and reinvest sums so transferred, or certified, in such securities as are duly authorized legal investments for such purposes under chapter 11.

Sec. 4. **[490.124] MATURITY OF BENEFITS; RETIREMENT AND SURVIVORS' ANNUITIES.** Subdivision 1. **BASIC RETIREMENT ANNUITY.** Except as qualified hereinafter from and after mandatory retirement date, normal retirement date, early retirement date, or two years from the disability retirement date, as the case may be, a retirement annuity shall be payable to a retiring judge from the judges' retirement fund in an amount equal to two and one half percent of the judge's final average compensation multiplied by the number of years of service rendered, provided that such annuity shall not exceed 60 percent of the judge's annual salary for the year immediately preceding his retirement.

Subd. 2. **YEARS OF SERVICE.** No judge shall be eligible for a normal or early retirement annuity at normal or early retirement date if he has less than ten years of service.

A judge who was in office on December 31, 1973 and thereafter and who, by the date on which his term expires, would not be eligible to retire with full benefits under statutes in effect on December 31, 1973, may apply to the governor for an extension to serve up to three additional years, stating his intention to retire upon such eligibility. Notwithstanding section 5 hereof, the governor shall forthwith make a written order accepting such retirement application, and extending the term of office of such judge for such period of time, not exceeding three years, as may be necessary to make such judge eligible for such retirement, solely for purposes of computing benefits hereunder.

Subd. 3. **EARLY RETIREMENT.** The retirement annuity provided by subdivision 1 of any judge electing to retire at an early retirement date shall be reduced by 1/15th for each full year or fraction thereof from his retirement date to normal retirement date.

Subd. 4. **DISABILITY RETIREMENT.** From and after disability retirement date, a disabled judge shall be entitled to (a) continuation of his full salary payable by the judge's employer, as if his office were not vacated by retirement, for a period of two

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full years, and (b) thereafter a disability retirement annuity computed as provided in subdivision 1, provided that such judge shall receive a minimum annuity of 25 percent of his final average compensation.

Subd. 5. **DEFERRED BENEFITS.** Any benefit to which a judge is entitled under this section may be deferred until early or normal retirement date, notwithstanding termination of such judge's service prior thereto.

Subd. 6. **PART-TIME JUDGES.** Notwithstanding other provisions of this section, except as provided herein service by a judge who was not paid an annual salary or who served in a jurisdiction in which the judge was entitled to practice law while serving as a judge shall be credited only at the rate of 50 percent thereof. All disqualified service may be credited to years of service for the purposes of this act only if:

(a) The judge or his employer pays to the judges' retirement fund a sum equal to 5.85 percent of one half of the average salary earned during such period of part time service, plus accrued interest thereon at the rate of five percent per year compounded annually from the period of service so credited to the date payment is made;

(b) Such payment is made in not more than 36 monthly installments; and

(c) Such judge or his employer shall elect to make such payment and shall commence doing so within 60 days after the effective date of this act or after the commencement of such judge's first term in office, whichever is later.

Subd. 7. **PRACTICE OF LAW PROHIBITED.** No retired judge or his spouse or children shall receive a retirement annuity while such judge is practicing law in Minnesota. For the purposes of this subdivision, "practicing law" does not mean service as a retired judge, as counsel for an indigent accused of committing a misdemeanor or felony, or service without compensation in connection with any legal assistance or legal aid program for indigents.

Subd. 8. **EXCLUSIVE NORMAL RETIREMENT BENEFITS.** Any judge who retires after December 31, 1973, shall be entitled to a retirement pension, retirement compensation or other retirement payment under statutes applicable solely to judges pursuant to this section only, except that any such judge in office prior to January 1, 1974, who retires at or after normal retirement age may then elect to receive during his lifetime a normal retirement annuity computed on the basis of retirement compensation provided for such judge under statutes in effect on December 31, 1973, in

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lieu of the amount of normal retirement annuity otherwise computed under this act.

Subd. 9. **SURVIVORS' ANNUITY.** Upon the death of a judge prior to retirement, his surviving spouse or, if there be no surviving spouse, his dependent children, shall receive an annuity, payable monthly, equal to 60 percent of the normal retirement annuity which would have been payable to the judge had the date of his death been the normal retirement date, provided that the surviving spouse or dependent children shall receive an annuity of not less than 25 percent of the judge's final average compensation.

Subd. 10. **PRIOR SURVIVORS' BENEFITS; LIMITATION.** Benefits provided under Minnesota Statutes, Sections 490.102, Subdivision 6, and 490.12, Subdivision 7, for a surviving spouse of a retired judge, payable after the death of the judge, shall be limited to:

(a) Spouses of judges who have retired prior to January 1, 1974; and

(b) Spouses of judges in office on December 31, 1973 and thereafter who elect to continue contributions under said sections 490.102, subdivision 6 or 490.12, subdivision 7. Such contributions shall be in addition to contributions under section 3, and upon retirement such judge may not elect to receive any of the optional annuities under subdivision 11 of this section 5 unless such judge and his spouse shall waive any benefits under said sections 490.102, subdivision 6 or 490.12, subdivision 7.

No other judge in office on or after January 1, 1974, shall be required to contribute under said section 490.102, subdivision 6 or 490.12, subdivision 7.

Subd. 11. **OPTIONAL ANNUITIES.** There shall be no survivor or death benefits in connection with the death of a judge who retires after December 31, 1973, except as otherwise provided herein. Within 30 days prior to such retirement, except as provided in section 4, subdivision 10, a judge may elect to receive, in lieu of the normal retirement annuity, optional annuities which shall take the form of an annuity payable for a period certain and for life thereafter or a joint and survivor annuity. Such optional annuities shall be actuarially equivalent to an annuity for life, with no term certain, and shall be established by the governing body of the Minnesota state retirement system upon the recommendation of an approved actuary.

Subd. 12. **REFUND.** Any person who ceases to be a judge but who does not qualify for a retirement annuity or other benefit under this act shall be entitled to a refund of all his contributions

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to the judges' retirement fund with interest computed on the basis of interest assumption under the provisions of section 356.21. No refund shall be payable upon the death of a judge prior to retirement if no benefits shall be payable under section 4, subdivision 9.

Sec. 5. **[490.125] MANDATORY RETIREMENT.** Subdivision 1. Except as otherwise provided in this act, each judge shall retire on his mandatory retirement date.

Subd. 2. Except as provided by sections 490.025, subdivision 3, 490.102, subdivisions 3 and 3a and 490.12, subdivision 2, any judge in office on December 31, 1973 who shall have attained 70 years of age on or prior to such date shall retire upon the expiration of the term of office of such judge.

Subd. 3. This section takes effect December 31, 1973.

Sec. 6. **[490.126] PROCEDURES.** Subdivision 1. **COMPULSORY RETIREMENT.** Proceedings for compulsory retirement of a judge, if necessary, shall be conducted in accordance with the provisions of sections 490.04 to 490.09.

Subd. 2. **VACANCIES.** Any judge may make written application to the governor for retirement. The governor thereupon shall direct the judge's retirement by written order which, when filed in the office of the secretary of state, shall effect a vacancy in the office to be filled as provided by law.

Subd. 3. **APPLICATION FOR ANNUITY OR REFUND.** Application for an annuity or refund under this act may be made by the annuitant or by someone authorized to act in his behalf. Every application for an annuity or refund, with proof of age and years of service when required, shall be submitted to the governing body of the Minnesota state retirement system in a form prescribed by it.

Subd. 4. **MANNER OF PAYMENT.** Unless otherwise specifically provided by statute or agreed upon by the annuitant and the governing body of the state retirement system, annuities payable under this act shall be paid in the manner and at the intervals as prescribed by the executive director of the state retirement system. The annuity shall cease with the last payment received by the annuitant in his or her lifetime.

Sec. 7. **[490.127] SOCIAL SECURITY COVERAGE; DEFINITIONS.** Subdivision 1. For the purposes of sections 7 to 9, the terms defined in this section shall have the meanings given them, and terms defined in Minnesota Statutes, Section 355.01, Subdivisions 2, 5, 8, and 9, shall have the meanings there given them.

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Subd. 2. "Enabling act" means Minnesota Statutes, Sections 355.01 to 355.08.

Subd. 3. "Employee" means any judge, as defined in section 1 of this act.

Subd. 4. "Employing unit" means the state, county, or municipality by which a judge is employed.

Sec. 8. [490.128] AGREEMENTS. Subdivision 1. Pursuant to the enabling act, the state agency, with the approval of the governor, shall supervise a referendum for the employees at a date set by the governor in accordance with the requirements of the social security act.

Subd. 2. The referendum shall decide the question of whether or not the employment of each such employee should be excluded from or included in an agreement.

Subd. 3. Notice of referendum as required by the social security act shall contain a statement in such form as the state agency shall deem necessary and sufficient to inform the employees of the rights which accrue to them under the social security act and the effect that coverage under the social security act will have on their retirement benefits.

Subd. 4. If the governor or an official of the state designated by him for the purpose receives satisfactory evidence that the conditions specified in section 218(d)(7) of the social security act have been met, he shall so certify to the secretary of health, education and welfare.

Subd. 5. The state agency, with the approval of the governor, may enter into an agreement with the secretary of health, education and welfare, or modify any such agreement previously made, to obtain the benefits of the federal old age survivors insurance system in respect to services performed by employees of any employing unit.

Subd. 6. In accordance with section 218(d)(6)(C) of the social security act, the retirement system for judges is divided into two parts:

(a) The first part is composed of judges in office on and after December 31, 1973, and who do not desire coverage under an agreement pursuant to section 218(d) of the social security act;

(b) The second part is composed of judges in office on and after December 31, 1973, who desire such coverage and judges first in office after December 31, 1973, whose service shall constitute "employment" as defined in the social security act.

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Subd. 7. Effective with respect to services performed after December 31, 1973, by employees referred to in subdivision 6, clause (b), each employing unit shall pay into the contribution fund established by section 355.04, contributions with respect to wages equal to the sum of taxes which be imposed by the federal insurance contribution act if the services covered by the agreement constituted employment within the meaning of that act.

Subd. 8. Effective January 1, 1974, as to employees referred to in subdivision 6, clause (b), contributions shall not be paid into the judges' retirement fund by such employees to the extent of the employee contribution under the federal insurance contribution act.

Subd. 9. Delinquent payments due under this section, with interest at the rate of six percent per annum, may be recovered by action in a court of competent jurisdiction against each and every employing unit liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such employing unit by any department or agency of the state.

Subd. 10. Each and every employing unit shall reimburse the state agency for its pro rata share of the cost of the administration of said agency in accordance with the rules and regulations of the state agency pertaining thereto. Such reimbursements shall be paid into the state agency revolving fund.

Subd. 11. Each and every employing unit shall make such reports in such form and containing such information as the state agency may from time to time require, and comply with such provisions as the state agency or the secretary of health, education and welfare may from time to time find necessary to assure the correctness and verification of such reports.

Sec. 9. [490.129] **BENEFITS OFFSET.** Upon any event of maturity of benefits for any judge referred to in section 8, subdivision 6, clause (b), or for such judge's surviving spouse or dependent children, the amount payable from the judges' retirement fund shall be reduced by 75 percent of the amount of the employee's primary benefit payable upon such event of maturity of benefits under the social security act.

Sec. 10. [490.13] **PAST SERVICE.** On or before October 31, 1973, on such forms as may be prescribed by the executive director of the state retirement system, each employing unit shall certify to the state retirement system the years of service and age of each judge.

Sec. 11. [490.131] **VALUATIONS, SURVEYS AND REPORTS.** The executive director of the Minnesota state retirement fund shall cause valuations, surveys and financial reports of this

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fund to be made in accordance with Minnesota Statutes, Chapter 356.

Sec. 12. [490.132] **ELECTION.** A judge of the supreme court, who holds office on or prior to January 1, 1974, is covered by the retirement provisions of Minnesota Statutes, Chapter 490, and shall continue to receive all the benefits thereunder unless he elects, in writing, to come under the provisions of this act by notifying the director of the state retirement system thereof by January 1, 1974. None of the provisions of this act shall apply to a judge of the supreme court who does not make such election.

Sec. 13. Sections 1 through 4 and section 6 of this act take effect January 1, 1974. Sections 7 through 12 of this act take effect July 1, 1973.

Approved May 24, 1973.

CHAPTER 745—H.F.No.1702

[Coded]

An act relating to agriculture; providing for the investigation of the complaints of food producers, processors and handlers licensed by the state.

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

Section 1. [17.045] **AGRICULTURE; FOOD PROCESSORS; INVESTIGATION OF COMPLAINTS.** The commissioner of the department of agriculture, with the cooperation and assistance of the attorney general, may investigate any complaint which suggests that an establishment licensed by the state and engaging in the production, processing or handling of meat, fish, poultry, dairy or other food products has been subjected to food handling requirements which are inconsistent with the published laws, regulations or standards of a federal, state or local agency. The findings of any such investigation shall be promptly reported to the complainant, to any trade association with whom the complainant is associated or which has requested a copy of the report of findings, and to any agency or official against which the complaint is directed or which has jurisdiction over the matter complained of. Provided, however, that the provisions of this section shall not apply to an official establishment which is operating under inspection programs

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