

If there are several defendants, residing at different places in ~~said a~~ a county, the trial shall be at the place in which the majority of ~~such the~~ such defendants unite in demanding, or if the numbers are equal, at the place nearest the residence of the majority of the defendants.

The venue of ~~any such an~~ an action may be changed from ~~any one~~ any one of these places to ~~any other another.~~ another. by order of the court, in the following cases:

(1) Upon written consent of the parties;

(2) When it is ~~made to appear~~ appears, on motion, that ~~any a~~ a party has been made a defendant for the purpose of preventing a change of venue as provided in this section;

(3) When an impartial trial cannot be ~~had held~~ held in the place where the action is pending; or

(4) When the convenience of witnesses and the ends of justice would be promoted by the change.

Application for ~~such a~~ a change under clause (2), (3), or (4), shall be made by motion which shall be returnable and heard at the place of commencement of the action.

Sec. 3. Minnesota Statutes 1978, Chapter 484, is amended by adding a section to read:

[484.71] TRIAL OF CIVIL AND CRIMINAL ACTIONS: ST. LOUIS COUNTY.
The district court may, if it deems it necessary, designate some place other than Duluth, Hibbing or Virginia to conduct terms of court.

There may be maintained in the city of Ely suitable facilities for the conduct of terms of court.

The expenses of holding terms of court in places other than Duluth, Hibbing or Virginia shall be paid by the county board. The district court shall not designate any place other than Duluth, Hibbing or Virginia to hold terms of court unless suitable facilities are available.

Approved April 23, 1979.

CHAPTER 40—H.F.No.157

An act relating to labor and employment; prohibiting mandatory retirement of public and private employees before the age of 70; amending Minnesota Statutes 1978, Sections 43.051, Subdivision 1; 125.12, Subdivision 5; 181.81; 181.811; 354.44, Subdivision 1a; 354.49, Subdivision 3; 354A.05; 354A.21; 356.32, Subdivision 1; 423.076; 473.419; and Chapter 181, by adding a section.

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

Section 1. Minnesota Statutes 1978, Section 43.051, Subdivision 1, is amended to read:

43.051 **AGE FOR RETIREMENT.** Subdivision 1. ~~Effective June 1, 1980;~~ An employee of the state of Minnesota in the classified service, and an employee in the unclassified service who is subject to the provisions of the Minnesota state retirement system must retire from his employment by the state upon reaching the age of 70 except as provided in section 354.44, subdivision 1a; or other law. Nothing in this subdivision shall apply to persons in the legislative branch or judicial branch.

Sec. 2. Minnesota Statutes 1978, Section 125.12, Subdivision 5, is amended to read:

Subd. 5. **RETIREMENT.** Notwithstanding the foregoing provisions, a board may provide by rule that its teachers shall be retired at age ~~65~~ 70.

Sec. 3. Minnesota Statutes 1978, Section 181.81, is amended to read:

181.81 DISMISSAL FOR AGE; PROHIBITION; EXCEPTIONS; REMEDIES. Subdivision 1. ~~(a) Designated retirement date, when used in this section, means the date, if any, which the employer, or the employer and employee or his representative jointly, designate as the date on which all affected employees must cease service unless the employee exercises the option granted by this section to continue service.~~

~~(b) (a)~~ It is unlawful for any employer, public or private, excluding the United States government and any of its instrumentalities, to refuse to hire or employ, or to discharge, dismiss, reduce in grade or position, or demote any individual on the grounds that the individual has reached a ~~designated retirement age~~ an age of less than 70, except in cases where federal statutes or rules or other state statutes, not including special laws compel or specifically authorize such action. Nothing in this section shall prohibit compulsory retirement of employees who have attained 70 years of age or more; provided further that nothing in this section shall prohibit compulsory retirement of a ~~professional, executive, or administrative employee, as defined in rules promulgated pursuant to chapter 177;~~ an employee who has attained at least 65 years of age and who for the two year period immediately before retirement is employed in an executive or a high policy making position if that employee is entitled to an immediate non-forfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan of an employer ~~plus any social security benefit, or any combination of these benefits~~ which totals in the aggregate at least \$27,000. If the retirement benefit is in a form other than a straight life annuity, the equivalent annualized payment value of the benefit shall be actuarially determined according to rules promulgated by the commissioner of labor and industry. Pilots and flight crew members shall not be subject to the provisions of this section or section 363.02, subdivision 6, but shall be retired from this employment pursuant to standards contained in regulations promulgated by the federal aviation administration for airline pilots and flight officers and are subject to the bona fide occupational requirements for these employees as promulgated by the federal aviation administration.

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~~(e) (b) Prior to June 1, 1982 every employer shall notify an employee in writing at least 90 days but no more than 120 days prior to the employee's designated retirement date; if any; 65th birthday of the option to continue employment beyond that date. The notice shall state in a conspicuous manner that the employee must shall respond to the notice within 30 days of the right of the employee's desire to continue employment beyond the designated retirement date may be waived employee's 65th birthday . Every employer shall post in a conspicuous place a notice written or approved by the commissioner of labor and industry stating that the mandatory retirement age is age 70. If the employee notifies the employer in writing within 30 days after the receipt of the notice by the employee of the employee's desire to continue employment beyond the designated retirement date the employer must allow continued employment consistent with the requirements of this section. Employment shall continue for as long as the employee desires or until the employer demonstrates that the employee no longer can meet the bona fide requirements, consistently applied, for the job or position or until the employee reaches the compulsory retirement age established by the employer. When an employer intends to terminate an employee who is 65 years of age or older earlier than age 70 on the ground that he no longer can meet the bona fide requirements for the job or position he shall give the employee 30 days notice of his intention.~~

~~(d) (c) Regardless of whether or not a designated retirement date as defined in clause (a) exists for an employee. If there exists a date on which the accrual of pension benefits or credits, or the contributions therefor by the employee or the employer, or the employee's employment related health and welfare benefits or insurance coverages are diminished or eliminated by virtue of the employee attaining a certain age, the employer shall notify the employee of the changes at least 90 but not more than 120 days prior to the effective date of the change. If a designated retirement date exists for an employee and that date is the same as the date on which pension credit accrual or health and welfare benefits or contributions are modified the notice required by this clause shall be given contemporaneously with the notice required in clause (e). This section, in and of itself, shall not be construed to require any change in the employer contribution levels of any pension or retirement plan, or to require any employer to increase an employer's or employee's payments for the provision of insurance benefits contained in any employee benefit or insurance plan.~~

Subd. 2. (a) The commissioner of labor and industry shall advise any inquiring parties, employee or employer, of their rights and duties under this section and to the extent practicable their rights and duties under any applicable provisions of law governing retirement or other benefits . Further, the commissioner may attempt to conciliate any disputes between employees and employers over the application of or alleged violations of this section.

(b) Any party aggrieved by a violation of this section may bring suit for redress in the district court wherein the violation occurred or in the district court wherein the employer is located. If a violation is found the court in granting relief may enjoin further violations and may include in its award reinstatement or compensation for any period of unemployment resulting from the violation together with actual and reasonable attorneys fees, and other costs incurred by the plaintiff.

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(c) When an action is commenced alleging a violation of this section the plaintiff may in the same action allege a violation of chapter 363, and seek relief under that chapter if all the procedural requirements of chapter 363 have been met. Alternatively, when a charge is filed or an action commenced alleging a violation of chapter 363, the plaintiff may in the same action allege a violation of this section and seek relief under this section. In either case, when determining whether or not a violation of chapter 363, has occurred the court shall incorporate the substantive requirements of this section into any duties and rights specified by chapter 363.

Sec. 4. Minnesota Statutes 1978, Section 181.811, is amended to read:

181.811 MANDATORY RETIREMENT AGE. Laws 1978, Chapter 649 is effective as of June 1, 1980 the day following final enactment of this act, subject to the following exceptions:

(1) No mandatory retirement program or policy established by a collective bargaining agreement between a labor organization and a private employer executed prior to the enactment date of Laws 1978, Chapter 649 which mandates retirement prior to attaining 70 years of age shall be invalidated in the case of employees covered by a collective bargaining agreement which was entered into between a labor organization and an employer and which was in effect on September 1, 1977, it shall take effect upon the termination of the agreement or on January 1, 1980, whichever comes first.

(2) Nothing contained in Laws 1978, Chapter 649 or this act shall be construed as requiring the rehiring, reinstatement or payment of additional benefits to an employee who terminates service prior to June 1, 1980 the effective date of this act, with an employer who employs 20 or more employees, or the rehiring, reinstatement or payment of additional benefits to an employee who terminates service prior to June 1, 1980, with an employer who employs less than 20 employees, pursuant to a mandatory retirement law or policy which mandates retirement prior to attaining 70 years of age, or any other employee who terminates service prior to the termination of a collectively bargained contract containing a mandatory retirement provision.

(3) No collective bargaining agreement executed following the enactment date of Laws 1978, Chapter 649 shall provide for mandatory retirement prior to attaining 70 years of age for an employee who terminates service June 1, 1980, or subsequent thereto. Laws 1978, Chapter 649, Section 3, is effective January 1, 1979. Any person who was previously a member of and has received a refund of accumulated employee or member contributions from one or more of the covered retirement funds enumerated in section 356.32, subdivision 2 and who terminated service at age 65 or older for any reason whether or not the person was required to terminate service pursuant to a mandatory retirement statute or a uniformly applied mandatory retirement policy established by the employer between January 1, 1979 and the effective date of this section shall be entitled to repay the refund of accumulated employee or member contributions to the respective retirement fund with compound interest at the rate of six percent from the date the refund was received to the date the refund is repaid. Upon repayment of a refund, the person shall be entitled if otherwise qualified to a proportionate annuity, with accrual to commence upon the first day of the month following the filing of a valid application for

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the annuity .

(4) Employers who employ fewer than 20 employees shall not be subject to the provisions of Laws 1978, Chapter 649, until June 1, 1980.

(5) In the case of an employee serving under a contract of unlimited tenure or a similar arrangement providing for unlimited tenure at a private institution which is an institution of higher education, as defined in section 1201(a) of the federal higher education act of 1965, Laws 1978, Chapter 649 is effective July 1, 1982.

Sec. 5. Minnesota Statutes 1978, Chapter 181, is amended by adding a section to read:

[181.812] RULES. The commissioner may promulgate rules which are deemed necessary to carry out the provisions of section 181.81.

Sec. 6. Minnesota Statutes 1978, Section 354.44, Subdivision 1a, is amended to read:

Subd. 1a. **MANDATORY RETIREMENT.** Notwithstanding the provisions of sections 43.30 or 197.45 to 197.48, a member shall terminate employment ~~on August 31, 1976, or~~ at the end of the academic year in which the member reaches the age of 65 70 ; ~~whichever is later.~~ For purposes of this subdivision, an academic year shall be deemed to end August 31. ~~A member who terminates employment at any time during the academic year at the end of which such person is required to terminate employment pursuant to this subdivision shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at age 65 or earlier pursuant to this subdivision.~~ Nothing contained in this subdivision shall preclude an employer employing unit covered by this chapter from employing a retired teacher as a substitute or part time teacher; provided, no teacher required to terminate employment by this subdivision shall resume membership in the retirement association by virtue of employment as a substitute or part time teacher; provided further that upon having earned ~~\$3,000~~ \$3,600 in any academic year from employment as a substitute or part time teacher, any person over the age of 65 70 years shall terminate employment for the remainder of that academic year.

Sec. 7. Minnesota Statutes 1978, Section 354.49, Subdivision 3, is amended to read:

Subd. 3. Any person who has attained the age of at least 65 with less than ten years of credited allowable service shall be entitled to receive a refund in an amount equal to his accumulated deductions plus interest in lieu of a proportionate annuity pursuant to section 356.32 except those covered under the provisions of section 354.44, subdivisions 6 or 7 in which case the refund shall be an amount equal to his accumulated deductions credited to his account as of June 30, 1957 and after July 1, 1957 his accumulated deductions plus interest at the rate of three and one-half percent compounded annually.

Sec. 8. Minnesota Statutes 1978, Section 354A.05, is amended to read:

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354A.05 **CONTRIBUTION BY TEACHERS; TAXATION.** The plan shall include a provision that only such teachers as make a contribution to the fund, as provided in the plan, shall be entitled to the benefits thereof, and may include a provision that a portion of the fund shall be raised by taxation upon the property of the city, it being understood that all teachers who are willing to comply with the terms and conditions of the articles of association and bylaws of the association shall be entitled to participate in the benefits of the fund.

~~In any city of the first class where no automatic or compulsory retirement plan affecting such teachers has been established, every teacher coming within the provisions of this act who shall have attained the age of 68 as of June 30 of any year, shall be automatically retired and severed from the service in the respective school system.~~

In any city of the first class, the plan, subject to the approval of the city council of such city, may provide that any member applying for an annuity shall be entitled to an annuity on the single life plan, or its actuarial equivalent under any optional method of retirement provided in the articles of the association, from city deposits at least equal to \$2 per month for each year of teaching service in such city. Such annuity payments shall not commence until the member has reached the age of 55 years, and has completed 20 years of teaching service in such city, or until the member has reached the age of 62 years if he has not completed 20 years of teaching service in such city. Where the aggregate of the city deposit to the credit of such member will not provide the minimum annuity prescribed, the city deposit shall be increased in the year of retirement to the amount necessary to provide such minimum annuity. Except as herein provided, the provisions for city deposits in such plan in any city of the first class shall not be altered by the provisions of this paragraph. City deposits as used herein is hereby defined as that portion of the fund to be raised by taxation upon the property of the city.

Nothing contained in this section shall preclude a district from employing a retired teacher as a substitute teacher.

Sec. 9. Minnesota Statutes 1978, Section 354A.21, is amended to read:

354A.21 **MANDATORY RETIREMENT; PROPORTIONATE ANNUITY.** Notwithstanding the provisions of sections 197.45 to 197.48 or 354A.05, a teacher subject to the provisions of this chapter shall terminate employment ~~on August 31, 1976, or~~ at the end of the academic year in which ~~such the~~ teacher reaches the age of 65 70; ~~whichever is later.~~ For purposes of this section, an academic year shall be deemed to end August 31. A teacher who terminates employment at any time during the academic year at the end of which such person is required to terminate employment pursuant to this section and who has less than the minimum required number of years of service to otherwise qualify for a retirement annuity shall be entitled upon application to a proportionate retirement annuity based on service prior to termination. Nothing contained in this subdivision shall preclude a district from employing a retired teacher as a substitute teacher; provided, no teacher required to terminate employment by this section shall resume membership in the retirement association by virtue of employment as a substitute teacher; provided further that upon having earned ~~\$3,000~~ \$3,600 in any academic year from employment as a substitute teacher, any person over the age of 65 70 years shall terminate employment for

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the remainder of that academic year.

Sec. 10. Minnesota Statutes 1978, Section 356.32, Subdivision 1, is amended to read:

356.32 PROPORTIONATE ANNUITY IN CERTAIN CASES. Subdivision 1. **PROPORTIONATE RETIREMENT ANNUITY.** Notwithstanding any provision to the contrary of the laws governing any of the retirement funds referred to in subdivision 2, any person who is employed in a position covered by any such fund, who has credit for at least three years but less than ten years of allowable service in such fund or a combination of such funds, and who is required to terminate service pursuant to a mandatory retirement statute, or who terminates service at age 65 or older for any reason shall be entitled upon application to a proportionate retirement annuity from each such fund in which he has allowable service credit, based upon his allowable service credit at the time of ~~mandatory~~ retirement; provided, however, that nothing in this section shall prevent the actuarial reduction of an annuity for which application is made prior to normal retirement age.

Sec. 11. Minnesota Statutes 1978, Section 423.076, is amended to read:

423.076 RETIREMENT; POLICE AND FIRE DEPARTMENTS. A compulsory retirement age of not less than 65 years may be established for persons on the payroll of a police or fire department which does not come within the provisions of section 423.075 ~~or 423.26~~ without being a violation of section 181.81 or section 363.02, subdivision 6.

Sec. 12. Minnesota Statutes 1978, Section 473.419, is amended to read:

473.419 MANDATORY RETIREMENT AGE. An employee of the transit operating division of the metropolitan transit commission and an employee on leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division shall terminate employment on the first day of the month next following the month in which the employee reaches the age of 65; ~~provided, however, that an employee of the transit operating division may be employed beyond the age of 65 at the option of the metropolitan transit commission; but shall not be employed beyond the first day of the month next following the month in which the employee reaches the age of 70.~~

Sec. 13. **EFFECTIVE DATE.** This act shall be effective the day following final enactment.

Approved April 23, 1979.

CHAPTER 41—H.F.No.330

An act relating to courts; eliminating erroneous and ambiguous references relating to

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