

CHAPTER 307—H.F.No. 574

An act relating to retirement; administrative changes; age discrimination act compliance, death-while-active surviving spouse benefit improvements by the Minnesota state retirement system, the public employees retirement association, and teachers retirement association; providing an open appropriation for payment of state reimbursement for supplemental retirement benefits paid to volunteer firefighters; making changes to Minneapolis employees retirement fund; amending Minnesota Statutes 1992, sections 3A.02, subdivision 1, and by adding a subdivision; 352.01, subdivisions 2a, 2b, and by adding a subdivision; 352.03, subdivisions 4, 4a, and 6; 352.04, subdivisions 6 and 9; 352.113, subdivisions 2, 4, and 7; 352.115, subdivision 8; 352.12, subdivisions 1, 2, 3, 4, 7, 10, and 13; 352.15, subdivision 1a, and by adding subdivisions; 352.22, subdivisions 1 and 2; 352.23; 352.85, subdivision 4; 352.93, subdivision 2a; 352.94; 352.95, subdivisions 1, 2, 3, and 5; 352.951; 352.96, subdivisions 3 and 4; 352B.01, subdivisions 3 and 11; 352B.08, subdivisions 1 and 2a; 352B.10, subdivisions 1, 2, and 5; 352B.101; 352B.105; 352B.11, subdivision 2; 352C.01; 352C.021; 352C.031; 352C.033; 352C.04; 352C.051; 352C.09; 352D.015, subdivision 4; 352D.02, subdivision 3, and by adding a subdivision; 352D.04, subdivision 1; 352D.05, subdivisions 1, 3, and 4; 352D.09, subdivision 5, and by adding subdivisions; 353.01, subdivisions 2, 2a, 2b, 6, 7, 10, 11a, 12, 16, 28, 31, 32, and by adding subdivisions; 353.017; 353.27, subdivision 7; 353.29, subdivision 1; 353.32, subdivision 1a; 353.33, subdivisions 1, 2, 3, 4, 6, 8, 11, and by adding a subdivision; 353.34, subdivisions 1 and 3; 353.35; 353.37; 353.64, subdivisions 1, 5a, and by adding a subdivision; 353.656, subdivisions 1, 1a, 3, 5, and by adding subdivisions; 353A.08, subdivisions 1, 3, and 5; 353A.10, subdivision 4; 353B.11, subdivision 6; 353C.08, subdivisions 1 and 2; 353D.02; 353D.04; 353D.05, subdivision 3; 353D.07, subdivision 2; 354.35; 354.46, subdivisions 1 and 2; 354.48, subdivisions 3 and 10; 356.302, subdivisions 4 and 6; 356.453; 356.61; 422A.05, subdivisions 1 and 2a; 422A.08, subdivision 5, and by adding a subdivision; 422A.101, subdivision 1; 424A.10, subdivision 3; and 490.124, subdivisions 1 and 4; proposing coding for new law in Minnesota Statutes, chapter 3A; repealing Minnesota Statutes 1992, sections 3A.06; 352.01, subdivision 7; 352.12, subdivision 5; 352.22, subdivision 9; 352.73; 352B.01, subdivision 2a; 352B.131; 352B.14; 352B.261; 352B.262; 352B.28; 352D.05, subdivision 5; and 353.656, subdivision 6.

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

ARTICLE 1

MINNESOTA STATE RETIREMENT SYSTEM

ADMINISTRATIVE LAW CHANGES

Section 1. Minnesota Statutes 1992, section 3A.02, subdivision 1, is amended to read:

Subdivision 1. **QUALIFICATIONS.** (a) A former legislator is entitled, upon written application to the director, to receive a retirement allowance monthly, if the person:

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(1) has served at least six full years, without regard to the application of section 3A.10, subdivision 2, or has served during all or part of four regular sessions as a member of the legislature, which service need not be continuous;

(2) has attained the normal retirement age;

(3) has retired as a member of the legislature; and

(4) has made all contributions provided for in section 3A.03, has made payments for past service under subdivision 2, or has made payments in lieu of contributions under section 3A.031.

(b) For service rendered before the beginning of the 1979 legislative session, but not to exceed eight years of service, the retirement allowance is an amount equal to five percent per year of service of that member's average monthly salary. For service in excess of eight years rendered before the beginning of the 1979 legislative session, and for service rendered after the beginning of the 1979 legislative session, the retirement allowance is an amount equal to 2-1/2 percent per year of service of that member's average monthly salary.

(c) The retirement allowance accrues beginning with the first day of the month of receipt of the application, but not before age 60, and for the remainder of the former legislator's life, if the former legislator is not serving as a member of the legislature or as a constitutional officer or commissioner as defined in section 352C.021, subdivisions 2 and 3. The annuity shall not begin to accrue prior to retirement as a legislator. No annuity payment shall be made retroactive for more than 180 days before the date annuity application is filed with the director.

(d) Any member who has served during all or part of four regular sessions is considered to have served eight years as a member of the legislature.

(e) The retirement allowance ceases with the last payment that accrued to the retired legislator during the retired legislator's lifetime, except that the surviving spouse, if any, is entitled to the retirement allowance for the calendar month in which the retired legislator died.

Sec. 2. [3A.13] EXEMPTION FROM PROCESS AND TAXATION.

The provisions of Minnesota Statutes, section 352.15 shall apply to the legislators retirement plan, chapter 3A.

Sec. 3. Minnesota Statutes 1992, section 352.01, subdivision 2a, is amended to read:

Subd. 2a. **INCLUDED EMPLOYEES.** (a) "State employee" includes:

(1) employees of the Minnesota historical society;

(2) employees of the state horticultural society;

(3) employees of the Disabled American Veterans, Department of Minne-

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(4) employees of the Minnesota crop improvement association;
(5) employees of the adjutant general who are paid from federal funds and
who are not covered by any federal civilian employees retirement system;
(6) employees of the state universities employed under the university activi-
ties program;

(7) currently contributing employees covered by the system who are tempo-
rarily employed by the legislature during a legislative session or any currently
contributing employee employed for any special service as defined in clause (8)
of subdivision 2b;

(8) employees of the armory building commission;

(9) permanent employees of the legislature and persons employed or desig-
nated by the legislature or by a legislative committee or commission or other
competent authority to conduct a special inquiry, investigation, examination, or
installation;

(10) trainees who are employed on a full-time established training program
performing the duties of the classified position for which they will be eligible to
receive immediate appointment at the completion of the training period;

(11) employees of the Minnesota safety council;

(12) employees of the transit operating division of the metropolitan transit
commission and any employees on authorized leave of absence from the transit
operating division who are employed by the labor or organization which is the
exclusive bargaining agent representing employees of the transit operating divi-
sion;

(13) employees of the metropolitan council, metropolitan parks and open
space commission, regional transit board, metropolitan transit commission, met-
ropolitan waste control commission, metropolitan sports facilities commission,
or the metropolitan transit board, metropolitan transit commission, met-
ropolitan waste control commission, metropolitan sports facilities commission, or
another public pension fund or plan under section 473.141, subdivision 12, or
473.415, subdivision 3; and

(14) judges of the tax court; and

(15) personnel employed on June 30, 1992, by the University of Minnesota
in the management, operation, or maintenance of its hearing plant facilities,
whose employment transfers to an employer assuming operation of the hearing
plant facilities, so long as the person is employed at the University of Minnesota
hearing plant by that employer or by its successor organization.

(b) Employees specified in paragraph (a), clause (15), are included employees under paragraph (a) providing that employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

Sec. 4. Minnesota Statutes 1992, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** "State employee" does not include:

- (1) elective state officers;
- (2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;
- (3) employees who are eligible for membership in the state teachers retirement association except employees of the department of education who have chosen or may choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;
- (4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;
- (5) officers and enlisted personnel in the national guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;
- (6) election officers;
- (7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;
- (8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;
- (9) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the department of labor and industry;
- (10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;
- (11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

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(12) employees of the Sibley House Association;

(13) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is ~~\$\$500~~ \$5,000 or less per year, or, if they are legally prohibited from serving more than ~~two consecutive terms and their total service is required by law to be less than ten~~ three years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;

(14) state troopers;

(15) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons employed at any time by the state fair administration for special events held on the fairgrounds;

(16) emergency employees in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

(17) persons described in section 352B.01, subdivision 2, clauses (2) to (5);

(18) temporary employees in the classified service, temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and seasonal help in the classified service employed by the department of revenue;

(19) trainee employees, except those listed in subdivision 2a, clause (10);

(20) persons whose compensation is paid on a fee basis;

(21) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(22) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(23) chaplains and nuns who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(24) examination monitors employed by departments, agencies, commissions, and boards to conduct examinations required by law;

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(25) members of appeal tribunals, exclusive of the chair, to which reference is made in section 268.10, subdivision 4;

(26) persons appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(27) temporary employees employed for limited periods under any state or federal program for training or rehabilitation including persons employed for limited periods from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(28) full-time students employed by the Minnesota historical society intermittently during part of the year and full-time during the summer months;

(29) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, if the board members are appointed by the metropolitan council;

(30) persons employed in positions designated by the department of employee relations as student workers;

~~(31) any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employment, unless the employee gives notice to the director within 60 days after appointment that coverage is desired;~~

~~(32) members of trades employed by the metropolitan waste control commission with trade union pension plan coverage under a collective bargaining agreement first employed after June 1, 1977;~~

~~(33)~~ (32) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act 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 system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the 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 Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution;

~~(34)~~ (33) off-duty peace officers while employed by the metropolitan transit commission under section 629.40, subdivision 5, or comparable statutory authority; ~~and~~

~~(35)~~ (34) persons who are employed as full-time police officers by the metropolitan transit commission and as police officers are members of the public employees police and fire fund;

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(35) persons who are employed as full-time firefighters by the department of military affairs and as firefighters are members of the public employees police and fire fund; and

(36) foreign citizens with a work permit of less than three years, or an H-1b/JV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date the extension is granted, in which case they are eligible for coverage from the date extended.

Sec. 5. Minnesota Statutes 1992, section 352.03, subdivision 6, is amended to read:

Subd. 6. **DUTIES AND POWERS OF EXECUTIVE DIRECTOR.** The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director with the approval of the board;
- (5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;
- (6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;
- (7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. The contracts are not subject to competitive bidding under chapter 16B. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of

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the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission and to the legislative auditor at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;

(8) with the advice and consent of the board provide in-service training for the employees of the system;

(9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;

(10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board request the state board of investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and ~~quarterly~~ annual budgets to the board and with the approval of the board submit the budgets to the department of finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

Sec. 6. Minnesota Statutes 1992, section 352.04, subdivision 6, is amended to read:

Subd. 6. **QUASI-STATE AGENCIES; EMPLOYER CONTRIBUTIONS.** For those of their employees who are covered by the system, the state horticultural society, the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, the Minnesota crop improvement association, the Minnesota historical society, the armory building commission, the Minnesota safety council, the Metropolitan council and any of its statutory boards, the employer of persons described in section 352.01, subdi-

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vision 2a, paragraph (a), clause (15), and any other agency employing employees covered by this system, respectively, shall also pay into the retirement fund the amount required by subdivision 3.

Sec. 7. Minnesota Statutes 1992, section 352.04, subdivision 9, is amended to read:

Subd. 9. **ERRONEOUS DEDUCTIONS, CANCELED WARRANTS.** (a) Deductions taken from the salary of an employee for the retirement fund in error must, upon discovery and verification by the department making the deduction, be refunded to the employee.

(b) If a deduction for the retirement fund is taken from a salary warrant or check, and the check is canceled or the amount of the warrant or check returned to the funds of the department making the payment, the sum deducted, or the part of it required to adjust the deductions, must be refunded to the department or institution if the department applies for the refund on a form furnished by the director. The department's payments must likewise be refunded to the department.

(c) Employee deductions and employer contributions taken in error may be directly transferred, without interest, to another Minnesota public employee retirement fund listed in section 356.30, subdivision 3, by which the employee is actually covered.

Sec. 8. Minnesota Statutes 1992, section 352.113, subdivision 2, is amended to read:

Subd. 2. **APPLICATION; ACCRUAL OF BENEFITS.** An employee making claim for a total and permanent disability benefit, or someone acting on behalf of the employee upon proof of authority satisfactory to the director, shall file a written application for benefits in the office of the system. The application must be in a form and manner prescribed by the executive director. The benefit shall begin to accrue the day following the start of disability or the day following the last day paid, whichever is later, but not earlier than ~~60~~ 180 days before the date the application is filed with the director.

Sec. 9. Minnesota Statutes 1992, section 352.113, subdivision 4, is amended to read:

Subd. 4. **MEDICAL EXAMINATIONS; AUTHORIZATION FOR PAYMENT OF BENEFIT.** An applicant shall provide medical evidence to support an application for total and permanent disability. The director shall have the employee examined by at least one additional licensed physician designated by the medical adviser. The physicians shall make written reports to the director concerning the employee's disability including medical opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17. The director shall also obtain written certification from the employer stating whether the employment has ceased or whether the

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employee is on sick leave of absence because of a disability that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer. The medical adviser shall consider the reports of the physicians and any other evidence supplied by the employee or other interested parties. If the medical adviser finds the employee totally and permanently disabled, the adviser shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled. The director shall then determine if the disability occurred within 180 days of filing the application, while still in the employment of the state, and the propriety of authorizing payment of a disability benefit as provided in this section. A terminated employee may apply for a disability benefit within 180 days of termination as long as the disability occurred while in the employment of the state. The employee must be on approved leave of absence from the employer to be eligible to apply for a total and permanent disability benefit, but the fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit. Unless payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached normal retirement age as provided in this section, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving; in that event the surviving spouse is entitled to the disability benefit for the calendar month in which the disabled employee died.

Sec. 10. Minnesota Statutes 1992, section 352.113, subdivision 7, is amended to read:

Subd. 7. **PARTIAL REEMPLOYMENT.** If the disabled employee resumes a gainful occupation from which earnings are less than the employee's salary at the date of disability or the salary currently paid for similar positions, the director shall continue the disability benefit in an amount which when added to earnings does not exceed the salary at the date of disability ~~or the salary currently paid for similar positions, whichever is lower,~~ provided the disability benefit in this case does not exceed the disability benefit originally allowed. Deductions for the retirement fund must not be taken from the salary of a disabled employee who is receiving a disability benefit as provided in this subdivision.

Sec. 11. Minnesota Statutes 1992, section 352.115, subdivision 8, is amended to read:

Subd. 8. **ACCRUAL OF ANNUITY.** State employees shall apply for an annuity. The application must not be made more than ~~60~~ 90 days before the time the employee is eligible to retire by reason of both age and service requirements. If the director determines an applicant for annuity has fulfilled the legal requirements for an annuity, the director shall authorize the annuity payment in accordance with this chapter and payment must be made as authorized. An annuity shall begin to accrue no earlier than ~~60~~ 180 days before the date the application is filed with the director, but not before the day following the termi-

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nation of state service or before the day the employee is eligible to retire by reason of both age and service requirements. The retirement annuity shall cease with the last payment which had accrued during the lifetime of the retired employee unless an optional annuity provided in section 352.116, subdivision 3, had been selected and had become payable. The joint and last survivor annuity shall cease with the last payment received by the survivor during the lifetime of the survivor. If a retired employee had not selected an optional annuity, or a survivor annuity is not payable under the option, and a spouse survives, the spouse is entitled only to the annuity for the calendar month in which the retired employee died. If an optional annuity is payable after the death of the retired employee, the survivor is entitled to the annuity for the calendar month in which the retired employee died.

Sec. 12. Minnesota Statutes 1992, section 352.12, subdivision 1, is amended to read:

Subdivision 1. **DEATH BEFORE TERMINATION OF SERVICE.** If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest at the rate of six percent per annum compounded annually. Interest must be computed to the first day of the month in which the refund is processed and based on fiscal year balances. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of repayment. If the repayment was made in installments, interest must be paid only from the date installment payments began. The designated beneficiary, surviving spouse, or representative of the estate of an employee who had received a disability benefit is not entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death, unless death occurred before any payment could be negotiated.

Sec. 13. Minnesota Statutes 1992, section 352.12, subdivision 3, is amended to read:

Subd. 3. **REFUND OF ~~\$1,500~~ \$3,000 OR LESS.** If a state employee or former state employee dies without having designated a beneficiary, or if the beneficiary should die before applying for refund of the sum to the credit of the deceased employee or former employee, and there is no surviving spouse, and the amount of the refund does not exceed ~~\$1,500~~ \$3,000 exclusive of interest, the director may refund the amount to the deceased or former employee's next of kin. The amount may be refunded 90 days after the date of death of the employee or former employee in the absence of probate proceedings, and upon proper application. The next of kin must be determined by the director with the

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concurrence of the board, to be entitled to the refund consistent with the laws of descent. A determination and payment without notice are conclusive and final and are a bar against claims of all other persons.

Sec. 14. Minnesota Statutes 1992, section 352.12, subdivision 4, is amended to read:

Subd. 4. **REFUND TO MINOR BENEFICIARY.** If an employee or former employee dies having named as a beneficiary a person who is a minor at the time of the application for refund, and the amount of the refund does not exceed ~~\$1,500~~ \$3,000, exclusive of interest, the director in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of the minor beneficiary, for the benefit of the child. Any annuity, retirement allowance, or disability benefit accrued at the time of death of a disabled or retired employee, payable to a minor beneficiary, may similarly be paid. Payment is a bar to recovery by any other person or persons.

Sec. 15. Minnesota Statutes 1992, section 352.12, subdivision 7, is amended to read:

Subd. 7. **ABSENCE OF OPTIONAL OR REVERSIONARY ANNUITY.** Upon the death of a retired employee who selected neither an optional annuity or a reversionary annuity, a refund must be paid in an amount equal to the excess, if any, of the accumulated contributions to the credit of the retired employee immediately before retirement in excess of the sum of (1) all annuities, retirement allowances, and disability benefits that had been received and had accrued in the lifetime of the decedent, and (2) the annuity, retirement allowance, or disability benefit if applicable not negotiated, payable to the surviving spouse under section 352.115, subdivision 8, or 352.113, subdivision 4, for the calendar month in which the retired employee died. The refund must be paid to the named beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate.

Sec. 16. Minnesota Statutes 1992, section 352.12, subdivision 10, is amended to read:

Subd. 10. **DEATH OF BENEFICIARY BEFORE REFUND.** If the last designated beneficiary or beneficiaries and the surviving spouse of a (1) deceased employee, (2) former employee, or (3) retired employee, dies before receiving a refund of the sum to the credit of the deceased employee, former employee, or retired employee at the time of death, the refund must be made to the estate of the deceased employee or as provided in subdivision 3 if the amount of the refund does not exceed ~~\$1,500~~ \$3,000 exclusive of interest.

Sec. 17. Minnesota Statutes 1992, section 352.12, subdivision 13, is amended to read:

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Subd. 13. **REFUND, BENEFICIARY.** If upon death a former employee has in possession a commissioner of finance's warrant which does not exceed ~~\$500~~ \$1,000 covering a refund of accumulated contributions in the retirement fund, in the absence of probate proceedings the commissioner of finance's warrant may be returned for cancellation, and then upon application made by the last designated beneficiary of the deceased former employee, refund of the accumulated contributions must be paid to the last designated beneficiary. Payments made under this subdivision are a bar to recovery by any other person or persons.

Sec. 18. Minnesota Statutes 1992, section 352.15, subdivision 1a, is amended to read:

Subd. 1a. **AUTOMATIC DEPOSITS.** The executive director may pay an annuity, benefit, or refund to a banking institution, qualified under chapter 48, that is trustee for a person eligible to receive the annuity, benefit, or refund. Upon the request of a retired, disabled, or former employee, the executive director may mail the annuity, benefit, or refund check to a banking institution, savings association, or credit union for deposit to the employee's account or joint account ~~with a spouse~~. The board of directors may prescribe the conditions under which payments will be made.

Sec. 19. Minnesota Statutes 1992, section 352.85, subdivision 4, is amended to read:

Subd. 4. **ELECTION OF COVERAGE.** To be covered by ~~Laws 1980, chapter 607~~ section 352.85, any employee of the department of military affairs, described in subdivision 1, ~~who is employed on July 1, 1980, or is first employed after July 1, 1980;~~ must file a notice with the executive director of the system on a form prescribed by the executive director stating whether or not the employee elects to be covered. Notice must be filed ~~by August 1, 1980, or within 30 90~~ days of employment, whichever is later. Elections are irrevocable during any period of covered employment.

Sec. 20. Minnesota Statutes 1992, section 352.93, subdivision 2a, is amended to read:

Subd. 2a. **EARLY RETIREMENT.** Any covered correctional employee, or former employee if service ended after June 30, 1989, who becomes at least 50 years old and who has at least three years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

Sec. 21. Minnesota Statutes 1992, section 352.94, is amended to read:

352.94 AUGMENTATION FOR EMPLOYEES WITH REGULAR GENERAL AND CORRECTIONAL SERVICE.

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~~Subdivision 1. CHANGE FROM REGULAR TO CORRECTIONAL SERVICE.~~ An employee who becomes a covered by the correctional employee plan after serving as a regular general plan covered employee, or becomes covered by the general plan after serving as a correctional plan covered employee, is covered under section 352.72, subdivision 2, with respect to the regular service.

~~Subd. 2. CHANGE FROM CORRECTIONAL TO REGULAR SERVICE.~~ An employee who becomes a regular employee after serving as a correctional employee is not covered under section 352.72, subdivision 2, with respect to correctional service.

Sec. 22. Minnesota Statutes 1992, section 352.95, subdivision 3, is amended to read:

Subd. 3. **APPLYING FOR BENEFITS; ACCRUAL.** No application for disability benefits shall be made until after the last day physically on the job. The disability benefit shall begin to accrue the day following the last day for which the employee is paid sick leave or annual leave but not earlier than 60 180 days before the date the application is filed.

Sec. 23. Minnesota Statutes 1992, section 352.951, is amended to read:

352.951 APPLICABILITY OF GENERAL LAW.

Except as otherwise provided, this chapter applies to covered correctional employees, military affairs personnel covered under section 352.85, and transportation department pilots covered under section 352.86.

Sec. 24. Minnesota Statutes 1992, section 352B.08, subdivision 1, is amended to read:

Subdivision 1. **WHO IS ELIGIBLE; WHEN TO APPLY; ACCRUAL.** Every member who is credited with three or more years of allowable service is entitled to separate from state service and upon becoming ~~55~~ 50 years old, is entitled to receive a life annuity, upon separation from state service. Members shall apply for an annuity in a form and manner prescribed by the executive director. No application may be made more than ~~60~~ 90 days before the date the member is eligible to retire by reason of both age and service requirements. An annuity begins to accrue no earlier than ~~90~~ 180 days before the date the application is filed with the executive director.

Sec. 25. Minnesota Statutes 1992, section 352B.08, subdivision 2a, is amended to read:

Subd. 2a. **EARLY RETIREMENT.** Any member who has become at least 50 years old, or former member if service ended after June 30, 1989, and who has at least three years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the member deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 26. Minnesota Statutes 1992, section 352B.101, is amended to read:

352B.101 APPLICATION FOR DISABILITY BENEFIT.

A member claiming a disability benefit must file a written application for benefits in the office of the system in a form and manner prescribed by the executive director. The member shall provide medical evidence to support the application. The benefit begins to accrue the day following the start of disability or the day following the last day for which the member was paid, whichever is later, but not earlier than ~~90~~ 180 days before the date the application is filed with the executive director.

Sec. 27. Minnesota Statutes 1992, section 352C.01, is amended to read:

352C.01 LEGISLATIVE FINDING AND INTENT.

The legislature finds that service to Minnesota in the capacity of a constitutional officer ~~or commissioner~~ as defined in section 352C.021 constitutes a unique contribution to the state and that such service is dissimilar to any other public employment. The legislature further finds that service as a constitutional officer ~~or commissioner~~ for a period of eight years or longer deprives the individual so serving of normal opportunities to establish retirement benefits in a usual vocational pursuit and justifies adoption of special retirement provisions. The provisions of this chapter are intended by the legislature to reflect the unique nature of service as a constitutional officer ~~or commissioner~~ and to have due regard for the unusual disruption of normal retirement planning that such service entails.

Sec. 28. Minnesota Statutes 1992, section 352C.021, is amended to read:

352C.021 DEFINITIONS.

Subdivision 1. **TERMS.** For purposes of this chapter, the following terms shall have the meanings given to them unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. **CONSTITUTIONAL OFFICER.** "Constitutional officer" means a person who was duly elected and qualified and is serving as governor, lieutenant governor, attorney general, secretary of state, state auditor or state treasurer of the state of Minnesota.

Subd. 3. **COMMISSIONER.** "~~Commissioner~~" means ~~a person who was duly elected and qualified and is serving as an elected member of the public utilities commission of the state of Minnesota.~~

Subd. ~~4.~~ **FORMER CONSTITUTIONAL OFFICER ~~OR COMMISSIONER~~.** "~~Former constitutional officer or commissioner~~" means a person who has ceased to be a constitutional officer ~~or commissioner~~ ~~subsequent to April 21, 1976~~ for any reason, including but not limited to the expiration of the term of office for which the person was elected, retirement or death.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. ~~5~~ 4. **SURVIVING SPOUSE.** "Surviving spouse" means the unmarried spouse of a deceased constitutional officer ~~or commissioner~~ or former constitutional officer ~~or commissioner~~.

Subd. ~~6~~ 5. **DEPENDENT CHILD.** "Dependent child" means any natural or adopted child of a deceased constitutional officer ~~or commissioner~~ or a deceased former constitutional officer ~~or commissioner~~ who is under the age of 18, or who is under the age of 22 and is a full-time student, and who in either case is unmarried and was actually dependent for more than one-half of the child's support upon the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ for a period of least 90 days immediately prior to the death of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~. The term shall also include a posthumous child of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~.

Subd. ~~7~~ 6. **ALLOWABLE SERVICE.** "Allowable service" means any years or months of service as a constitutional officer ~~or as a commissioner~~, for which service if the person made the contributions required by section 352C.09 on a current basis. The service need not be continuous. For any constitutional officer ~~or commissioner~~ or former constitutional officer ~~or commissioner~~ in office on or before July 1, 1967, allowable service shall include any service as a constitutional officer ~~or commissioner~~ prior to July 1, 1967, notwithstanding that the person did not make concurrent contributions as required by section 352C.09.

Subd. ~~8~~ 7. **DIRECTOR.** "Director" means the executive director of the Minnesota state retirement system.

Sec. 29. Minnesota Statutes 1992, section 352C.031, is amended to read:

352C.031 RETIREMENT ALLOWANCE.

Subdivision 1. **UNREDUCED RETIREMENT ALLOWANCE.** Upon separation from service, a former constitutional officer ~~or commissioner~~ who has attained the age of at least 62 years and who has at least eight years of allowable service is entitled upon making written application on forms supplied by the director to a normal retirement allowance.

Subd. 2. **REDUCED RETIREMENT ALLOWANCE.** Upon separation from service, a former constitutional officer ~~or commissioner~~ who has attained the age of at least 60 years and who has at least eight years of allowable service is entitled upon making written application on forms supplied by the director to a retirement allowance in an amount equal to a normal retirement allowance reduced by one-half of one percent for each month that the former constitutional officer ~~or commissioner~~ is under age 62.

Subd. 3. **AVERAGE SALARY.** Average salary for purposes of calculating the normal retirement allowance pursuant to subdivision 4 shall mean the average of the highest five successive years of salary upon which contributions have been made pursuant to section 352C.09.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **RETIREMENT ALLOWANCE FORMULA.** The average salary multiplied by 2-1/2 percent for each year of allowable service and pro rata for completed months less than a full year shall determine the amount of the normal retirement allowance.

Subd. 5. **BENEFIT ACCRUAL AND TERMINATION.** The benefit shall begin to accrue the first day of the month in which the application is received by the director but in no event earlier than the day following the termination of service or the attainment of the age required to receive such benefit, whichever is later. Thereafter, benefits shall be paid on the first day of each calendar month for that month. The benefit shall cease with the payment for the month in which the retired constitutional officer ~~or commissioner~~ died.

Subd. 6. **PAYMENT OF RETIREMENT ALLOWANCES.** Retirement allowances payable pursuant to this section shall be paid monthly by the executive director of the Minnesota state retirement system.

Sec. 30. Minnesota Statutes 1992, section 352C.033, is amended to read:

352C.033 DEFERRED ANNUITIES AUGMENTATION.

The deferred retirement allowance for any former constitutional officer ~~or commissioner~~ shall be augmented as provided in this section. The required reserves applicable to the deferred retirement allowance, determined as of the date the retirement allowance begins to accrue using the appropriate mortality table and an interest assumption of five percent, shall be augmented from the first of the month following termination of service as a constitutional officer ~~or commissioner~~, or January 1, 1979, whichever is later, to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum compounded annually until January 1 of the year in which the former constitutional officer ~~or commissioner~~ attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually.

Sec. 31. Minnesota Statutes 1992, section 352C.04, is amended to read:

352C.04 SPOUSE'S AND DEPENDENT CHILDREN'S SURVIVOR BENEFITS.

Subdivision 1. **SURVIVING SPOUSE BENEFIT.** Upon the death of a constitutional officer ~~or commissioner~~ while actively serving in office, or a former constitutional officer ~~or commissioner~~ with at least eight years of allowable service, the surviving spouse is entitled to a survivor benefit in the amount of one-half of the retirement allowance of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ computed as though the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater. The augmentation

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provided in section 352C.033, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer ~~or commissioner~~ receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the retirement allowance being paid to the former constitutional officer ~~or commissioner~~ as of the date of death. The benefit shall be paid to a surviving spouse eligible therefor during the remainder of the spouse's natural life.

Subd. 2a. **SURVIVING DEPENDENT CHILD BENEFIT.** Upon the death of a constitutional officer ~~or commissioner~~ while serving in office, or a former constitutional officer ~~or commissioner~~ with at least eight years of allowable service, each dependent child shall be paid a survivor benefit in the following amount: First dependent child, a monthly benefit which equals 25 percent of the monthly retirement allowance ~~of the constitutional officer or commissioner~~ computed as though the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater; for each additional dependent child or a monthly benefit which equals 12-1/2 percent of the monthly retirement allowance ~~of the constitutional officer or commissioner or the former constitutional officer or commissioner~~ computed as in the case of the first child; but the total amount paid to the surviving spouse and dependent children shall not exceed in any one month 100 percent of the monthly allowance of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~ computed as in the case of the first child. The augmentation provided in subdivision 1, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer ~~or commissioner~~ receiving a retirement allowance, the surviving dependent child shall be entitled to the applicable percentage of the amount of the retirement allowance being paid ~~to the former constitutional officer or commissioner~~ as of the date of death. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent child, if there is one. A posthumous child qualifies as a dependent child for benefits provided herein from the date of its birth.

Subd. 3. **PAYMENT INTERVAL.** Spouse's and dependent children's survivor benefits, payable under this section, shall be paid monthly by the executive director of the Minnesota state retirement system.

Subd. 4. **APPLICATION FOR SURVIVOR BENEFITS.** A surviving spouse or a guardian of the estate of the dependent child or children entitled to the payment of benefits under this section shall file an application for the benefit with the director, and payment shall commence as of the first day of the month next following the filing of the application and shall be retroactive to the first of the month following the death of the constitutional officer ~~or commissioner~~ or the former constitutional officer ~~or commissioner~~; provided, however, that no payment shall be retroactive for more than 12 months prior to the month in which the application is filed with the director. Such benefits shall be paid on the first day of each calendar month for that month. The surviving spouse benefit

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shall cease with the payment for the month in which the surviving spouse dies. The dependent child's benefit shall cease with the payment for the month in which the child no longer qualifies for payment as a dependent child.

Sec. 32. Minnesota Statutes 1992, section 352C.051, is amended to read:

352C.051 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.

Subdivision 1. **ENTITLEMENT TO ANNUITY; LEGISLATIVE SERVICE.** Any constitutional officer ~~or commissioner~~ who has been a member of the legislature with service credited pursuant to chapter 3A shall be entitled when qualified to a retirement allowance from the legislator's retirement plan and the elective state officers plan if the total allowable service for which the person has credit in the two plans totals eight or more years, provided that no portion of the allowable service upon which the retirement allowance from one plan is based, is again used in the computation for benefits from the other plan. The retirement allowance from each plan shall be determined by the appropriate provisions of the law governing each plan, except that the requirement that a person must have at least eight years of allowable service in the respective plan shall not apply for purposes of this section, provided that the aggregate service in the two plans equals eight or more years. The augmentation of deferred annuities provided in sections 3A.02, subdivision 4, and 352C.033, shall apply to the retirement allowances accruing hereunder.

Subd. 2. **ENTITLEMENT TO ANNUITY; PUBLIC RETIREMENT SERVICE.** Any constitutional officer ~~or commissioner~~ who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and fire fund, or the teachers retirement association, or the Minneapolis employees retirement fund, or the state patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision, but excluding all other funds providing retirement benefits for police and firefighters, shall be entitled when qualified to an annuity from each fund if the person's total allowable service credit in all funds or in any two of these funds totals ~~ten~~ eight or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund. The annuity from each fund shall be determined by the appropriate provisions of the law governing each fund, except that the requirement that a person must have at least ~~ten~~ eight years allowable service in the respective system or association shall not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals ~~ten~~ eight or more years. The augmentation of deferred annuities provided in section 352C.033 shall apply to the annuities accruing hereunder.

Subd. 3. **REFUND REPAYMENT.** Any former constitutional officer ~~or commissioner~~ who has received a refund as provided in section 352C.09, subdi-

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vision 2, who is a currently contributing member of a retirement fund specified or enumerated in subdivision 1 or 2, may repay the refund to the elective state officers retirement plan, with interest at an annual rate of 8.5 percent compounded annually.

Sec. 33. Minnesota Statutes 1992, section 352C.09, is amended to read:

352C.09 CONTRIBUTIONS.

Subdivision 1. Every constitutional officer ~~or commissioner~~ shall contribute ~~eight percent of total salary beginning the first full pay period after July 1, 1976, and nine percent of total salary beginning the first full pay period after January 1, 1979,~~ by payroll deduction, to be paid into the state treasury and deposited in the general fund. In case of retirement any unpaid deductions shall be deducted from any retirement allowance that becomes payable. All deductions and payments, if any, in lieu of deductions are to be paid into the state treasury and deposited in the general fund. It shall be the duty of the director to record the contributions of each constitutional officer ~~or commissioner~~ and credit such contribution to such officer's ~~or commissioner's~~ account.

Subd. 2. (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a constitutional officer ~~or commissioner~~ is entitled to receive upon application to the director a refund of all contributions credited to the individual's account with interest at the rate of six percent per annum compounded annually.

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former constitutional officer or commissioner or survivors thereof under the provisions of this chapter. Should the former constitutional officer or commissioner again hold such office after having taken a refund as provided above, the former officer or commissioner shall be considered a new member and may reinstate the rights and credit for service forfeited provided all refunds previously taken are repaid with interest at an annual rate of 8.5 percent compounded annually.

(3) No person shall be required to apply for or accept a refund.

(4) The provisions of section 352.15 shall apply to the elective state officers retirement plan, chapter 352C.

Sec. 34. Minnesota Statutes 1992, section 352D.015, subdivision 4, is amended to read:

Subd. 4. "~~Regular~~ General fund" means the state employees retirement fund except the moneys for the unclassified program.

Sec. 35. Minnesota Statutes 1992, section 352D.04, subdivision 1, is amended to read:

Subdivision 1. (a) An employee exercising an option to participate in the

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retirement program provided by this chapter may elect to purchase shares in one or a combination of the income share account, the growth share account, the money market account, the bond market account, the fixed interest account, or the common stock index account established in section 11A.17. The employee may elect to participate in one or more of the investment accounts in the fund by specifying, on a form provided by the executive director, the percentage of the employee's contributions provided in subdivision 2 to be used to purchase shares in each of the accounts.

(b) ~~Twice in any calendar year~~, A participant may indicate in writing on forms provided by the Minnesota state retirement system a choice of options for subsequent purchases of shares. Until a different written indication is made by the participant, the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares must be purchased for a participant. A change in choice of investment option is effective no later than the first pay date first occurring after 30 days following the receipt of the request for a change.

(c) One month before the start of a new guaranteed investment contract, a participant or former participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the fixed interest account. Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the fixed interest account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for withdrawal under section 352D.05 or for benefit payments under sections 352D.06 to 352D.075.

(d) ~~Twice in any calendar year~~ A participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased in accounts other than the fixed interest account. Changes in investment options for the participant's shares must be effected as soon as cash flow to an account practically permits, but not later than six months after the requested change.

Sec. 36. Minnesota Statutes 1992, section 352D.05, subdivision 1, is amended to read:

Subdivision 1. ~~Except as authorized by section 352D.06~~, No withdrawal of shares shall be permitted prior to termination of covered employment.

Sec. 37. Minnesota Statutes 1992, section 352D.05, subdivision 3, is amended to read:

Subd. 3. ~~Thirty days~~ After termination of covered employment or at any time thereafter, a participant is entitled, upon application, to withdraw the cash

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value of the participant's total shares or leave such shares on deposit with the supplemental retirement fund. Shares not withdrawn ~~must~~ remain on deposit with the supplemental retirement fund until the former participant becomes at least 55 years old, and applies for an annuity under section 352D.06, subdivision 1.

Sec. 38. Minnesota Statutes 1992, section 352D.09, subdivision 5, is amended to read:

Subd. 5. If the beneficiary, surviving spouse or estate has not made application for benefits within ten years after the date of death of a participant the value of the shares shall be appropriated to the regular fund and provisions of section 352.12, subdivision 12 shall govern. If a former participant fails to make a claim for benefits within five years after termination of covered service or by age 70, whichever is later, the value of the shares shall be appropriated to the ~~regular~~ general employees retirement fund and the provisions of section 352.22, subdivision 8, shall apply.

Sec. 39. Minnesota Statutes 1992, section 352D.09, is amended by adding a subdivision to read:

Subd. 5a. If a former participant who contributed less than \$100 in employee contributions cannot be contacted by the system for five or more years, the value of the shares shall be appropriated to the general employees retirement fund, but upon subsequent contact by the former employee the account shall be reinstated to the amount that would have been payable had the money been left in the unclassified plan.

Sec. 40. Minnesota Statutes 1992, section 352D.09, is amended by adding a subdivision to read:

Subd. 8. ADMINISTRATIVE CHARGE DEDUCTIONS. Any administrative charges deducted under subdivision 7 that were in excess of the administrative expenses between July 1, 1973, and June 30, 1992, together with any investment gains or losses based on fiscal year balances, must be recovered from the state employees retirement plan and held in the unclassified plan to pay future administrative expenses. Any deductions to pay administrative expenses under section 11A.17, subdivision 10a, on contributions and investment returns attributable to contributions made before July 1, 1992, must be credited back to the participants in the unclassified plan.

Sec. 41. Minnesota Statutes 1992, section 490.124, subdivision 1, is amended to read:

Subdivision 1. **BASIC RETIREMENT ANNUITY.** Except as qualified hereinafter from and after mandatory retirement date, normal retirement date, early retirement date, or ~~two years~~ one year 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: (1) 2-1/2 percent of the

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judge's final average compensation multiplied by the number of years and fractions of years of allowable service rendered prior to July 1, 1980; plus (2) three percent of the judge's final average compensation multiplied by the number of years and fractions of years of allowable service rendered after June 30, 1980; provided that the annuity shall not exceed 65 percent of the judge's annual salary for the 12 months immediately preceding retirement.

Sec. 42. Minnesota Statutes 1992, section 490.124, subdivision 4, is amended to read:

Subd. 4. **DISABILITY RETIREMENT.** From and after disability retirement date, a disabled judge shall be entitled to continuation of the judge's full salary payable by the judge's employer, as if the judge's office were not vacated by retirement, for a period of up to one full year, but in no event beyond the judge's mandatory retirement date. During this year the judge will earn additional service credit. The salary earned will be subject to retirement deductions and will be included in computing final average compensation. Thereafter a disability retirement annuity computed as provided in subdivision 1 shall be paid, provided that the judge shall receive a minimum annuity of 25 percent of the judge's final average compensation.

Sec. 43. **STUDY OF BENEFIT OPTIONS FOR PUBLIC EMPLOYEES WHO BECOME NONPUBLIC EMPLOYEES.**

The legislative commission on pensions and retirement shall study the issue of benefit options for public employees who become nonpublic employees for the purpose of determining whether the employees should have the same or similar benefits subsequent to public employment as they did during public employment. The commission shall report the results of the study and any proposed legislation to the chairs of the committee on governmental operations and gaming and the committee on ways and means of the house of representatives and the committee on governmental operations and reform and the committee on finance of the senate by January 15, 1994.

Sec. 44. **EFFECTIVE DATE.**

Sections 1, 2, 4, 5, and 7 to 42 are effective the day following final enactment. Sections 3, 6, and 43 are effective July 1, 1993. Section 3 applies retroactively to July 1, 1992, and contributions for that retroactive application period must be paid to the state employees retirement fund, plus interest at the annual compound rate of 8.5 percent.

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ARTICLE 2

CHANGES TO COMPLY WITH AGE DISCRIMINATION ACT AND
HAVING SLIGHT BENEFIT ADJUSTMENT IMPACT

Section 1. Minnesota Statutes 1992, section 3A.02, is amended by adding a subdivision to read:

Subd. 5. OPTIONAL ANNUITIES. (a) The board of directors shall establish an optional retirement annuity in the form of a joint and survivor annuity and an optional retirement annuity in the form of a period certain and life thereafter. These optional annuities are to be available only to legislators who elect to receive retirement annuities under section 356.30 and who do not meet the legislative length of service requirements under section 3A.02, subdivision 1, paragraph (a), clause (1). Except as provided in paragraph (b), these optional annuity forms must be actuarially equivalent to the normal annuity computed under section 3A.02, without the automatic survivor coverage under section 3A.04.

(b) If a retired legislator selects the joint and survivor annuity option, the retired legislator must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the retired legislator and no reduction may be made in the annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.

Sec. 2. Minnesota Statutes 1992, section 352.03, subdivision 4, is amended to read:

Subd. 4. **DUTIES AND POWERS OF BOARD OF DIRECTORS.** The board shall:

- (1) elect a chair;
- (2) appoint an executive director;
- (3) establish rules to administer this chapter and chapters 3A, 352B, 352C, 352D, and 490 and transact the business of the system, subject to the limitations of law;
- (4) consider and dispose of, or take any other action the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system; ~~and~~
- (5) advise the director on any matters relating to the system and carrying out functions and purposes of this chapter. The board's advice shall control; and
- (6) oversee the administration of the state deferred compensation plan, established in section 352.96.

New language is indicated by underline, deletions by ~~strikeout~~.

The director and assistant director must be in the unclassified service but appointees may be selected from civil service lists if desired. The salary of the executive director must be as provided by section 15A.081, subdivision 1. The salary of the assistant director must be set in accordance with section 43A.18, subdivision 3.

Sec. 3. Minnesota Statutes 1992, section 352.22, subdivision 1, is amended to read:

Subdivision 1. **SERVICE TERMINATION.** Any employee who ceases to be a state employee by reason of termination of state service or layoff is entitled to a refund provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a refund may be made ~~30 or more days~~ after the termination of state service or layoff if the applicant has not again become a state employee required to be covered by the system.

Sec. 4. Minnesota Statutes 1992, section 352.22, subdivision 2, is amended to read:

Subd. 2. **AMOUNT OF REFUND.** Except as provided in subdivision 3, any person who ceased to be a state employee after ~~June 30, 1973~~, by reason of termination of state service shall receive a refund in an amount equal to employee accumulated contributions plus interest at the rate of six percent per year compounded annually. Included with the refund is any interest paid as part of repayment of a past refund, plus interest thereon from the date of repayment. Interest must be computed to the first day of the month in which the refund is processed and must be based on fiscal year balances.

Sec. 5. Minnesota Statutes 1992, section 352.23, is amended to read:

352.23 **TERMINATION OF RIGHTS.**

When any employee accepts a refund as provided in section 352.22, all existing service credits and all rights and benefits to which the employee was entitled before accepting the refund terminate. They must not again be restored until the former employee acquires at least ~~one year's~~ six months of allowable service credit after taking the last refund. In that event, the employee may repay all refunds previously taken from the retirement fund. Repayment of refunds entitles the employee only to credit for service covered by (1) salary deductions; (2) payments made in lieu of salary deductions; ~~and;~~ (3) payments made to obtain credit for service as permitted by laws in effect when payment was made. ~~If an employee before taking one or more refunds had credit for prior service or for military service without payment in either case, the employee may obtain credit for any forfeited service before July 1, 1929, and for any forfeited military service by making payments at a contribution rate of three percent of the average salary upon which deductions for the retirement fund were based, for the three-year period immediately preceding repayment of refund for service credit before July 1, 1929, and on the salary received at the time of entering military service to restore military service credit; and (4) allowable service once credited~~

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while receiving temporary workers' compensation as provided in section 352.01, subdivision 11, clause (5). Payments ~~for purchase of prior military service~~ under this section ~~and~~ for repayment of refunds are to be paid with interest at an annual rate of 8.5 percent compounded annually. They may be paid in a lump sum or by payroll deduction in the manner provided in section 352.04. Payment may be made in a lump sum up to six months after termination from service.

Sec. 6. Minnesota Statutes 1992, section 352.95, subdivision 1, is amended to read:

Subdivision 1. **JOB-RELATED DISABILITY.** A covered correctional employee ~~less than 55 years old~~ who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that makes the employee physically or mentally unable to perform the duties, is entitled to a disability benefit based on covered correctional service only. The benefit amount must equal 50 percent of the average salary defined in section 352.93, plus an additional 2-1/2 percent for each year of covered correctional service in excess of 20 years, prorated for completed months.

Sec. 7. Minnesota Statutes 1992, section 352.95, subdivision 2, is amended to read:

Subd. 2. **NON-JOB-RELATED DISABILITY.** Any covered correctional employee who, after at least one year of covered correctional service, ~~before reaching the age of 55~~ becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least 15 years of covered correctional service.

Sec. 8. Minnesota Statutes 1992, section 352.95, subdivision 5, is amended to read:

Subd. 5. **RETIREMENT STATUS AT NORMAL RETIREMENT AGE.** The disability benefit paid to a disabled correctional employee under this section shall terminate at the end of the month in which the employee reaches age 62. If the disabled correctional employee is still disabled when the employee reaches age 62, the employee shall be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may ~~then~~ within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, either elect to receive a normal retirement annuity computed in the manner provided in section 352.115 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity

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must be made before within 90 days before attaining age 65 or reaching age 62 the five-year anniversary of the effective date of the disability benefit, whichever is later. The reduction for retirement before normal retirement age as provided in section 352.116, subdivision 1 or 1a, does not apply. The savings clause provision of section 352.93, subdivision 3, applies. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee reaches age ~~62~~ 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 9. Minnesota Statutes 1992, section 352.96, subdivision 3, is amended to read:

Subd. 3. **EXECUTIVE DIRECTOR TO ADMINISTER SECTION.** This section must be administered by the executive director of the system with the advice and consent of the board of directors under subdivision 4. Fiduciary activities of the deferred compensation plan must be undertaken in a manner consistent with chapter 356A. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (2) and (3). All contracts must be approved before execution by the state board of investment. Contracts must provide that all options in subdivision 2 must: be presented in an unbiased manner and in a manner that conforms to rules adopted by the executive director, be reported on a periodic basis to all employees participating in the deferred compensation program, and not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of money invested by state employees under this section. All costs or fees in relation to the options provided under subdivision 2, clause (3), must be paid by the underwriting companies ultimately selected by the state board of investment.

Sec. 10. Minnesota Statutes 1992, section 352.96, subdivision 4, is amended to read:

Subd. 4. **EXECUTIVE DIRECTOR TO ESTABLISH RULES.** The executive director of the system with the advice and consent of the board of directors shall establish rules and procedures to carry out this section including allocation of administrative costs against the assets accumulated under this section. Funds to pay these costs are appropriated from the fund or account in which the assets accumulated under this section are placed. The rules established by the executive director must conform to federal and state tax laws, regulations, and rulings, and are not subject to the administrative procedure act. Except for the marketing rules, rules relating to the options provided under subdivision 2, clauses (2) and (3), must be approved by the state board of investment. A state employee must not make payments under a plan until the plan or applicable component of the plan has been approved for tax-deferred status by the Internal Revenue Service.

Sec. 11. Minnesota Statutes 1992, section 352B.01, subdivision 3, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **ALLOWABLE SERVICES.** "Allowable service" means:

(a) for members defined in subdivision 2, clause (a), service for which payments have been made to the state patrol retirement fund, and

(b) for members defined in subdivision 2, clauses (b) and (c), service for which payments have been made to the state patrol retirement fund, service for which payments were made to the state police officers retirement fund after June 30, 1961, and all prior service which was credited to a member for service on or before June 30, 1961.

After a member identified in this clause reaches the age of 60, allowable service after that date must not be computed in determining the normal annuity unless the member was employed as a state police officer before July 1, 1961. If the member was so employed before July 1, 1961, and reaches 60 years of age and has more than 30 years' allowable service at that time, each year and completed month of allowable service acquired by the member must be computed in determining the normal annuity until the member reaches the age of 60. If the member was employed before July 1, 1961, and has less than 30 years of allowable service when the member reaches age 60, each year and completed month of allowable service acquired by the member must be computed in determining the normal annuity not to exceed 30 years of allowable service. The completed year members reach age 60 may be counted in full in determining allowable service. Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or return to employment.

Sec. 12. Minnesota Statutes 1992, section 352B.10, subdivision 1, is amended to read:

Subdivision 1. **INJURIES, PAYMENT AMOUNTS.** Any member less than ~~55~~ years old, who becomes disabled and physically or mentally unfit to perform duties as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, shall receive disability benefits while disabled. The benefits must be paid in monthly installments equal to the member's average monthly salary multiplied by 50 percent, plus an additional 2-1/2 percent for each year and pro rata for completed months of service in excess of 20 years, if any.

Sec. 13. Minnesota Statutes 1992, section 352B.10, subdivision 2, is amended to read:

Subd. 2. **UNDER 55; DISABLED WHILE NOT ON DUTY.** If a member terminates employment after at least one year of service, ~~before reaching the age of 55,~~ because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership, and the termination is necessary because the member cannot perform duties, the member is entitled to

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receive a disability benefit. The benefit must be in the same amount and computed in the same way as if the member were 55 years old at the date of disability and the annuity were paid under section 352B.08. If disability under this clause occurs after one but before 15 years service, the disability benefit must be computed as though the member had 15 years service.

Sec. 14. Minnesota Statutes 1992, section 352B.10, subdivision 5, is amended to read:

Subd. 5. **OPTIONAL ANNUITY.** A disabled member may, in lieu of survivorship coverage under section 352B.11, subdivision 2, choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made before commencement of payment of the disability benefit, or within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. It is effective on the date on which the disability benefit begins to accrue, or the month following attainment of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 15. Minnesota Statutes 1992, section 352B.105, is amended to read:

352B.105 TERMINATION OF DISABILITY BENEFITS.

Disability benefits payable under section 352B.10 shall terminate at the end of the month the beneficiary becomes 55 years old. If the beneficiary is still disabled when the beneficiary becomes 55 years old, the beneficiary shall be deemed to be a retired member and, if the beneficiary had chosen an optional annuity under section 352B.10, subdivision 5, shall receive an annuity in accordance with the terms of the optional annuity previously chosen. If the beneficiary had not chosen an optional annuity under section 352B.10, subdivision 5, the beneficiary may choose to receive either a normal retirement annuity computed under section 352B.08, subdivision 2, or an optional annuity as provided in section 352B.08, subdivision 3. An optional annuity must be chosen before the beneficiary becomes 55 years old within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. If an optional annuity is chosen, the optional annuity shall begin to accrue the first of the month following the month in which the beneficiary becomes 55 years old attainment of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 16. Minnesota Statutes 1992, section 352B.11, subdivision 2, is amended to read:

Subd. 2. **DEATH; PAYMENT TO SPOUSE AND CHILDREN.** If a member serving actively as a member, or a member or former member receiving the disability benefit before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, provided by section 352B.10, subdivision 1, ~~or a former member receiving a disability benefit as provided by section 352B.10, subdivision 2;~~ subdivisions 1 and 2, dies from any cause before attaining age 65 or reaching the five-year anniversary of

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the effective date of the disability benefit, whichever is later, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least three years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than three years of service shall receive, for life, a monthly annuity equal to 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement.

(c) The surviving spouse of a member who had credit for at least three years service and who died after becoming 55 years old, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in paragraph (b).

(d) The surviving spouse of any member who had credit for three years or more and who was not 55 years old at death, shall receive the benefit equal to 50 percent of the average monthly salary as described in clause (b) until the deceased member would have become 55 years old, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity.

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of \$20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit for any one family must not be less than 50 nor exceed 70 percent of the average monthly salary for any number of children.

(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.

(g) The surviving spouse of a deceased former member who had credit for three or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 2, is entitled to

receive the 100 percent joint and survivor annuity at the time the deceased member would have become 55 years old. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of six percent per year compounded annually.

Sec. 17. Minnesota Statutes 1992, section 352D.05, subdivision 4, is amended to read:

Subd. 4. A participant in the unclassified program may repay regular refunds taken pursuant to section 352.22, as provided in section 352.23. A participant in the unclassified program or an employee covered by the general plan who has withdrawn the value of the total shares may repay the refund taken and thereupon restore the service credit, rights and benefits forfeited by paying into the fund ~~the greater of (1) the amount refunded plus interest at an annual rate of 8.5 percent compounded annually from the date that the refund was taken until the date that the refund is repaid; or (2) an amount equal to the total of the employee and employer matching and additional contributions for the forfeited employment period less the administrative fee provided in section 352D.09, subdivision 7, plus interest at an annual rate of 8.5 percent compounded annually from the date of the start of the forfeited employment period until the date that the refund is paid.~~ If the participant had withdrawn only the employee shares as permitted under prior laws, repayment shall be pro rata. Payment shall be made in a lump sum.

Sec. 18. Minnesota Statutes 1992, section 356.302, subdivision 6, is amended to read:

Subd. 6. **COMBINED SERVICE DISABILITY BENEFIT COMPUTATION.** (a) The combined service disability benefit from each covered retirement plan must be based on the allowable service in each retirement plan, except as specified in paragraphs (b) to (f).

(b) The disability benefit must be governed by the law in effect for each covered retirement plan on the date of the commencement of the member's most recent qualifying disability as a member of a covered retirement plan.

(c) All plans must base the disability benefit on the same average salary to the extent practicable.

(d) If the method of the covered retirement plan used to compute a disability benefit varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a disability benefit does not vary based on the

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length of allowable service credit, the portion of the specified benefit amount from the plan must bear the same proportion to the total specified benefit amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the disability benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service disability benefit, with any period of duplicated service credit handled under section 356.30, subdivision 1, clause (3), items (i) and (j).

(g) If a person is entitled to a minimum benefit payable from one of the public pension plans named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

(h) A partially employed recipient of a disability benefit must have any current income plus disability payment from all plans listed in subdivision 7 added together, and then compared to their final salary rate as a public employee. If current income plus disability payments exceed the final salary, then disability benefit payments from all the plans will be reduced on a prorated basis relative to the years of service in each fund so that earnings plus benefit payments do not exceed their final salary rate.

Sec. 19. RETROACTIVE BENEFIT ACCRUAL TO COMPLY WITH AGE DISCRIMINATION LAWS.

A retired member of the state patrol retirement plan who retired after December 31, 1987, and whose annuity was calculated using less than full years and months of service earned after reaching age 60 shall have monthly benefits recomputed using all years and months of service and including any postretirement adjustments that would have been payable. The difference between the original calculation and recomputed amount must be paid retroactively to September 1, 1989, or the date the annuity began to accrue, whichever is later.

Sec. 20. EFFECTIVE DATE.

Sections 1 to 19 are effective the day following final enactment.

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ARTICLE 3

MISCELLANEOUS MSRS PROVISIONS

Section 1. Minnesota Statutes 1992, section 352.01, is amended by adding a subdivision to read:

Subd. 13a. REDUCED SALARY DURING PERIOD OF WORKERS' COMPENSATION. An employee on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence, may make payment to the fund for the difference between salary received, if any, and the salary the employee would normally receive if not on leave of absence during the period. The employee shall pay an amount equal to the employee and employer contribution rate under section 352.04, subdivisions 2 and 3, on the differential salary amount for the period of the leave of absence.

The employing department, at its option, may pay the employer amount on behalf of its employees. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from leave of absence.

Sec. 2. Minnesota Statutes 1992, section 352.03, subdivision 4a, is amended to read:

Subd. 4a. ADDITIONAL DUTIES OF THE BOARD. The board may consider, review, and make recommendations regarding the financial and other needs of retired employees and may disseminate appropriate retirement information to the retired employee. Notwithstanding laws to the contrary, the board, at its discretion, may supply the names and addresses of retirees who were employed by the University of Minnesota at the time of termination to the University of Minnesota and state agencies for retirees who were employed by the specific state agency at the time of termination. The board, at its discretion, may supply names and addresses of state and university retirees to an organization that has been in existence for at least ten years and represents over 5,000 retired state and university employees. The names and addresses of each retiree can only be given to this organization once within 60 days of the effective date of the annuity. The board shall require the retiree organization, University of Minnesota, or applicable state agency to reimburse the fund for any administrative expense of providing the list. The list remains the property of the Minnesota state retirement system and may not be subsequently sold, conveyed, given, or otherwise transferred by the retiree organization, the University of Minnesota, or the state agency to a third party. Periodically, retirees must be given an opportunity to specify that their name and address not be distributed under this section.

Sec. 3. Minnesota Statutes 1992, section 352.15, is amended by adding a subdivision to read:

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Subd. 3. DEDUCTING HEALTH INSURANCE PREMIUMS. The board may direct, at its discretion, the deduction of a retirees' health insurance premiums and transfer of the amounts to a health insurance carrier covering state employees. The insurance carrier must certify that the retired employee has signed an authorization for the deduction and provide a computer readable roster of covered retirees and amounts. The health insurance carrier must refund deductions withheld from a retirees' check in error directly to the retiree. The board shall require the insurance carrier to reimburse the fund for the administrative expense of withholding the premium amounts. The insurance carrier shall assume liability for any failure of the system to properly withhold the premium amounts.

Sec. 4. Minnesota Statutes 1992, section 352.15, is amended by adding a subdivision to read:

Subd. 4. DIRECT TRANSFER OF REFUNDS. Direct transfer of account refunds may be made to individual retirement savings accounts or qualified retirement plans upon application for transfer by a former employee, on forms acceptable to the executive director.

Sec. 5. Minnesota Statutes 1992, section 352B.01, subdivision 11, is amended to read:

Subd. 11. AVERAGE SALARY. "Average monthly salary" means the average of the highest monthly salaries for five years of service as a member. Average monthly salary must be based upon all allowable service if this service is less than five years. It does not include any amounts of severance pay or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability. A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence may make payment to the fund for the difference between salary received, if any, and the salary the member would normally receive if not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from the leave of absence.

Sec. 6. Minnesota Statutes 1992, section 352D.02, subdivision 3, is amended to read:

Subd. 3. An election to not participate is irrevocable during any period of covered employment. An employee credited with employee shares in the unclassified program, after acquiring credit for ten years of allowable service but prior to termination of covered employment, may, notwithstanding other provisions of this subdivision, elect to terminate participation in the unclassified plan and

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be covered by the regular plan by filing such election with the executive director. The executive director shall thereupon redeem the employee's total shares and shall credit to the employee's account in the regular plan the amount of contributions that would have been so credited had the employee been covered by the regular plan during the employee's entire covered employment. The balance of money so redeemed and not credited to the employee's account shall be transferred to the state contribution reserve of the state employees retirement fund; except that the employee contribution paid to the unclassified plan in excess of that required by the general employee plan shall be refunded to the employee as provided in section 352.22, except that (1) the employee contribution paid to the unclassified plan must be compared to (2) the employee contributions that would have been paid to the general plan for the comparable period, if the individual had been covered by that plan. If clause (1) is greater than clause (2), the difference must be refunded to the employee as provided in section 352.22. If clause (2) is greater than clause (1), the difference must be paid by the employee within six months of electing general plan coverage or before the effective date of the annuity, whichever is sooner.

Sec. 7. Minnesota Statutes 1992, section 352D.02, is amended by adding a subdivision to read:

Subd. 6. The provisions of section 352.04, subdivision 8, apply to this section.

Sec. 8. **EFFECTIVE DATE.**

Sections 1 to 7 are effective on the day following final enactment.

ARTICLE 4

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

ADMINISTRATIVE LAW CHANGES

Section 1. Minnesota Statutes 1992, section 353.01, subdivision 2, is amended to read:

Subd. 2. **PUBLIC EMPLOYEE.** "Public employee" means any person an employee performing personal services for a governmental subdivision under subdivision 6, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term also includes special classes of persons listed in subdivision 2a, but excludes special classes of persons listed in subdivision 2b for purposes of membership in the association. Public employee does not include independent contractors and their employees.

Sec. 2. Minnesota Statutes 1992, section 353.01, subdivision 2a, is amended to read:

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Subd. 2a. **INCLUDED EMPLOYEES.** The following persons are included in the meaning of "public employee": Public employees whose salary from one governmental subdivision exceeds \$425 in any month shall participate as members of the association. If the salary of an employee is less than \$425 in a subsequent month, the employee retains membership eligibility. The following persons are considered public employees:

(1) employees whose annual salary from one governmental subdivision exceeds a stipulation prepared in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period expected to be of less than a full year's duration. If compensation from one governmental subdivision to an employee under this clause exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee under section 353.27, subdivision 12, from the month in which the employee's salary first exceeded \$425;

(2) employees whose total salary from concurrent nontemporary positions in one governmental subdivision exceeds \$425 in any month;

(3) electd or appointed officers and for service to which they were elected by the public-at-large, or persons appointed to fill a vacancy in an elective office, who elect to participate by filing an application for membership, but not for service on a joint or regional board that is a governmental subdivision under subdivision 6, paragraph (a), unless the salary earned for that service exceeds \$425 in any month. The option to become a member, once exercised, may not be withdrawn during the incumbency of the person in office;

(4) members who are appointed by the governor to be a state department head and elect not to be covered by the Minnesota state retirement system under section 352.021;

(5) employees of elected officers;

(2) (6) persons who elect to remain members under section 480.181, subdivision 2;

(3) officers and employees of the public employees retirement association;

(4) employees of the league of Minnesota cities;

(5) employees of the association of metropolitan municipalities;

(6) officers and employees of public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions;

(7) employees of a school district who receive separate salaries for driving their own buses;

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- (8) employees of the association of Minnesota counties;
- (9) employees of the metropolitan intercounty association;
- (10) employees of the Minnesota municipal utilities association;
- (11) ~~(8)~~ employees of the Minnesota association of townships when the board of the association, at its option, certifies to the executive director that its employees are to be included for purposes of retirement coverage, in which case coverage of all employees of the association is permanent;
- (12) employees of the metropolitan airports commission if employment initially commenced after June 30, 1979;
- (13) employees of the Minneapolis employees retirement fund if employment initially commenced after June 30, 1979;
- (14) employees of the range association of municipalities and schools;
- (15) employees of the soil and water conservation districts;
- (16) ~~(9)~~ employees of a county historical society who are county employees;
- (17) ~~(10)~~ employees of a county historical society located in the county whom the county, at its option, certifies to the executive director to be county employees for purposes of retirement coverage under this chapter, which status must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society and is not excluded under subdivision 2b; and
- (18) employees of an economic development authority created or operating under sections 469.090 to 469.108;
- (19) employees of the department of military affairs of the state of Minnesota who are full-time firefighters; and
- (20) ~~(11)~~ employees who became members before July 1, 1988, based on the total salary of positions held in more than one governmental subdivision.

Sec. 3. Minnesota Statutes 1992, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** The following persons are excluded from the meaning of "public employee" public employees shall not participate as members of the association:

- (1) persons who are employed for professional services where the service is incidental to regular professional duties; determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties elected public officers, or persons appointed to fill a vacancy in an elective office, who do not elect to participate in the association by filing an application for membership;

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- (2) election officers;
- (3) independent contractors and their employees;
- (4) patient and inmate personnel who perform services in charitable, penal, or correctional institutions of a governmental subdivision;
- (5) members of boards and commissions who serve a governmental subdivision intermittently unless their position on the board or commission is the result of public employment within the same governmental unit;
- (6) (4) employees who are hired for a period of less than six consecutive months temporary position under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision, but not those employees who are hired for an unlimited period but are serving a probationary period. If the period of employment is extended extends beyond the six-month period six consecutive months and the employee earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee under section 353.27, subdivision 4.

Membership eligibility of an employee who resigns or is dismissed from a temporary position and within 30 days accepts another temporary position in the same governmental subdivision is determined on the total length of employment rather than on each separate position. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and nontemporary positions in one governmental subdivision must be is determined by the length of employment and salary of each separate position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;

(7) (5) employees whose actual compensation salary from one governmental subdivision does not exceed \$425 per month, or whose annual compensation salary from one governmental subdivision is stipulated does not exceed a stipulation prepared in advance, in writing, to be not more than that the salary must not exceed \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration; except that members continue their membership until termination of public service as defined in subdivision 11a. Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425;

New language is indicated by underline, deletions by ~~strikeout~~.

~~(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;~~

(9) emergency ~~(6)~~ employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

~~(10)~~ (7) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees retirement association, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

~~(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;~~

~~(12)~~ (8) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

~~(13)~~ (9) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are part-time employees as defined by a governmental subdivision;

~~(14)~~ (10) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals ~~and~~;

(11) students who are serving in an internship or residency program sponsored by an accredited educational institution;

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(15) appointed or elected officers who are paid entirely on a fee basis and who were not members on June 30, 1971;

(16) (12) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(17) persons exempt from licensure under section 125.031;

(18) persons employed by the Minneapolis community development agency;

(13) foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens are eligible for membership from the date of the extension;

(14) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988 to October 1, 1988;

(19) (15) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel; and

(20) (16) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

Sec. 4. Minnesota Statutes 1992, section 353.01, subdivision 6, is amended to read:

Subd. 6. **GOVERNMENTAL SUBDIVISION.** (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources; ~~but~~.

(b) Governmental subdivision also means the public employees retirement association, the league of Minnesota cities, the association of metropolitan municipalities, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the association of Min-

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nesota counties, the metropolitan intercounty association, the Minnesota municipal utilities association, the metropolitan airports commission, and the Minneapolis employees retirement fund for employment initially commenced after June 30, 1979, the range association of municipalities and schools, soil and water conservation districts, and economic development authorities created or operating under sections 469.090 to 469.108.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.068; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, nor the Minneapolis community development agency.

Sec. 5. Minnesota Statutes 1992, section 353.01, subdivision 7, is amended to read:

Subd. 7. **MEMBER.** "Member" means a person who accepts employment as a "public employee" under subdivision 2, is an employee under subdivision 2a, and is not covered by the plan established in chapter 353D. A person who is a member remains a member while performing services as a public employee and while on an authorized leave of absence or an authorized temporary layoff; provided, however, (1) that any elected public officer or any person appointed to fill a vacancy in an elective office shall have the right to exercise an option to become a member by filing application for membership, but the option to become a member, once exercised, may not be withdrawn during the incumbency of the person in office; and (2) that any member who is appointed by the governor to be a state department head and elects pursuant to 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. Membership in the retirement association of any person shall terminate upon the person ceasing to be a "public employee."

Sec. 6. Minnesota Statutes 1992, section 353.01, is amended by adding a subdivision to read:

Subd. 7a. **FORMER MEMBER.** "Former member" means a member of the association who terminates public service under subdivision 11a or membership under subdivision 11b.

Sec. 7. Minnesota Statutes 1992, section 353.01, subdivision 10, is amended to read:

Subd. 10. **SALARY.** (a) "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees.

(b) Salary does not mean fees paid to district court reporters ~~are not salary,~~ unused annual or sick leave payments, in lump-sum or periodic payments, ~~are~~

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~~not salary; severance payments, reimbursement of expenses, lump-sum settlements not attached to a specific earnings period, or workers' compensation payments; and all. Salary does not mean employer-paid flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage; are not salary. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid the premiums are salary; and, after all sick leave has been used, the payment is not salary.~~

~~(b)~~ (c) Except as provided in sections 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivisions 35 and 36, is not salary.

~~(e)~~ (d) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees retirement association and who has elected coverage under the public employees police and fire fund benefit plan under section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 8. Minnesota Statutes 1992, section 353.01, subdivision 11a, is amended to read:

Subd. 11a. **TERMINATION OF PUBLIC SERVICE.** "Termination of public service" occurs when ~~an officer or employee terminates employment or is on temporary layoff as defined in subdivision 42~~ a member resigns or is dismissed from public service by the employing governmental subdivision, as evidenced by appropriate written record transmitted to the association, and does not within 30 days of ~~termination or expiration of the temporary layoff~~ resignation or dismissal return to a nontemporary employment position in the same governmental subdivision.

Sec. 9. Minnesota Statutes 1992, section 353.01, is amended by adding a subdivision to read:

Subd. 11b. TERMINATION OF MEMBERSHIP. "Termination of membership" occurs:

(1) upon termination of public service under subdivision 11a;

(2) when a member who is a part-time employee is excluded from membership as a full-time student under subdivision 2b, clause (9);

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(3) when a member does not return to work within 30 days of the expiration of an authorized temporary layoff under subdivision 12 or an authorized leave of absence under subdivision 31. If the employee subsequently returns to a position in the same governmental subdivision, the employee shall not again be required to earn a salary in excess of \$425 per month, unless the employee has taken a refund of accumulated employee deductions plus interest under section 353.34, subdivision 1; or

(4) when a person files a written election to discontinue employee deductions under section 353.27, subdivision 7, paragraph (a), clause (1).

Sec. 10. Minnesota Statutes 1992, section 353.01, subdivision 12, is amended to read:

Subd. 12. **AUTHORIZED TEMPORARY LAYOFF.** "Authorized temporary layoff," including seasonal leave of absence, means a suspension of public employment service authorized by the employing governmental subdivision for a period not exceeding three months in any calendar year, by action of the employing governmental subdivision as evidenced by appropriate record of the employer and promptly transmitted to the association.

Sec. 11. Minnesota Statutes 1992, section 353.01, is amended by adding a subdivision to read:

Subd. 12a. TEMPORARY POSITION. "Temporary position" means an employment position of six months or less in which a person is a public employee under subdivision 2, but not an employment position for an unlimited period in which a person serves a probationary period.

Sec. 12. Minnesota Statutes 1992, section 353.01, subdivision 16, is amended to read:

Subd. 16. **ALLOWABLE SERVICE.** (a) "Allowable service" means service during years of actual membership in the course of which employee contributions were made, periods covered by payments in lieu of salary deductions under section 353.35, and service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(b) "Allowable service" also means a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(c) "Allowable service" also means a period of authorized leave of absence without pay that does not exceed one year, and during or for which a member obtained credit by payments to the fund made in place of salary deductions, provided that the payments are made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of

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public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case immediately preceding commencement of the leave of absence. If the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to both the required employer and additional employer contributions for the employee. The payment must be made within one year from the date expiration of the leave of absence terminates or within 20 days after termination of public service under subdivision 11a. The employer by appropriate action of its governing body, made a part of its official records, before the date of the first payment of the employee contribution, may certify to the association in writing its commitment to pay the employer and additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at an annual rate of 8.5 percent compounded annually from the date of the termination of the leave of absence to the date payment is made. An employee shall return to public service for a minimum of 90 calendar days to be eligible to pay employee and employer contributions for a subsequent authorized leave of absence without pay.

(d) "Allowable service" also means a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of six percent a year, compounded annually, from the ~~date or dates that the contributions were first payable~~ end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus six percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 20 days after termination of public service, whichever is ~~applicable~~ sooner. The association shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave.

(e) "Allowable service" also means a period during which a member is on an authorized sick leave of absence, without pay, limited to one year. An employee who has received one year of allowable service shall return to public service for a minimum of 90 calendar days to receive allowable service for a subsequent authorized sick leave of absence.

(f) "Allowable service" also means an authorized temporary layoff under subdivision 12. The association shall grant a maximum of three months allowable service per authorized temporary layoff in one calendar year. An employee shall return to public service for a minimum of 90 calendar days to receive allowable service for a subsequent authorized temporary layoff.

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(g) "Allowable service" also means a ~~maternity, paternity, or adoption~~ parental leave. The association shall grant a maximum of two months service credit for a ~~maternity, paternity, or adoption~~ parental leave, within six months after the birth or adoption, upon documentation from the member's governmental subdivision. ~~A member on personal leave of absence who provides the association with or presentation of a birth certificate or other evidence of birth or adoption during the personal leave time period also receives up to two months of service credit to the association.~~

(h) "Allowable service" also means a period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service under section 192.262 and pays into the fund employee contributions based upon the employee's salary at the date of return from military service. Payment must be made within five years of the date of discharge from the military service. The amount of these contributions must be in accord with the contribution rates and salary limitations, if any, in effect during the leave, plus interest at an annual rate of 8.5 percent compounded annually from the date of return to public service to the date payment is made. The matching employer contribution and additional employer contribution under section 353.27, subdivisions 3 and 3a, must be paid by the ~~department~~ governmental subdivision employing the member upon return to public service if the member makes the employee contributions. The governmental subdivision involved may appropriate money for those payments. A member may not receive credit for a voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty.

(i) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, chapter 401, and transferred into county service under section 401.04, "allowable service" means combined years of allowable service as defined in paragraphs (a) to (h) and section 352.01, subdivision 11.

(j) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees retirement association, and who has elected the type of benefit coverage provided by the public employees police and fire fund under section 353A.08 following the consolidation, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

Sec. 13. Minnesota Statutes 1992, section 353.01, subdivision 28, is amended to read:

Subd. 28. **RETIREMENT.** (a) "Retirement" means the ~~withdrawal from active public service by a member who is paid a retirement annuity that begins to accrue~~ commencement of payment of an annuity based on a date designated

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by the board of trustees. This date determines the rights ~~specified in~~ under this chapter which occur either before or after retirement. A right to retirement ~~must not accrue without a complete and continuous separation from public service for 30 days following the withdrawal from public service for the purpose of retirement is subject to termination of public service under subdivision 11a and termination of membership under subdivision 11b.~~

(b) Notwithstanding the 30-day separation requirement, a member of the defined benefit plan under this chapter, who also participates in the public employees defined contribution plan under chapter 353D for other public service, may be paid, if eligible, a retirement annuity from the defined benefit plan while participating in the defined contribution plan.

Sec. 14. Minnesota Statutes 1992, section 353.01, subdivision 31, is amended to read:

Subd. 31. **AUTHORIZED LEAVE OF ABSENCE.** "Authorized leave of absence" means any period during which a member is ~~duly~~ authorized by an employer to refrain from active employment, with or without pay, evidenced by appropriate record of the employer and promptly transmitted to the association.

Sec. 15. Minnesota Statutes 1992, section 353.01, subdivision 32, is amended to read:

Subd. 32. **COORDINATED MEMBER.** "Coordinated member" means any public employee, including any public hospital employee, covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare, making the provisions of the federal old age, survivors and disability insurance act applicable to ~~such the~~ member if membership eligibility criteria are met under this chapter. Coordinated member also means a basic member who terminates public service under subdivision 11a, reenters public service in a nontemporary position, and meets the membership eligibility criteria under this chapter.

Sec. 16. Minnesota Statutes 1992, section 353.017, is amended to read:

353.017 EMPLOYEES OF LABOR ORGANIZATIONS.

Subdivision 1. **QUALIFICATIONS.** A former member of the association, or a current coordinated member on an authorized leave of absence, who is an employee of a labor organization that represents public employees who are association members may elect ~~pursuant to,~~ under subdivision 2, to be a coordinated member with respect to service with ~~such the~~ labor organization unless specifically exempt under section 353.01, subdivision 2b.

Subd. 2. **ELECTION.** A person described in subdivision 1 ~~will be~~ is covered by the association if written election to be covered is delivered to the ~~board~~ association within ~~30 days~~ six months of ~~being employed~~ employment by such the labor organization or within six months after July 1, 1993, whichever is applicable.

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Subd. 3. **CONTRIBUTIONS.** The employee, employer and additional employer contributions shall be the obligation of the employee who elects coverage herein in accord with this chapter; provided, however, the employer, labor organization, may pay the employer and additional employer contributions. The employer shall, in any event, deduct the necessary contributions from the employee's salary and remit all contributions to the public employees retirement association pursuant to section 353.27, subdivisions 4, 7, 10, 11, and 12.

Subd. 5. **BOARD MEMBERSHIP EXCLUDED.** Persons who become association members pursuant to this section shall not be eligible for election to the board of trustees.

Sec. 17. Minnesota Statutes 1992, section 353.27, subdivision 7, is amended to read:

Subd. 7. **ADJUSTMENT FOR ERRONEOUS RECEIPTS OR DISBURSEMENTS.** (a) **DEDUCTIONS TAKEN IN ERROR.** ~~Deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association must be refunded to the employee under section 353.34, subdivision 2. The employer contribution and the additional employer contribution, if any, for the erroneous employee contribution must be refunded to the employer, provided that the refund of deductions taken in error has been made within three calendar years of the calendar year in which the initial deduction taken in error was received by the association. A refund of deductions taken in error from sick leave, vacation, workers' compensation, and severance pay may be made at any time. If the refund of deductions taken in error has not been made within three calendar years of the calendar year in which the initial deduction taken in error was received by the association, the erroneous contributions are considered valid, and the years of allowable service attributable to the deductions taken in error must be credited to the member under section 353.01, subdivision 16. Notwithstanding a law to the contrary, the employee may continue to be a member until termination of public service. Erroneous employee deductions and erroneous employer contributions and additional employer contributions for a person, who otherwise does not qualify for membership under this chapter, are considered:~~

(1) valid if the initial erroneous deduction began before January 1, 1990. Upon determination of the error by the association, the person may:

(i) continue membership in the association while employed in the same position for which erroneous deductions were taken; or

(ii) file a written election to terminate membership and apply for a refund or defer an annuity under section 353.34;

(2) invalid, if the initial erroneous employee deduction began on or after January 1, 1990. Upon determination of the error, the association shall require the employer to discontinue erroneous employee deductions and erroneous employer contributions and additional employer contributions. Upon discontin-

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uance, the association shall refund all erroneous employee deductions to the person, with interest, under section 353.34, subdivision 2, and all erroneous employer contributions and additional employer contributions to the employer. No person may claim a right to continued or past membership in the association based on erroneous deductions which began on or after January 1, 1990;

(3) a refund of deductions taken in error from sick leave, vacation, workers' compensation, and severance pay may be made at any time.

(b) **ERRONEOUS DISBURSEMENT.** In the event a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum deducted, or a portion of it that is required to adjust the deductions, must be made to the department or institution.

Sec. 18. Minnesota Statutes 1992, section 353.29, subdivision 1, is amended to read:

Subdivision 1. **AGE AND ALLOWABLE SERVICE REQUIREMENTS.** Upon ~~separation from public service, any termination of membership,~~ a person who has attained normal retirement age and who received credit for not less than three years of allowable service is entitled upon application to a retirement annuity. ~~Such~~ The retirement annuity is known as the "normal" retirement annuity.

Sec. 19. Minnesota Statutes 1992, section 353.33, subdivision 1, is amended to read:

Subdivision 1. **AGE, SERVICE, AND SALARY REQUIREMENTS.** A coordinated member who has at least three years of allowable service and becomes totally and permanently disabled before normal retirement age, and after a basic member who has at least three years of allowable service and who becomes totally and permanently disabled is entitled to a disability benefit in an amount under subdivision 3. If the disabled person's public service has terminated at any time, at least two of the required three years of allowable service must have been rendered after last becoming a member. A repayment of a refund ~~may~~ must be made within six months after the effective date of disability benefits under subdivision 2 or within six months after the date of the filing of the disability application, whichever is ~~sooner~~ later. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized under section 353.01, subdivision 16, 353.017, subdivision 4, or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application under this section is filed.

Sec. 20. Minnesota Statutes 1992, section 353.33, subdivision 2, is amended to read:

Subd. 2. **APPLICATIONS; ACCRUAL OF BENEFITS.** Every claim or

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demand for a total and permanent disability benefit must be initiated by written application in the manner and form prescribed by the executive director showing compliance with the statutory conditions qualifying the applicant for a total and permanent disability benefit and filed with the executive director. A member or former member who became totally and permanently disabled during a period of membership ~~may~~ shall file application for total and permanent disability benefits within three years next following termination of public service, ~~but not thereafter~~. This benefit ~~shall begin~~ begins to accrue the day following the commencement of disability, 90 days preceding the filing of the application, or, if annual or sick leave is paid for more than the ~~said~~ 90-day period, from the date salary ceased, whichever is later. ~~No~~ Payment ~~shall~~ must not accrue beyond the end of the month in which entitlement has terminated. If the disability dies prior to negotiating the check for the month in which death occurs, payment ~~will be~~ is made to the surviving spouse, or if none, to the designated beneficiary, or if none, to the estate. An applicant for total and permanent disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for total and permanent disability benefits. The retirement annuity application is void upon the determination of the entitlement for disability benefits by the executive director. If disability benefits are denied, the retirement annuity application must be initiated and processed.

Sec. 21. Minnesota Statutes 1992, section 353.33, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF BENEFITS.** This disability benefit is an amount equal to the normal annuity payable to a member who has reached normal retirement age with the same number of years of allowable service and the same average salary, as provided in section 353.29, subdivisions 2 and 3.

A "basic member" shall receive ~~in addition~~ a supplementary monthly benefit ~~computed in accordance with the following table:~~ of \$25 to age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Age when Disabled	Supplementary benefit
Under 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

If the disability benefits ~~provided in under~~ this subdivision exceed the average salary as defined in section 353.29, subdivision 2, the disability benefits ~~shall~~ must be reduced to an amount equal to said average salary.

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Sec. 22. Minnesota Statutes 1992, section 353.33, subdivision 4, is amended to read:

Subd. 4. **PROCEDURE TO DETERMINE ELIGIBILITY.** The applicant shall provide and authorize release of medical evidence, including all medical records and relevant information from any source, to support the application for total and permanent disability benefits. The medical adviser shall verify the medical evidence and, if necessary for disability determination, suggest referral of applicant to specialized medical consultants. The association shall also obtain from the employer, certification of the member's past public service, dates of paid sick leave and vacation beyond the last working day and whether or not sick leave or annual leave has been allowed. If upon consideration of the medical reports evidence received and the recommendations of the medical adviser, it is determined that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant the person a disability benefit. The fact that an employee is placed on leave of absence without compensation because of disability shall does not bar the person from receiving a disability benefit.

Sec. 23. Minnesota Statutes 1992, section 353.33, subdivision 6, is amended to read:

Subd. 6. **CONTINUING ELIGIBILITY FOR BENEFITS.** The association shall determine eligibility for continuation of disability benefits shall be determined by the association, which has authority to and require periodic examinations and evaluations of disabled members as frequently as deemed necessary. The association shall require the disabled member to provide and authorize release of medical evidence, including all medical records and information from any source, relating to an application for continuation of disability benefits. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation program if the executive director determines that the disabled person may be able to return to a gainful occupation. If a member is found to be no longer totally and permanently disabled and is reinstated to the payroll, payments must cease the first of the month following the reinstatement to the payroll.

Sec. 24. Minnesota Statutes 1992, section 353.33, subdivision 8, is amended to read:

Subd. 8. **REFUSAL OF EXAMINATION OR MEDICAL EVIDENCE.** Should any such disabled ~~If a person refuse applying for or receiving a disability benefit refuses to submit to a medical examination as herein provided, payments by the fund shall be discontinued, and all rights of the member in any disability benefit shall be revoked by the board under subdivision 6, or fails to provide or authorize the release of medical evidence under subdivisions 4 and 6, the association shall cease the application process or discontinue the payment of a disability benefit, whichever is applicable. Upon receipt of the requested medical evidence, the association shall resume the application process or the payment of a disability benefit upon approval for the continuation, whichever is applicable.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 25. Minnesota Statutes 1992, section 353.33, subdivision 11, is amended to read:

Subd. 11. **COORDINATED MEMBER RETIREMENT STATUS AT NORMAL RETIREMENT AGE.** No person shall be ~~is~~ entitled to receive disability benefits and a retirement annuity at the same time. The disability benefits paid to a person hereunder shall coordinated member must terminate when the person reaches normal retirement age. If the ~~person~~ coordinated member is still totally and permanently disabled ~~when the person attains the~~ upon attaining normal retirement age, the ~~person shall be~~ coordinated member is deemed to be on retirement status ~~and, If the person had elected an optional annuity pursuant to is elected under~~ subdivision 3a, the coordinated member shall receive an annuity in accordance with ~~under~~ the terms of the optional annuity previously elected, or, if the ~~person had not elected an optional annuity pursuant to is not elected under~~ subdivision 3a, the coordinated member may at the option of the person either elect to receive either a normal retirement annuity as provided in under section 353.29 or ~~normal retirement an~~ annuity equal to the disability benefit paid before the person reached coordinated member reaches normal retirement age, whichever amount is greater, or elect to receive an optional annuity as provided in under section 353.30, subdivision 3. ~~Any~~ The annuity of a disabled person coordinated member who attains normal retirement age shall have the annuity must be computed in accordance with under the law in effect upon attainment of ~~that~~ normal retirement age. Election of an optional annuity shall must be made ~~prior to~~ before the person ~~attaining the~~ coordinated member attains normal retirement age. If an optional annuity is elected, the election shall ~~be is~~ effective on the date on which the person attains normal retirement age and the optional annuity shall ~~begin~~ begin to accrue on the first day of the month next following the month in which the person attains that age.

Sec. 26. Minnesota Statutes 1992, section 353.33, is amended by adding a subdivision to read:

Subd. 12. BASIC DISABILITY SURVIVOR BENEFITS. If a basic member who is receiving a disability benefit under subdivision 3:

(a) dies before attaining age 65 or within five years of the effective date of the disability, whichever is later, the surviving spouse shall receive a survivor benefit under section 353.31, unless the surviving spouse elected to receive a refund under section 353.32, subdivision 1.

(b) is living at age 65 or five years after the effective date of the disability, whichever is later, the basic member may continue to receive a normal disability benefit, or elect a joint and survivor optional annuity under section 353.31, subdivision 1b. The election of the joint and survivor optional annuity must occur within 90 days of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity takes effect on the first of the month following the month in which the person attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

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(c) if there is a dependent child or children under paragraph (a) or (b), the association shall grant a dependent child benefit under section 353.31, subdivision 1b, paragraph (b).

Sec. 27. Minnesota Statutes 1992, section 353.34, subdivision 1, is amended to read:

Subdivision 1. **REFUND OR DEFERRED ANNUITY.** A former member who ceases to be a public employee by reason of termination of public service, or who is on a continuous layoff for more than 120 calendar days, is entitled to a refund of accumulated employee deductions under subdivision 2, or to a deferred annuity under subdivision 3. An active member of a fund enumerated in section 356.30, subdivision 3, clause (7), (8), or (14), who terminates public service in any of those funds and becomes a member of another fund enumerated in those clauses may receive a refund of employee contributions plus six percent interest compounded annually from the fund in which the member terminated service. Application for a refund may not be made prior to the date of termination of public service or the expiration of 120 days of layoff termination of membership, whichever is sooner. A refund must be paid within 120 days following receipt of the application unless the applicant has again become a public employee required to be covered by the association.

Sec. 28. Minnesota Statutes 1992, section 353.34, subdivision 3, is amended to read:

Subd. 3. **DEFERRED ANNUITY; ELIGIBILITY; COMPUTATION.** A member with at least three years of allowable service when termination of public service or termination of membership occurs has the option of leaving the accumulated deductions in the fund and being entitled to a deferred retirement annuity commencing at normal retirement age or to a deferred early retirement annuity under section 353.30, subdivision 1, 1a, 1b, 1c, or 5. The deferred annuity must be computed under section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public service or termination of membership and must be augmented as provided in section 353.71, subdivision 2. A former member qualified to apply for a deferred retirement annuity may revoke this option at any time before the commencement of deferred annuity payments by making application for a refund. The person is entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

Sec. 29. Minnesota Statutes 1992, section 353.35, is amended to read:

353.35 CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.

Subdivision 1. REFUND RIGHTS. When any former member accepts a refund, all existing service credits and all rights and benefits to which the person was entitled prior to the acceptance of the refund must terminate ~~and must not~~ again. The rights and benefits of a former member must not be restored until the

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person returns to active service and acquires at least ~~48~~ six months of allowable service credit after taking the last refund and repays ~~all refunds~~ the refund or refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at an annual rate of 8.5 percent compounded annually. If the person elects to restore service credit in a particular fund from which the person has taken more than one refund, the person must repay all refunds to that fund. All refunds must be repaid within six months of the last date of termination of public service.

If more than one refund has been taken, the person may repay all refunds or only the refund for the fund in which the person had most recently been a member, with interest at an annual rate of 8.5 percent compounded annually. All refunds must be repaid within six months of the last date of termination of public service.

Subd. 2. REFUND REPAYMENT. A person who receives a refund of accumulated employee deductions, plus interest, may repay the total amount of the refund including the interest, within 30 days of the date the refund was issued, to retain allowable service.

Sec. 30. Minnesota Statutes 1992, section 353.37, is amended to read:

353.37 PUBLIC REEMPLOYMENT OF ANNUITANT.

Subdivision 1. ~~EFFECT ON ANNUITY SALARY MAXIMUMS.~~ ~~(a)~~ The annuity of a person otherwise eligible for an annuity under this chapter must be suspended under subdivision 2 or reduced under subdivision 3, whichever results in the higher annual annuity amount, if the person reenters public service as a nonelective employee of a governmental subdivision in a position covered by this chapter; ~~if earned compensation and salary for the reemployment service equals or exceeds the 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 under United States Code, title 42, section 403, in any calendar year. In the event that~~ If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings salary for the person are is equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.

Subd. 2. SUSPENSION OF ANNUITY. The association shall suspend the annuity on the first of the month after the month in which the salary of the reemployed annuitant exceeds the maximums set in subdivision 1, based only on those months in which the annuitant is actually employed in nonelective service in a position covered under this chapter. An annuitant who is elected to public office after retirement may hold office and receive an annuity otherwise payable from the association.

~~(b)~~ Subd. 3. REDUCTION OF ANNUITY. The association shall reduce the amount of the reduction is annuity as follows:

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(1) (a) for a person who has not reached normal retirement age, one-half of the amount in excess of the applicable reemployment income maximum ~~specified in this~~ under subdivision 1;

(2) (b) for a person who has reached normal retirement age, but has not reached age 70, one-third of the amount in excess of the applicable reemployment income maximum ~~specified in this~~ under subdivision 1.

(c) for a person who has reached age 70, or for ~~income salary~~ earned through service in an elected office, there is no reduction upon reemployment, regardless of income. ~~Any reduction must be made from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned.~~

Subd. 4. RESUMPTION OF ANNUITY. The association shall resume paying a full annuity to the reemployed annuitant at the start of each calendar year until the salary exceeds the maximums under subdivision 1, or on the first of the month following termination of public service or termination of membership, whichever is sooner. The executive director may adopt policies regarding the suspension and reduction of annuities under this section.

(e) Subd. 5. EFFECT ON ANNUITY. Except as provided in ~~paragraphs (a) and (b) under this section,~~ public service performed by an annuitant subsequent to retirement under this chapter does not increase or decrease the amount of an annuity. The annuitant ~~may~~ shall not make any further contributions to the association's defined benefit plan by reason of this subsequent public service.

Sec. 31. Minnesota Statutes 1992, section 353.64, subdivision 1, is amended to read:

Subdivision 1. **POLICE AND FIRE FUND MEMBERSHIP.** ~~Any~~ (a) A person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or firefighter, shall, as long as the person remains in either position, ~~be deemed to~~ continue membership in the fund.

~~Any~~ (b) A person who was employed by a governmental subdivision as a police officer and was a member of the police and fire fund on July 1, 1978, by virtue of being a police officer as defined by this section on that date ~~shall be entitled, and~~ if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date, ~~to~~ shall continue membership in the fund whether or not that person has the power of arrest by warrant after that date.

~~Any~~ (c) A person who was employed by a governmental subdivision as a police officer or a firefighter, whichever applies, was an active member of the local police or salaried firefighters relief association located in that governmental subdivision by virtue of that employment as of the effective date of the consolidation as authorized by sections 353A.01 to 353A.10, and has elected coverage by the public employees police and fire fund benefit plan, ~~shall be considered to~~

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be become a member of the police and fire fund after that date if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date.

(d) Any other employee serving on a full-time basis as a police officer or firefighter on or after July 1, 1961, shall become a member of the public employees police and fire fund.

Any (e) An employee serving on less than a full-time basis as a police officer shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a police officer.

Any (f) An employee serving on less than a full-time basis as a firefighter shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a firefighter.

Any (g) A police officer or firefighter employed by a governmental subdivision who by virtue of that employment is required by law to be a member of and to contribute to any police or firefighter relief association governed by section 69.77 which has not consolidated with the public employees police and fire fund and any police officer or firefighter of a relief association that has consolidated with the association for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10 shall not ~~be~~ become a member of ~~this~~ the public employees police and fire fund.

Sec. 32. Minnesota Statutes 1992, section 353.64, subdivision 5a, is amended to read:

Subd. 5a. A member of the police and fire fund continues to be a member of that fund if transferred to a different position with associated police or fire department functions in the same department or a related department in the same governmental subdivision provided the governing body sends a copy of a resolution to that effect to the association ~~and the member meets the eligibility criteria under subdivision 2 or 3~~. A police and fire fund member who is elected or assumes an appointive position, including but not limited to, the positions of city council member, city manager, and finance director is not eligible to retain membership in the public employees police and fire fund.

Sec. 33. Minnesota Statutes 1992, section 353.64, is amended by adding a subdivision to read:

Subd. 7a. PENSION COVERAGE FOR CERTAIN METROPOLITAN

New language is indicated by underline, deletions by ~~strikeout~~.

TRANSIT COMMISSION POLICE OFFICERS. A person who is employed as a full-time police officer on or after the first day of the first payroll period after the effective date of this section by the metropolitan transit commission and who is not eligible for coverage under the agreement with the Secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act because the person's position is excluded from application under United States Code, sections 418(d)(5)(A) and 418(d)(8)(D), and under section 355.07, is a member of the public employees police and fire fund and is considered to be a police officer within the meaning of this section. The metropolitan transit commission shall deduct the employee contribution from the salary of each full-time police officer as required by section 353.65, subdivision 2, shall make the employer contribution for each full-time police officer as required by section 353.65, subdivision 3, and shall meet the employer recording and reporting requirements in section 353.65, subdivision 4.

Sec. 34. Minnesota Statutes 1992, section 353.656, subdivision 1, is amended to read:

Subdivision 1. **IN LINE OF DUTY; COMPUTATION OF BENEFITS.** ~~Any~~ A member of the police and fire fund ~~less than 55 years of age~~, who becomes disabled and physically unfit to perform duties as a police officer or firefighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which has or is expected to render the member physically or mentally unable to perform duties as a police officer or firefighter for a period of at least one year, shall receive disability benefits during the period of such disability. The benefits must be in an amount equal to 50 percent of the "average salary" pursuant to subdivision 3 plus an additional 2-1/2 percent of said average salary for each year of service in excess of 20 years. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit must be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Sec. 35. Minnesota Statutes 1992, section 353.656, subdivision 1a, is amended to read:

Subd. 1a. **OPTIONAL ANNUITY ELECTION.** A disabled member of the police and fire fund may elect to receive the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity ~~shall~~ may be made prior to commencement of payment of the disability benefit or as specified under subdivision 6a. The optional annuity shall begin to accrue on the same date as provided for the disability benefit.

(1) If the person who is not the spouse of the member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under

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section 353.657, subdivisions 2 and 2a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent child or children, if any, continue to be eligible for survivor benefits, including the minimum benefit under section 353.657, subdivision 3. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefit; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, each dependent child will receive ten percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 36. Minnesota Statutes 1992, section 353.656, subdivision 3, is amended to read:

Subd. 3. **NONDUTY DISABILITY BENEFIT.** Any member who becomes disabled after not less than one year of allowable service; ~~before reaching the age of 55;~~ because of sickness or injury occurring while not on duty as a police officer or firefighter, and by reason of that sickness or injury the member has been or is expected to be unable to perform duties as a police officer or firefighter for a period of at least one year, is entitled to receive a disability benefit. The benefit must be ~~in the same amount and~~ paid in the same manner as if the ~~member were 55 years of age at the date of disability and the benefit were paid under section 353.651.~~ If a disability under this subdivision occurs after one but in less than 15 years of allowable service, the disability benefit must be the same as though the member had at least 15 years service. For a member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 37. Minnesota Statutes 1992, section 353.656, subdivision 5, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **PROOF OF DISABILITY.** ~~No~~ A disability benefit payment ~~shall~~ must not be made except upon adequate proof furnished to the association of the existence of such disability, and during the time when ~~any such~~ disability benefits are being paid, the association ~~shall have~~ has the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed. ~~Payment of a disability benefit must cease the first of the month following reinstatement to a position covered by the public employees police and fire fund.~~ A person applying for or receiving a disability benefit shall provide or authorize release of medical evidence, including all medical records and information from any source, relating to an application for disability benefits.

Sec. 38. Minnesota Statutes 1992, section 353.656, is amended by adding a subdivision to read:

Subd. 5a. CESSATION OF DISABILITY BENEFIT. The association shall cease the payment of an in-line-of-duty or nonduty disability benefit the first of the month following the reinstatement of a member to full time or less than full-time service in a position covered by the police and fire fund.

Sec. 39. Minnesota Statutes 1992, section 353.656, is amended by adding a subdivision to read:

Subd. 6a. DISABILITY SURVIVOR BENEFITS. If a member who is receiving a disability benefit under subdivision 1 or 3:

(a) dies before attaining age 65 or within five years of the effective date of the disability, whichever is later, the surviving spouse shall receive a survivor benefit under section 353.657, subdivision 2 or 2a, unless the surviving spouse elected to receive a refund under section 353.32, subdivision 1. The joint and survivor optional annuity under subdivision 2a is based on the minimum disability benefit under subdivision 1 or 3, or the deceased member's allowable service, whichever is greater.

(b) is living at age 65 or five years after the effective date of the disability, whichever is later, the member may continue to receive a normal disability benefit, or the member may elect a joint and survivor optional annuity under section 353.30. The optional annuity is based on the minimum disability benefit under subdivision 1 or 3, or the member's allowable service, whichever is greater. The election of this joint and survivor annuity must occur within 90 days of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity takes effect the first of the month following the month in which the person attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

(c) if there is a dependent child or children under paragraph (a) or (b), the association shall grant a dependent child benefit under section 353.657, subdivision 3.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 40. Minnesota Statutes 1992, section 353A.08, subdivision 1, is amended to read:

Subdivision 1. **ELECTION OF COVERAGE BY CURRENT RETIREES.** A person who is receiving a service pension, disability benefit, or survivorship benefit is eligible to elect benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided under the relief association benefit plan in effect on the effective date of the consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage ~~shall be~~ are limited to participation in the Minnesota postretirement investment fund for any future postretirement adjustments ~~in~~ based on the amount of the benefit or pension payable ~~as of on December 31, if December 31 is the effective date of consolidation, or on the December 1 following the effective date of the consolidation, the date as of which pension or benefit payments are to be paid and the termination of a survivor or disability benefit or suspension of a retirement annuity before the death of the person if other than December 31.~~ as of on December 31, if December 31 is the effective date of consolidation, or on the December 1 following the effective date of the consolidation, the date as of which pension or benefit payments are to be paid and the termination of a survivor or disability benefit or suspension of a retirement annuity before the death of the person if other than December 31. The survivorship benefit payable on behalf of any service pension or disability benefit recipient who elects benefit coverage ~~provided under the relevant provisions of the public employees police and fire fund benefit plan must be calculated under the relief association benefit plan in effect on the effective date of the consolidation and is subject to participation in the Minnesota postretirement investment fund for any future postretirement adjustments in~~ based on the amount of the survivorship benefit payable.

By electing the public employees police and fire fund benefit plan, a current service pension or disability benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the pension or benefit for at least seven months, or any survivor benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the benefit on the person's own behalf or in combination with a prior applicable service pension or disability benefit for at least seven months is eligible to receive a partial adjustment payable from the Minnesota postretirement investment fund under section 11A.18, subdivision 9.

The election by any pension or benefit recipient must be made on or before the deadline established by the board of the public employees retirement association in a manner that recognizes the number of persons eligible to make the election and the anticipated time required to conduct any required benefit counseling.

Sec. 41. Minnesota Statutes 1992, section 353A.08, subdivision 3, is amended to read:

Subd. 3. **ELECTION OF COVERAGE BY ACTIVE MEMBERS.** Any A person who is employed as a police officer or as a firefighter other than a volunteer firefighter, whichever applies, by the municipality and is an active member of the relief association ~~shall have~~ has the option to elect ~~to have~~ benefit cover-

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age provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided by the relief association benefit plan in effect on the effective date of consolidation. The relevant provisions of the public employee police and fire fund benefit plan for the person electing that benefit coverage ~~shall be~~ are the relevant provisions of the public employee police and fire fund benefit plan applicable to retirement annuities, disability benefits, and survivor benefits, including participation in the Minnesota postretirement investment fund, but excluding any provisions governing the purchase of credit for prior service or making payments in lieu of member contribution deductions applicable to any period which occurred before the effective date of consolidation.

An active member ~~shall be~~ is eligible to make an election at one of the following times:

(a) ~~on or before the date occurring 180 days after~~ within six months of the effective date of consolidation;

(b) ~~after~~ between the date on which the active member attains the age of 49 years and six months and ~~before~~ the date on which the active member attains the age of 50 years; or

(c) on the date on which the active member terminates active employment ~~as a police officer or firefighter for purposes of receiving a service pension or disability benefits, or within 90 days of the date the member terminates active employment and defers receipt of a service pension, whichever applies; with the municipality in which the local relief association subject to consolidation was located.~~

Sec. 42. Minnesota Statutes 1992, section 353A.08, subdivision 5, is amended to read:

Subd. 5. **RETURNING DISABILITANTS; REEMPLOYED ANNUITANTS.** ~~Any A~~ A person who is receiving a disability benefit from a consolidating local relief association as of the effective date of the consolidation and who recovers sufficiently from that disability following the effective date of the consolidation to allow for a return to active employment as a police officer or firefighter, whichever applies, with the municipality in which the consolidating relief association was located ~~shall retain~~ retains eligibility to the local relief association benefit plan only and ~~shall is~~ is not be entitled to elect the public employees police and fire fund benefit plan as an active member, even if the public employees police and fire fund benefit plan was elected as a benefit recipient.

~~Any A~~ A person who becomes disabled following the effective date of the consolidation ~~shall be~~ is entitled to make a benefit plan coverage election as an active member upon the termination of active employment and commencement of the disability benefit and, upon any return to active service, ~~shall retain~~ retains benefit plan coverage by the previously selected benefit plan coverage election.

New language is indicated by underline, deletions by ~~strikeout~~.

Any A person who retired from a consolidating local relief association ~~before the effective date of the consolidation or retires~~ after the effective date of the consolidation, who has elected coverage by the public employees police and fire fund benefit plan and who returns to active employment with an employing unit covered by the public employees retirement association following the effective date of consolidation ~~shall be~~ is subject to the provisions of section 353.37, subdivision 4.

Sec. 43. Minnesota Statutes 1992, section 353A.10, subdivision 4, is amended to read:

Subd. 4. **REFUND OF CERTAIN MEMBER CONTRIBUTION AMOUNTS.** (a) The following persons are entitled to receive a refund of certain member contribution amounts under paragraph (b):

(1) A person who was an active member of a local police or firefighters relief association upon its consolidation with the public employees retirement association, who does not elect the type of benefit coverage provided by the public employees police and fire benefit plan and who begins receipt of a service pension or a disability benefit from the consolidation account, or who defers receipt of a service pension under the local relief association plan upon application for the refund of excess contributions; or

(2) A person who is the surviving spouse, or if none, the surviving minor child, or if none, the designated beneficiary of a person who was an active member of a local police or firefighters relief association upon its consolidation with the fund, who did not elect the type of benefit coverage provided by the public employees police and fire benefit plan and who dies prior to receiving a service pension or a disability benefit from the consolidation account.

(b) The refund of certain member contribution amounts is the amount by which any member contributions made to the consolidation account under section 353A.09, subdivision 4, exceeds the amount of employee or member contributions which would have been payable to the local relief association as provided in the benefit plan in effect on the effective date of consolidation, plus interest at the rate of six percent, compounded quarterly, from the date on which the contribution was made until the first of the month in which the refund is paid.

(c) A refund of certain contribution amounts must occur as soon as practicable following receipt of a valid application from the appropriate person ~~and or~~ the commencement of receipt of the service pension or disability benefit or official notification of death, whichever applies.

Sec. 44. Minnesota Statutes 1992, section 353B.11, subdivision 6, is amended to read:

Subd. 6. **DISCONTINUATION; SURVIVING SPOUSE BENEFIT.** (a) Except as specified in paragraph (b) or (c), a surviving spouse benefit ~~shall termi-~~

New language is indicated by underline, deletions by ~~strikeout~~.

~~rate~~ terminates upon the death or the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit.

(b) A surviving spouse benefit ~~shall terminate~~ terminates upon the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit but ~~shall recommence~~ recommences at the appropriate amount without any retroactive payments in the event of the termination of the subsequent marriage for any reason for the former members of the following consolidating relief associations:

- (1) Albert Lea firefighters relief association;
- (2) ~~Albert Lea police relief association;~~
- (~~3~~) Duluth firefighters relief association;
- (~~4~~) (3) Minneapolis fire department relief association;
- (~~5~~) (4) St. Paul fire department relief association; and
- (~~6~~) (5) St. Paul police relief association.

(c) A surviving spouse benefit shall terminate only upon the death of the person entitled to receive or receiving a surviving spouse benefit for the former members of the following consolidating relief associations:

- (1) Albert Lea police relief association;
- (2) Anoka police relief association;
- (~~2~~) (3) Buhl police relief association;
- (~~3~~) (4) Chisholm fire department relief association;
- (~~4~~) (5) Chisholm police relief association;
- (~~5~~) (6) Crookston fire department relief association;
- (~~6~~) (7) Duluth police relief association;
- (~~7~~) (8) Faribault fire department relief association;
- (~~8~~) (9) Hibbing firefighters relief association;
- (~~9~~) (10) Hibbing police relief association;
- (~~10~~) (11) Mankato fire department relief association;
- (~~11~~) (12) Red Wing fire department relief association;
- (~~12~~) (13) Red Wing police relief association;

New language is indicated by underline, deletions by ~~strikeout~~.

- ~~(13)~~ (14) Rochester fire department relief association;
- ~~(14)~~ (15) Rochester police relief association;
- ~~(15)~~ (16) St. Cloud fire department relief association;
- ~~(16)~~ (17) St. Louis Park fire department relief association;
- ~~(17)~~ (18) St. Louis Park police relief association;
- ~~(18)~~ (19) South St. Paul firefighters relief association;
- ~~(19)~~ (20) South St. Paul police relief association;
- ~~(20)~~ (21) West St. Paul firefighters relief association;
- ~~(21)~~ (22) Winona fire department relief association; and
- ~~(22)~~ (23) Winona police relief association.

Sec. 45. Minnesota Statutes 1992, section 353C.08, subdivision 1, is amended to read:

Subdivision 1. **DUTY DISABILITY QUALIFICATION REQUIREMENTS.** A local government correctional employee who is ~~less than 55 years of age and who~~ becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that renders the employee physically or mentally unable to perform the employee's duties, is entitled to a disability benefit based on covered service only in an amount equal to 45 percent of the average salary defined in section 353C.06, subdivision 2, plus an additional 2.5 percent for each year of covered service in excess of 20 years.

Sec. 46. Minnesota Statutes 1992, section 353C.08, subdivision 2, is amended to read:

Subd. 2. **NONDUTY DISABILITY QUALIFICATION REQUIREMENTS.** A local government correctional employee who has at least one year of covered service, and ~~who, before reaching the age of 55,~~ becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered service. The disability benefit must be computed in the same manner as an annuity under section 353C.06, subdivision 3, and as though the employee had at least ten years of covered correctional service.

Sec. 47. Minnesota Statutes 1992, section 353D.02, is amended to read:

353D.02 ELECTION OF COVERAGE.

Eligible elected local government officials may elect to participate in the defined contribution plan after being elected or appointed to elective public

New language is indicated by underline, deletions by ~~strikeout~~.

office by filing a membership application on a form prescribed by the executive director of the association authorizing contributions to be deducted from the elected official's salary. Participation begins on the first day of the pay period for which the contributions were deducted or, if pay period coverage dates are not provided, the date on which the membership application or contributions are received in the office of the association, whichever is received first, provided further that the membership application is received by the association within 60 days of the receipt of the contributions. ~~If the membership application is not received, the elected official is not a participant in the plan and may request a refund under section 353D.04, subdivision 2.~~ An election to participate in the plan is ~~irrevocable~~ revocable during incumbency.

Each public ambulance service or privately operated ambulance service with eligible personnel that receives an operating subsidy from a governmental entity may elect to participate in the plan. If a service elects to participate, its eligible personnel may elect to participate or to decline to participate. An individual's election must be made within 30 days of the service's election to participate or 30 days of the date on which the individual was employed by the service or began to provide service for it, whichever date is later. An election by a service or an individual is ~~irrevocable~~ revocable.

Sec. 48. Minnesota Statutes 1992, section 353D.04, is amended to read:

353D.04 CONTRIBUTIONS AND DEDUCTIONS IN ERROR.

~~Subdivision 1. CONTRIBUTIONS.~~ (a) Contributions made by or on behalf of a participating elected local government official must be remitted to the public employees retirement association and credited to the individual account established for the participant.

(b) Ambulance service contributions must be remitted on a regular basis to the association together with any member contributions paid or withheld. Those contributions must be credited to the individual account of each participating member.

~~Subd. 2. DEDUCTIONS IN ERROR. The executive director may adopt policies and procedures regarding~~ deductions taken totally or partially in error by the employer from the salary of an elected official, ~~and contributions made by the employer may be refunded upon request to the elected official and the employer.~~

(a) In the case of a total refund, the association shall refund the value of an elected official's account, including investment earnings, the accumulated employee deductions, accumulated employer contributions, less administrative expenses under section 353D.05, subdivision 3.

(b) In the case of a partial refund, the association shall refund the amount of the actual error, without interest, less the administrative expenses under section 353D.05, subdivision 3, from the employer share.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 49. Minnesota Statutes 1992, section 353D.05, subdivision 3, is amended to read:

Subd. 3. **ADMINISTRATIVE EXPENSES.** The executive director of the association shall annually set an amount to recover the costs of the association in administering the public employees defined contribution plan: ~~If that are not met by the amount recovered under section 11A.17 does not meet the annual costs of administering the defined contribution plan, the executive director may assess an additional amount up to two percent of the employer and employee contributions.~~

Sec. 50. Minnesota Statutes 1992, section 353D.07, subdivision 2, is amended to read:

Subd. 2. **PAYMENT OF BENEFITS.** Withdrawal of a benefit based on individual participant contributions and employer contributions plus accrued investment income is payable upon the death or termination of a participant but not at the time an individual revokes membership in the defined contribution plan under section 353D.02. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Sec. 51. Minnesota Statutes 1992, section 356.302, subdivision 4, is amended to read:

Subd. 4. **PUBLIC SAFETY PLAN ELIGIBILITY REQUIREMENTS.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

~~(1) is less than 55 years old on the date of application for the disability benefit;~~

~~(2) has become occupationally disabled;~~

~~(3) (2) has credit for allowable service in any combination of public safety employee retirement plans totaling at least one year if the disability is duty-related or totaling at least three years if the disability is not duty-related;~~

~~(4) (3) has credit for at least six months of allowable service with the current public safety employee retirement plan before the commencement of the disability; and~~

~~(5) (4) is not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.~~

Sec. 52. Minnesota Statutes 1992, section 356.453, is amended to read:

356.453 PURCHASE OF PRIOR SERVICE.

New language is indicated by underline, deletions by ~~strikeout~~.

Any A person who is excluded from pension coverage pursuant to under the provisions of Laws 1978, chapter 720, but who subsequently becomes employed in unsubsidized public employment with public pension plan or fund coverage, whether with the same public employer which provided the subsidized employment or another public employer, ~~shall be~~ is entitled to purchase service credit for that period of prior subsidized public employment, other than a period of prior subsidized public employment for which a repayment of a refund pursuant to ~~under~~ section 356.452 is made, with the public pension plan or fund which, except for the exclusion provided for by Laws 1978, chapter 720, would have provided pension coverage for the subsidized employment. Payment ~~shall~~ must include all employee and employer contributions at the rates and on the salary in effect when the subsidized employment was rendered plus interest at the rate of ~~six~~ 8.5 percent per annum compounded annually from the year purchased to the date payment is made; provided, however, that the employer for the unsubsidized employment, the employer for the subsidized employment, or the applicable federal Comprehensive Employment and Training Act prime sponsor from funds provided under the federal Comprehensive Employment and Training Act, as funds permit, may pay the employer contribution and the employer additional contribution, if any, plus interest at the specified rate. The public employer which provided the subsidized employment shall provide whatever documentation of periods of subsidized public employment and the salary received that the pension plan or fund shall require. Payment ~~shall~~ must be made in one lump sum by the date of retirement and no service credit with respect to the payment ~~shall~~ may be granted until payment is received by the pension plan or fund.

Sec. 53. Minnesota Statutes 1992, section 356.61, is amended to read:

356.61 LIMITATION ON PUBLIC EMPLOYEE RETIREMENT ANNUITIES.

Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements or retirement plan contracts to the contrary, no person who has pension or retirement coverage by a public pension plan ~~shall be~~ is entitled to receive a monthly retirement annuity or disability benefit which, at the time of commencement of the retirement annuity or disability benefit, exceeds ~~the lesser of:~~

(a) ~~the amount of the final monthly salary of the person; or~~

(b) ~~1/12 of the amount of the annual benefit permitted by the terms of section 415 of the Internal Revenue Code with respect to a participant in a plan qualified under section 401(a) of the Internal Revenue Code, as amended through December 31, 1982.~~

The benefit limitation of ~~clause (b)~~ is to be determined on the date the benefit is initially payable or on the date the employee terminated employment, if earlier. The benefit limitation on any date is the benefit limitation for the limitation year in which the date occurs. The limitations apply only to the annual ben-

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efit which is derived from employer contributions. Mandatory and voluntary employee contributions, if any, are treated as a separate defined contribution plan maintained by the employer which is subject to the limitations placed on annual additions to defined contribution plans.

The maximum annual benefit ~~of clause (b)~~ for any limitation year is the lesser of (1) or (2) below:

(1) A dollar limitation of \$90,000, adjusted as of January 1 of each calendar year to the dollar limitation as determined for that year by the commissioner of Internal Revenue. The amount determined for any year will apply to limitation years ending with or within that calendar year.

(2) A compensation limitation of 100 percent of the average of compensation paid or made available to the participant by the employer during those three consecutive calendar years of employment, or actual number of consecutive calendar years of employment if employed less than three consecutive years, which give the highest average. Compensation means any compensation which is includable in the employee's gross income.

A benefit ~~shall be~~ is deemed not to exceed the maximum benefit limitation ~~of clause (b)~~ if:

(1) the retirement benefits payable under the plan and under any other defined benefit plans of the employer do not exceed the \$10,000 limit set in section 415(b)(4) of the Internal Revenue Code for the plan year, or for any prior plan year, and

(2) the employer has not at any time maintained a defined contribution plan in which the employee participated.

A public pension plan is any Minnesota public pension plan or fund which provides pension or retirement coverage for public employees other than volunteer firefighters, including any plan or fund enumerated in sections 356.20, subdivision 2, or 356.30, subdivision 3, any local police or firefighter's relief association to which section 69.77 applies, or any retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained or supported by any governmental subdivision or public body whose revenues are derived from taxation, fees, assessments or from other public sources. ~~Final monthly salary is the hourly rate of compensation received by the person on account of the most recent public employment for the final pay period occurring prior to retirement multiplied by 174.~~

The figure for the monthly retirement annuity or disability benefit to be used for the calculation of this limitation ~~shall~~ must not include any reduction or adjustment required for retirement prior to the normal retirement age or required for the election of an optional annuity.

If the figure for the monthly retirement annuity or disability benefit exceeds

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the limit contained in this section, the annuity or benefit payable ~~shall~~ must be reduced appropriately.

The managing board of each public pension plan from which a retirement annuity or disability benefit is payable shall, at the time that the retirement annuity or disability benefit commences, contact all other public pension plans to determine whether or not the recipient of the retirement annuity or disability benefit is also receiving or is entitled to receive a retirement annuity or disability benefit from any other public pension plan. If a person is entitled to receive or is receiving a retirement annuity or disability benefit from more than one public pension plan, all retirement annuities or disability benefits from all public pension plans ~~shall~~ must be totaled in determining whether or not the limitation ~~shall apply; provided however, that the limitation shall be based on the highest final monthly salary received by the individual from any plan applies.~~ Any A reduction in the amount of the retirement annuity or disability benefit required ~~pursuant to~~ under this section ~~shall be~~ is made by the public pension plan which provided retirement coverage for the most recent period of service.

Sec. 54. **REPEALER.**

Minnesota Statutes 1992, section 353.656, subdivision 6, is repealed retroactive to October 16, 1992.

Sec. 55. **EFFECTIVE DATE.**

Sections 1 to 18, 20, 22 to 24, 27 to 29, 31 to 33, 37, 38, 40 to 44, 47 to 50, and 53 are effective July 1, 1993. Section 30 is effective January 1, 1993. Sections 19, 21, 25, 26, 34, 36, 39, 45, 46, 51, and 54 are effective retroactively to October 16, 1992. Section 52 is effective May 1, 1994.

ARTICLE 5

TEACHERS RETIREMENT ASSOCIATION

Section 1. Minnesota Statutes 1992, section 354.35, is amended to read:

354.35 OPTIONAL ACCELERATED RETIREMENT ANNUITY BEFORE AGE 65.

Any coordinated member who retires before age 65 may elect to receive an optional accelerated retirement annuity from the association which provides for different annuity amounts over different periods of retirement. The election of this optional accelerated retirement annuity is exercised by making an application to the board on a form provided by the ~~board~~ executive director. The optional accelerated retirement annuity must take the form of an annuity payable for the period before the member attains age 65 in a greater amount than the amount of the annuity calculated under section 354.44 on the basis of the

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age of the member at retirement, but the optional accelerated retirement annuity must be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount must be paid until the retiree reaches age 65 and at that time the payment from the association must be reduced. For each year the retiree is under age 65, up to five percent of the total life annuity required reserves may be used to accelerate the optional retirement annuity under this section. At retirement, members who retire before age 62 may elect to have the age specified in this section be 62 instead of 65. This election is irrevocable and may be made only once on the application form provided by the executive director. The method of computing the optional accelerated retirement annuity provided in this section is established by the board of trustees. In establishing the method of computing the optional accelerated retirement annuity, the board of trustees must obtain the written approval of the commission-retained actuary. The written approval must be a part of the permanent records of the board of trustees.

Sec. 2. Minnesota Statutes 1992, section 354.46, subdivision 1, is amended to read:

Subdivision 1. **BASIC PROGRAM; BENEFITS FOR SPOUSE AND CHILDREN OF TEACHER.** If a basic member who has at least 18 months of allowable service credit and who has an average salary as defined in section 354.44, subdivision 6, equal to or greater than \$75 dies prior to retirement or if a former basic member who, at the time of death, was totally and permanently disabled and receiving disability benefits pursuant to section 354.48 dies ~~prior to attaining the age of 65 years before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later,~~ the surviving dependent spouse and dependent children of the basic member or former basic member shall be entitled to receive a monthly benefit as follows:

- (a) Surviving dependent spouse 50 percent of the basic member's monthly average salary paid in the last full fiscal year preceding death
- (b) Each dependent child ten percent of the basic member's monthly average salary paid in the last full fiscal year preceding death

Payments for the benefit of any dependent child under the age of 22 years shall be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit shall not exceed \$1,000 for any one family, and the minimum benefit per family shall not be less than 50 percent of the basic member's average salary, subject to the foregoing maximum. The surviving dependent children's benefit shall be reduced pro tanto when any surviving child is no longer dependent.

New language is indicated by underline, deletions by ~~strikeout~~.

If the basic member and the surviving dependent spouse are killed in a common disaster and if the total of all survivors benefits payable pursuant to this subdivision is less than the accumulated deductions plus interest payable, the surviving dependent children shall receive the difference in a lump sum payment.

If the survivor benefits provided in this subdivision exceed in total the monthly average salary of the deceased basic member, these benefits shall be reduced to an amount equal to the deceased basic member's monthly average salary.

Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to subdivision 2, or may elect to receive a refund of accumulated deductions with interest in a lump sum as provided pursuant to section 354.47, subdivision 1. If there are any surviving dependent children, the surviving dependent spouse may elect to receive the refund of accumulated deductions only with the consent of the district court of the district in which the surviving dependent child or children reside.

Sec. 3. Minnesota Statutes 1992, section 354.48, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF BENEFITS.** (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, clauses (1) and (2), is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest on the amount computed as though the teacher were at normal retirement age at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974, and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, shall have the disability benefit computed under this clause or clause (2), whichever is larger.

The benefit granted shall be determined by the following:

- (a) the amount of the accumulated deductions;
- (b) interest actually earned on these accumulated deductions to the date the benefit begins to accrue;
- (c) interest for the years from the date the benefit begins to accrue to the date the member attains normal retirement age at the rate of three percent;
- (d) annuity purchase rates based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 4d.

In addition, a supplementary monthly benefit ~~shall of \$25 to age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is~~

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later, must be paid to basic members only in accordance with the following table:

Age When Benefit Begins to Accrue	Supplementary Benefit
Under Age 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

(2) The disability benefit granted to members covered under section 354.44, subdivision 6, shall be computed in the same manner as the annuity provided in section 354.44, subdivision 6. The disability benefit shall be the formula annuity without the reduction for each month the member is under normal retirement age when the benefit begins to accrue.

(3) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

Sec. 4. Minnesota Statutes 1992, section 354.48, subdivision 10, is amended to read:

Subd. 10. **RETIREMENT STATUS AT NORMAL RETIREMENT AGE.** No person shall be entitled to receive both a disability benefit and a retirement annuity provided by this chapter. The disability benefit paid to a person hereunder shall terminate at the end of the month in which the person attains normal retirement age. If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the normal retirement age, the person shall be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to subdivision 3a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 3a, may ~~at the option of the person~~ elect to receive ~~either a straight life retirement annuity computed pursuant to section 354.44 or a straight life retirement annuity equal to the disability benefit paid prior to the date on which the person attained the age of 65 years attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever amount is greater later~~, or elect to receive an optional annuity as provided in section 354.45, subdivision 1. Election of an optional annuity ~~shall~~ must be

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made prior to the person attaining the normal retirement age within 90 days of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later. If an optional annuity is elected, the election shall be effective on the date on which the person attains the normal retirement age and age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains ~~that~~ age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 5. EFFECTIVE DATES.

Section 1 is effective January 1, 1994. Sections 2 to 4, are effective retroactively to October 16, 1992.

ARTICLE 6

SURVIVING SPOUSE BENEFITS

Section 1. Minnesota Statutes 1992, section 352.12, subdivision 2, is amended to read:

Subd. 2. **SURVIVING SPOUSE BENEFIT.** If an employee or former employee is at least 50 years old and has credit for at least three years allowable service or who has credit for at least 30 years of allowable service, regardless of age, dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest provided in subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed as provided in sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1, 1a, and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity payable under this subdivision. The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. An amount equal to the excess, if any, of the accumulated contributions credited to the account of the deceased employee in excess of the total of the benefits paid and payable to the surviving spouse must be paid to the deceased employee's last designated beneficiary or, if none, to the surviving children of the deceased spouse in equal shares or, if none, to the surviving parents of the deceased spouse or, if none, to the representative of the estate of the deceased spouse. Any employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. Minnesota Statutes 1992, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. **SURVIVING SPOUSE OPTIONAL ANNUITY.** If a member or former member ~~who has attained at least age 50 and has credit for not less than three years of allowable service or who has credit for not less than 30 years of allowable service, regardless of age attained,~~ dies before the annuity or disability benefit begins to accrue under section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest under subdivision 1, or surviving spouse benefits otherwise payable under section 353.31, an annuity equal to the 100 percent joint and survivor annuity that the member could have qualified for had the member terminated service on the date of death.

Notwithstanding the definition of surviving spouse in section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse optional annuity if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse optional annuity despite the terms of a marriage dissolution decree filed with the association.

The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed under sections 353.29, subdivisions 2 and 3; 353.30, subdivisions 1, 1a, 1b, 1c, and 5; and 353.31, subdivision 3. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter.

Sec. 3. Minnesota Statutes 1992, section 354.46, subdivision 2, is amended to read:

Subd. 2. **DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT.** The surviving spouse of any member or former member ~~who has attained the age of at least 50 years and has credit for at least three years of allowable service or who has credit for at least 30 years of allowable service irrespective of age~~ is entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect

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to receive a surviving spouse benefit provided pursuant to subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions provided pursuant to section 354.47, subdivision 1, the surviving spouse is entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity as provided pursuant to section 354.45 and computed pursuant to section 354.44, subdivision 2, 6, or 7, whichever is applicable. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. This benefit accrues from the day following the date of death but may not begin to accrue more than six months before the date the application is filed with the executive director. Sections 354.44, subdivision 6 and 354.60 apply to a deferred annuity payable under this section. The benefit is payable for life.

Sec. 4. EFFECTIVE DATE.

Sections 1 to 3 are effective the day after final enactment.

ARTICLE 7

REPEALER AND EFFECTIVE DATE

Section 1. REPEALER.

Minnesota Statutes 1992, sections 3A.06; 352.01, subdivision 7; 352.12, subdivision 5; 352.22, subdivision 9; 352.73; 352B.01, subdivision 2a; 352B.131; 352B.14; 352B.261; 352B.262; 352B.28; and 352D.05, subdivision 5, are repealed.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

ARTICLE 8

PERA DEFINED CONTRIBUTION PLAN MEMBERSHIP

**Section 1. PUBLIC EMPLOYEES DEFINED CONTRIBUTION PLAN:
ELECTION OF COVERAGE IN CERTAIN INSTANCES.**

(a) Notwithstanding any provision to the contrary in Minnesota Statutes, chapter 353 or 353D, a person described in paragraph (b) is eligible to elect contributions for prior service under paragraph (c) and coverage for future public employment under paragraph (d).

New language is indicated by underline, deletions by ~~strikeout~~.

(b) A person eligible to make the elections provided for in this section is a person who:

(1) was born on March 3, 1939;

(2) was an elected official of Blackberry township during the period March 1972 through March 1990;

(3) became an employee of the city of Deer River in March 1987; and

(4) is a member of the coordinated program of the public employees retirement association under Minnesota Statutes, chapter 353, on the effective date of this section.

(c) An eligible person may elect to make member contributions for prior service as an elected official of Blackberry township to the public employees defined contribution plan under Minnesota Statutes, chapter 353D. The election must be made on a form prescribed by the executive director of the public employees retirement association. The election form must be accompanied with a lump sum payment of prior member contributions of \$1,937.93, plus interest on that amount at an annual compound rate of six percent from July 1, 1993, to the date payment is made, if payment is made after July 1, 1993. If the person pays the prior member contributions and if the subdivision agrees to make the employer contribution payment, the employing governmental subdivision for the March 1972, through March 1990, period shall pay, in a lump sum, \$2,447.69 plus interest on that amount at an annual compound rate of six percent from July 1, 1993, to the date payment is made, and shall make that payment within 60 days of the payment of the prior member contribution amount and receipt of a notice from the executive director of the public employees retirement association. If the employing governmental subdivision for the March 1972, through March 1990, period does not agree to make the employer contribution payment, the eligible person shall make the same contribution payment that the employing governmental subdivision would have made on the date of payment. The amounts under this paragraph must be deposited in the Minnesota supplemental investment fund to the credit of the person making the member contribution amount as provided in Minnesota Statutes, section 353D.05. Authority to make the prior service member contributions under this paragraph expires on July 1, 1994.

(d) An eligible person may elect to participate in the public employees defined contribution plan governed by Minnesota Statutes, chapter 353D, rather than the coordinated program of the public employees retirement association governed by Minnesota Statutes, chapter 353, for future service as an employee of the city of Deer River after June 30, 1993. The election under this paragraph must be made by July 1, 1993. No refund under Minnesota Statutes, section 353.34, is payable unless the person terminates public employment qualifying for coverage under Minnesota Statutes, chapter 353 or 353D.

Sec. 2. EFFECTIVE DATE.

New language is indicated by underline, deletions by ~~strikeout~~.

Section 1 is effective the day following final enactment.

ARTICLE 9

VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION

Section 1. Minnesota Statutes 1992, section 424A.10, subdivision 3, is amended to read:

Subd. 3. **STATE REIMBURSEMENT.** By February 15 of each year, the relief association shall apply to the commissioner of revenue for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year. By March 15 the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid to qualified recipients. The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The reimbursement payment must be deposited in the special fund of the relief association. A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment and applies to reimbursements payable March 15, 1993, and thereafter.

ARTICLE 10

MINNEAPOLIS EMPLOYEES RETIREMENT FUND

Section 1. Minnesota Statutes 1992, section 422A.05, subdivision 1, is amended to read:

Subdivision 1. The members of the retirement board shall be the trustees and custodians of the several funds created by sections 422A.01 to 422A.25 and shall have exclusive control and management of these funds, and power to invest them and to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which any of the funds created by sections 422A.01 to 422A.25 shall have been invested as well as the proceeds of the investments, and of the money belonging to these funds. The power to manage and invest the assets of the funds must be exercised by the retirement board solely through professional investment or property management firms that are independent of the retirement fund. No financial or property assets of the funds may be managed, serviced, or invested internally or in-house at the retirement fund, except that any investment held by a fund on February 1, 1993, that is not readily tradeable on an established securities exchange may continue to be man-

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aged directly by the retirement board until the investment is converted to cash. The retirement board's functions under this section consist primarily of establishing and effectuating investment policy and structure, managing the investment process, monitoring and measuring the performance of the external independent professional investment or property management firms, retaining or terminating agreements with these firms, apportioning the assets of the funds to be managed among these firms, and making financial decisions on issues if approvals have been specifically reserved by and to the board.

Sec. 2. Minnesota Statutes 1992, section 422A.05, subdivision 2a, is amended to read:

Subd. 2a. **FIDUCIARY DUTY.** (a) In the discharge of their respective duties, the members of the board, the executive director, the board staff, and any other person charged with the responsibility of investing money servicing assets of the funds pursuant to the standards set forth in this chapter shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom. In addition, the members of the board and the chief administrative officer shall act in a manner consistent with chapter 356A.

(b) Individuals authorized by the board to manage or invest the assets of the funds must act in a manner consistent with chapter 356A. In addition, these individuals must act in good faith and exercise that degree of judgment, skill, diligence, and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence acting in a like capacity and familiar with the activity would exercise.

Sec. 3. Minnesota Statutes 1992, section 422A.08, subdivision 5, is amended to read:

Subd. 5. Any contributor ~~or retired employee~~ who prior to entering the service of the city was an employee of a public corporation, ~~shall be allowed is~~ authorized, using the procedure in subdivision 5a, to purchase allowable service credit in the retirement fund for employment by the public corporation in the same manner as though the service had been rendered to the city, providing that the individual has not received service credit and is not eligible to receive service credit for this period under any other plan or fund listed in section 356.30, subdivision 3. Before receiving credit for service rendered to a public corporation as herein set forth, the contributing ~~or retired~~ employee shall make application therefor in writing to the retirement board, and shall contribute to the retirement fund the ~~amount which would have been contributed had the employee been a contributing member of the fund during the time the service was rendered to the public corporation, plus six percent compound interest to date of payment or date of retirement, with the total amount to be determined by the retirement board~~ amount specified in subdivision 5a.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1992, section 422A.08, is amended by adding a subdivision to read:

Subd. 5a. PURCHASE PAYMENT AMOUNT. (a) To purchase credit for prior service under this section, there must be paid to the Minneapolis employees retirement fund an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity obtained by the purchase of the additional service credit. Calculation of this amount must be made using the applicable preretirement interest rate for the association specified in section 356.215, subdivision 4d, and the mortality table adopted for the fund. The calculation must assume continuous future service in the fund until, and retirement at, the age at which the minimum requirements of the fund for normal retirement or retirement with an annuity unreduced for retirement at an early age, including section 356.30, are met with the additional service credit purchased. The calculation must also assume a future salary history that includes annual salary increases at the applicable salary increase rate for the fund or association specified in section 356.215, subdivision 4d. The member must establish in the records of the fund proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director.

(b) Payment must be made in one lump sum.

(c) Payment of the amount calculated under this subdivision must be made by the member. However, the current or former governmental subdivision employer of the member may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect during the period or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of six percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

Sec. 5. Minnesota Statutes 1992, section 422A.101, subdivision 1, is amended to read:

Subdivision 1. **FINANCIAL REQUIREMENTS OF FUND.** Prior to ~~August~~ July 31 annually, the retirement board, in consultation with the commission-retained actuary, shall prepare an itemized statement of the financial requirements of the fund for the succeeding fiscal year. A copy of the statement shall be submitted to the city council, the board of estimate and taxation of the city, the managing board or chief administrative officer of each city owned public utility, improvement project or municipal activity supported in whole or in part by revenues other than real estate taxes, public corporation, or unit of metropolitan government employing members of the fund, the board of special school district No. 1, and the state commissioner of finance prior to ~~September 15~~ July 31 annually. The statement shall be itemized and shall include the following:

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(1) an estimate of the administrative expenses of the fund for the following year, ~~which shall be determined by multiplying, by the factor of 1.035, the figure for administrative expenses as reported in the most recent actuarial valuation prepared by the commission-retained actuary,~~ including the amount necessary to amortize through June 30, 2020, the annual costs that are determined by the retirement board to be related to investment activities of the deposit accumulation fund other than actual investment transaction amounts;

(2) an estimate of the normal cost of the fund expressed as a dollar amount, which shall be determined by applying the normal cost of the fund as reported in the most recent actuarial valuation prepared by the commission-retained actuary and expressed as a percentage of covered payroll to the estimated total covered payroll of all employees covered by the fund for the following year;

(3) an estimate of the contribution required to amortize on a level annual dollar basis the unfunded actuarial accrued liability of the fund by June 30, 2020, using an interest rate of six percent compounded annually as reported in the most recent actuarial valuation, prepared by the commission-retained actuary expressed as a dollar amount. In determining the amount of the unfunded actuarial accrued liability of the fund, all assets other than the assets of the retirement benefit fund shall be valued as current assets as defined under section 356.215, subdivision 1, clause (6), and the assets of the retirement benefit fund shall be valued equal to the actuarially determined required reserves for benefits payable from that fund;

(4) the amount of any deficiency in the actual amount of any employer contribution provided for in this section when compared to the required contribution amount certified for the previous year, plus interest on the amount at the rate of six percent per annum.

Sec. 6. EFFECTIVE DATE.

Sections 1 to 5 are effective the day following final enactment.

Presented to the governor May 17, 1993

Signed by the governor May 20, 1993, 3:50 p.m.

CHAPTER 308—H.F.No. 543

An act relating to state lands; authorizing the sale of certain tax-forfeited land that borders public water in Cook and Sherburne counties; correcting the legal description of the state land to be sold in Anoka county; amending Laws 1989, chapter 150, section 6.

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

Section 1. PRIVATE SALE OF TAX-FORFEITED LAND; COOK COUNTY.

New language is indicated by underline, deletions by ~~strikeout~~.