

veterans homes as provided for in section 198.265. The fund may also be utilized for the payment of costs for residents to participate in on campus work therapy programs.

Sec. 5. **REPEALER.**

Minnesota Statutes 1982, section 198.055, is repealed.

Approved May 17, 1983

CHAPTER 148 — S.F.No. 900

An act relating to retirement; teachers; definitions, coordination with social security benefits, and various administrative changes; amending Minnesota Statutes 1982, sections 354.05, subdivisions 2 and 35; 354.44, subdivision 5; 354.52, subdivision 4; and 354.63, subdivision 2; and Laws 1982, Third Special Session chapter 1, article 2, section 7.

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

Section 1. Minnesota Statutes 1982, section 354.05, subdivision 2, is amended to read:

Subd. 2. **TEACHER.** "Teacher" includes any person who renders service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state located outside of the corporate limits of the cities of the first class as those cities were so classified on January 1, 1979, or in the state universities, or in any charitable or state institution including penal and corrective institutions supported, in whole or in part, by public funds, or who is engaged in educational administration in connection with the state public school system, including the state university system and state community college system, but excluding the University of Minnesota, whether the position be a public office or an employment, not including members of any general governing or managing board or body connected with the systems, or the officers of common, independent, special, or associated school districts, or unorganized territory. The term shall also include an employee of the teachers retirement association unless the employee is covered by the Minnesota state retirement system by virtue of prior employment by the association, and any nurse, counselor, social worker, therapist or psychologist who renders service in the public schools as defined above or in state universities. The term shall also include any person who renders teaching service on a part time basis and who also renders other services for a school district. In such cases, the teachers retirement association shall have the authority to determine whether all or none of the combined employment shall be covered by the teachers retirement association. The term does not mean any person who works for a school or institution as an independent contractor. The

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term shall not include any person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal comprehensive training and employment act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution. The term shall not include any person holding a part time adult supplementary vocational-technical school license who renders part time teaching service in a vocational-technical school if (1) the service is incidental to the regular nonteaching occupation of the person; and (2) the applicable vocational-technical school stipulates annually in advance that the part time teaching service will not exceed 300 hours in a fiscal year; and (3) the part time teaching service actually does not exceed 300 hours in a fiscal year. The term also shall not include a person exempt from licensure pursuant to section 125.031 or any person who was excluded from membership prior to January 1, 1981 pursuant to Laws 1978, Chapter 556, Section 1 and Laws 1980, Chapter 342, Section 8, if the person annually certifies on a form prescribed by the executive director that the person has established and is contributing to an individual retirement account which is based on non-teaching employment.

Sec. 2. Minnesota Statutes 1982, section 354.05, subdivision 35, is amended to read:

Subd. 35. **SALARY.** "Salary" means the compensation paid to a teacher excluding lump sum annual or sick leave payments and all forms of severance payments. Severance payments includes, but is not limited to:

(a) payments to an employee to terminate employment;

(b) payments, or that portion of payments, that are not clearly for performance of services to the employer; and

(c) payments to an administrator or former administrator serving as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment within two years or less for compensation that is significantly different than the most recent contract salary.

Sec. 3. Minnesota Statutes 1982, section 354.44, subdivision 5, is amended to read:

Subd. 5. **RESUMPTION OF TEACHING.** Any person who retired under any provision of any retirement law applicable to schools and institutions

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covered by the provisions of this chapter and has thereafter resumed teaching in any school or institution to which this chapter applies shall continue to receive payments in accordance with the annuity except that during any ~~quarter~~ year in which the person's income from the teaching service is in an amount equal to or greater than the ~~quarterly~~ annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of 42 U.S.C., Section 403. In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the ~~quarterly~~ annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable re-employment income maximum specified in this subdivision shall be deducted from the annuity payable for the ~~quarter~~ the year immediately following the ~~quarter~~ year in which the excess amount was earned. After a person has reached the age of ~~72~~ 70, the person shall receive the annuity in full regardless of the amount of income.

Sec. 4. Minnesota Statutes 1982, section 354.52, subdivision 4, is amended to read:

Subd. 4. At least once each month, the chief administrative officer of each employing school district or managing body of schools and institutions to which the provisions of this chapter apply shall transmit all amounts due and furnish a signed statement indicating the amount due and transmitted, and shall transmit a statement containing such other information as the executive director shall require. Signing the statement shall have the force and effect of an oath as to the correctness of the amount due and transmitted. Any amount thus due and not transmitted shall accrue interest at the rate of six percent compounded annually commencing ~~30~~ 15 days after the date first due until the amount is transmitted and shall be paid by the employing school district or other managing body. The state treasurer shall credit all money received or withheld pursuant to the provisions of this chapter to the fund and the reports and date received by the state treasurer from each reporting agency shall be available for the board. Any person wilfully failing to perform any of the duties imposed upon him by this section shall be guilty of a misdemeanor.

Sec. 5. Minnesota Statutes 1982, section 354.63, subdivision 2, is amended to read:

Subd. 2. **VALUATION OF ASSETS; ADJUSTMENT OF BENEFITS.** (1) Effective July 1, 1973 for those members retiring pursuant to this chapter, the required reserves as determined in accordance with these sections shall be transferred to the Minnesota post-retirement investment fund as of the date of retirement. An appropriate annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1, will be used to determine the amount to be transferred.

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(2) Annuity payments shall be adjusted in accordance with the provisions of section 11A.18. For the purpose of making these adjustments, members who retire effective July 1 shall be considered to have retired effective the preceding June 30. This section is applicable for persons who retired effective July 1, 1982 or later.

(3) Notwithstanding section 356.18, increases in annuity payments pursuant to this section will be made automatically unless written notice is filed by the annuitant with the teachers retirement association board requesting that the increase shall not be made.

Sec. 6. Laws 1982, Third Special Session chapter 1, article 2, section 7, is amended to read:

[356.62] PAYMENT OF EMPLOYEE CONTRIBUTION.

For purposes of any public pension plan, as defined in section ~~356.60~~, subdivision 4, clause ~~(a)~~ 356.61, each employer shall pick up the employee contributions required pursuant to law or the pension plan for all salary payable after December 31, 1982. If the United States Treasury department or a federal court rules that pursuant to section 414(h) of the Internal Revenue Code of 1954, as amended, that these picked up contributions, are not includable in the employee's adjusted gross income until they are distributed or made available, then these picked up contributions shall be treated as employer contributions in determining tax treatment pursuant to the Internal Revenue Code of 1954, as amended, and the employer shall discontinue withholding federal income taxes on the amount of these contributions. The employer shall pay these picked up contributions from the same source of funds as is used to pay the salary of the employee. The employer shall pick up these employee contributions by a reduction in the cash salary of the employee.

Employee contributions that are picked up shall be treated for all purposes of the public pension plan in the same manner and to the same extent as employee contributions that were made prior to the date on which the employee contributions pick up began. The amount of the employee contributions that are picked up shall be included in the salary upon which retirement coverage is credited and retirement and survivor's benefits are determined. For purposes of this section, "employee" means any person covered by a public pension plan. For purposes of this section, "employee contributions" include any sums deducted from the employee's salary or wages or otherwise paid in lieu thereof, regardless of whether they are denominated contributions by the public pension plan.

For any calendar year in which withholding has been reduced pursuant to this section, the association or agency administering the plan employing unit shall supply each employee and the commissioner of revenue with an information return indicating the amount of the employer's picked-up contributions for the

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calendar year that were not subject to withholding. This return shall be provided to the employee not later than January 31 of the succeeding calendar year. The commissioner of revenue shall prescribe the form of the return and the provisions of sections 290.41 and 290.42 shall apply to the extent not inconsistent with the provisions of this section.

Sec. 7. EFFECTIVE DATE.

Sections 1, 3, 4, and 5 are effective July 1, 1983. Section 2 is effective the day following final enactment.

Approved May 17, 1983

CHAPTER 149 — H.F.No. 171

An act relating to public cemeteries; providing for simplified reinvestment in the cemetery association of certain unused cemetery land; amending Minnesota Statutes 1982, section 306.241; proposing new law coded in Minnesota Statutes, chapter 306.

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

Section 1. Minnesota Statutes 1982, section 306.241, is amended to read:

306.241 DEPOSIT OF NET PROCEEDS FROM LOT RESALES.

All of the proceeds from the subsequent resale of any lots or parcels the title to which has been revested in the corporation pursuant to sections 306.21 to 306.24, or section 2, less the costs and expenses incurred in such proceedings approved by the district court, shall become a part of the permanent care and improvement fund of the corporation.

Sec. 2. [306.242] TITLE TO BURIAL LOTS REGAINED BY ASSOCIATION AFTER 60 YEARS.

Subdivision 1. SCOPE. As an alternative to the procedure in sections 306.21 to 306.241, a cemetery association incorporated in Minnesota may use the procedures in this section to reinvest itself with the title to a portion of a cemetery which was conveyed by deed to a person but which has not been used for the purposes of burial for more than 60 years.

Subd. 2. REQUIRED STATEMENT OF OWNER'S INTEREST. The governing board of a cemetery association may pass a resolution demanding that the owner of a portion of a cemetery which has been unused for more than 60 years express an interest in the cemetery plot. The board must then personally serve a copy of its resolution on the owner in the same manner as personal service of process in a civil action. The resolution must notify the owner that the owner

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