

Presented to the governor April 22, 1994

Signed by the governor April 25, 1994, 12:01 p.m.

CHAPTER 507—S.F.No. 1744

An act relating to the city of Lakefield; allowing the city of Lakefield to expand its public utilities commission to five members.

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

Section 1. UTILITIES COMMISSION MAY BE EXPANDED TO FIVE.

Notwithstanding Minnesota Statutes, section 412.341, the city of Lakefield may expand its public utilities commission from three to five members and one of the five may also be a member of the Lakefield city council. If expanded, the first term of the holder of the fourth seat is two years and the first term of the holder of the fifth seat is one year. Thereafter, the terms of the holders of the fourth and fifth seats are three years.

Presented to the governor April 22, 1994

Signed by the governor April 25, 1994, 12:05 p.m.

CHAPTER 508—H.F.No. 2124

An act relating to retirement; state university and state community college individual retirement account plans; clarifying various plan provisions; providing for plan coverage for technical college teachers; providing for an optional election of plan coverage for certain state university and community college teachers; mandating the preparation of plan recodification legislation; amending Minnesota Statutes 1992, sections 353.27, subdivision 7a; 354.05, subdivision 2a; 354.42, subdivision 7; 354B.01, by adding a subdivision; 354B.015; and 354B.02, subdivision 2, and by adding a subdivision; Minnesota Statutes 1993 Supplement, sections 352.04, subdivision 9; 354A.011, subdivision 27; 354B.02, subdivision 1; and 354B.05, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 354B; proposing coding for new law as Minnesota Statutes, chapter 354C.

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

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

ARTICLE 1

TECHNICAL COLLEGE TEACHING PERSONNEL

Section 1. Minnesota Statutes 1993 Supplement, 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, plan by which the employee is actually covered.

For purposes of this subdivision, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B.

Sec. 2. Minnesota Statutes 1992, section 353.27, subdivision 7a, is amended to read:

Subd. 7a. **DEDUCTIONS OR CONTRIBUTIONS TRANSMITTED BY ERROR.** (a) If employee deductions and employer contributions were erroneously transmitted to the association, but should have been transmitted to another Minnesota public pension fund listed in section 356.30, subdivision 3 plan, the association shall transfer the erroneous employee deductions and employer contributions to the appropriate retirement fund without interest. The time limitations in subdivisions 7 and 12 do not apply.

(b) For purposes of this subdivision, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B.

Sec. 3. Minnesota Statutes 1992, section 354.05, subdivision 2a, is amended to read:

Subd. 2a. **EXCEPTIONS.** (a) Notwithstanding subdivision 2, a person who is first employed as a teacher in the state university system or the state community college system after June 30, 1989, specified in paragraph (b) is not a mem-

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

ber of the fund except for purposes of social security coverage unless (1) the person is covered by section 354B.02, subdivision 2, and remains a member of the fund for all purposes or, (2) the person is covered by section 354B.02, subdivision 1 or 5, or 354B.035, and elects coverage by the teachers retirement association.

(b) A teacher is excluded from fund membership under paragraph (a) if first employed as:

- (1) a teacher in the state university system after June 30, 1989;
- (2) a teacher in the state community college system after June 30, 1989; or
- (3) a teacher in a technical college authorized under chapter 136C or 136D after June 30, 1995.

Sec. 4. Minnesota Statutes 1992, section 354.42, subdivision 7, is amended to read:

Subd. 7. **ERRONEOUS SALARY DEDUCTIONS OR DIRECT PAYMENTS.** (a) Any deductions taken from the salary of an employee for the retirement fund in error shall be refunded to the employee upon discovery and verification by the employing unit making the deduction, and the corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another Minnesota public pension fund enumerated in section 356.30, subdivision 3 plan, the retirement fund must transfer these salary deductions and employer contributions to the appropriate public pension fund without interest. For purposes of this paragraph, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B.

(c) If 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 has been returned to the funds of the employing unit making the payment, a refund of the amount deducted, or any portion of it that is required to adjust the salary deductions, shall be made to the employing unit.

(d) Any erroneous direct payments of member paid contributions or erroneous salary deductions that were not refunded in the regular processing of an employing unit's annual summary report shall be refunded to the member with interest computed using the rate and method specified in section 354.49, subdivision 2.

Sec. 5. Minnesota Statutes 1993 Supplement, section 354A.011, subdivision 27, is amended to read:

Subd. 27. **TEACHER.** "Teacher" means any person who renders service in

New language is indicated by underline, deletions by strikeout.

a public school district located in the corporate limits of one of the cities of the first class which was so classified on January 1, 1979, as any of the following:

(a) a full-time employee in a position for which a valid license from the state department of education is required;

(b) an employee of the teachers retirement fund association located in the city of the first class unless the employee has exercised the option pursuant to Laws 1955, chapter 10, section 1, to retain membership in the Minneapolis employees retirement fund established pursuant to chapter 422A;

(c) a part-time employee in a position for which a valid license from the state department of education is required; or

(d) a part-time employee in a position for which a valid license from the state department of education is required who also renders other nonteaching services for the school district unless the board of trustees of the teachers retirement fund association determines that the combined employment is on the whole so substantially dissimilar to teaching service that the service shall not be covered by the association.

The term shall not mean any person who renders service in the school district as any of the following:

(1) an independent contractor or the employee of an independent contractor;

(2) an employee who is a full-time teacher covered by another teachers retirement fund association established pursuant to this chapter or chapter 354;

(3) ~~an employee holding a part-time adult supplementary technical college license who renders part-time teaching service in a technical college if (1) the service is incidental to the regular nonteaching occupation of the person; and (2) the applicable technical college stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year; and (3) the part-time teaching service actually does not exceed 300 hours in a fiscal year; or~~

(4) an employee exempt from licensure pursuant to section 125.031; or

(4) an employee who is a teacher in a technical college located in a city of the first class unless the person elects coverage by the applicable first class city teacher retirement fund association under section 354B.02, subdivision 1, or 354B.035.

Sec. 6. Minnesota Statutes 1992, section 354B.01, is amended by adding a subdivision to read:

Subd. 4a. COVERED EMPLOYMENT; TECHNICAL COLLEGES. "Covered employment," with respect to employment by a technical college authorized under chapter 136C or 136D, means employment in a position included in the definition of teacher under section 354.05, subdivision 2.

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

Sec. 7. Minnesota Statutes 1992, section 354B.015, is amended to read:

354B.015 SOCIAL SECURITY COVERAGE.

Plan participants under section 354B.02, subdivision 1, and persons electing participation under section 354B.02, subdivision 2 ~~or~~ 3, or 5, or 354B.035, remain members of the teachers retirement association or the state unclassified employees retirement program, whichever applies, for purposes of social security coverage only and remain covered by the applicable agreement entered into under section 355.02, but are not members of the teachers retirement association or the state unclassified employees retirement program for any other purpose while employed in covered employment.

Sec. 8. Minnesota Statutes 1993 Supplement, section 354B.02, subdivision 1, is amended to read:

Subdivision 1. **PLAN PARTICIPANTS.** (a) Except as provided in subdivision 2, or unless the person has elected retirement coverage under section 352D.02, subdivision 1a, a person who was first employed in covered employment under section 354B.01, subdivision 2 or 3, after June 30, 1989, shall participate in the plan. A person who was first employed in covered employment or first included in coverage under section 354B.01, subdivision 4a, after June 30, 1995, may participate in the plan or may elect coverage by the teachers retirement association. Election to participate in the plan or the association must be made within 60 days of the start of covered employment and must be made under section 354B.035. A technical college teacher who does not make the election within the 60 days shall become a member of the plan governed by chapter 354 or 354A.

(b) Except as provided in paragraph (a), or subdivision 2, or unless the person has elected retirement coverage under section 352D.02, subdivision 1, paragraph (b), clause (6) or (13), a person who was first employed in covered employment after July 1, 1992, shall participate in the plan.

(c) Participants or employees who would be participants in this plan but for prior participation in the teachers retirement association or the other Minnesota public employee retirement plan governed by section 356.30, whichever applies, and who are subsequently appointed to a position with the community college system or the state university system designated as an acting, temporary, or interim position, shall remain in the teachers retirement association or the other Minnesota public employee plan during the term of the acting, temporary, or interim position. If the participant's status becomes permanent, the participant has the option to make a new election appropriate to the plan in which the position should be located.

Sec. 9. Minnesota Statutes 1992, section 354B.02, subdivision 2, is amended to read:

Subd. 2. PERSONS WITH CERTAIN PRIOR ALLOWABLE SERVICE.

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

A person with less than three years of prior allowable service as a member of the teachers retirement association other than in covered employment under section 354B.01, subdivision 2 or 3, and who is first employed in covered employment after June 30, 1989, remains a member of the teacher's retirement association for all purposes, but a coordinated member may elect to participate in the plan. This election to participate in the plan must be made by January 1, 1995, or within 60 days of the start of covered employment, whichever is later.

Sec. 10. Minnesota Statutes 1992, section 354B.02, is amended by adding a subdivision to read:

Subd. 5. OPTIONAL ELECTION PROVISIONS FOR STATE UNIVERSITY AND COMMUNITY COLLEGE PARTICIPANTS. (a) Notwithstanding any other provision of this chapter or chapter 354 to the contrary, state university and community college employees who have not previously exercised their option to elect to transfer to this plan or remain with the teachers retirement association are eligible to make that election. Participants in either the plan or association may transfer benefit coverage to the other. A transfer election is irrevocable during any period of covered employment under this section and is subject to the conditions of paragraphs (b), (c), and (d).

(b) Members of the teachers retirement association as of July 1, 1994, or employees newly hired after that date who have prior allowable service credit as a member in the teachers retirement association are eligible to transfer service credit prospectively only. Existing contributions and service credit must remain with the teachers retirement association and the person is eligible for an augmented deferred retirement annuity from the teachers retirement association under section 354.55, subdivision 11. A transfer election made under this subdivision is irrevocable.

(c) Members of the plan as of July 1, 1994, who were first employed after June 30, 1989, may transfer membership prospectively only to the teachers retirement association, effective on the date the transfer election is made. Funds previously invested under the plan with the financial institution selected by the member are not eligible to be transferred to the association. Withdrawal of funds from the plan by a member is subject to rules of the plan. An election to transfer membership to the teachers retirement association is irrevocable during any period of covered employment. The employer of a transferring member must make the additional employer contribution provided for in section 354.42, subdivision 5, for future service only.

(d) Transfer elections under this section must be made within 90 days from the date on which the executive director or plan administrator provides notification of the election and must be elected on forms prescribed by the plan administrator or executive director.

Sec. 11. [354B.035] TECHNICAL COLLEGE TEACHING PERSONNEL; TRANSITIONAL PROVISIONS.

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

Subdivision 1. APPLICATION. Notwithstanding any provision of this chapter to the contrary, this section applies only to plan coverage for technical college members covered under section 354B.01, subdivision 4a.

Subd. 2. ELECTION TO PARTICIPATE. Technical college teaching personnel may either elect to participate in the plan or elect coverage by the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, or the St. Paul teachers retirement fund association as follows:

(a) A technical college teacher first employed in covered employment after June 30, 1995, must make the election within 60 days of the start of covered employment, on a form provided by the state university plan administrator under section 354B.05, subdivision 1. The election is irrevocable during any future period of covered service.

(b) A technical college teacher with prior allowable service as a member of the teachers retirement association or of a first class city teachers retirement fund association may elect coverage by the applicable plan. If that coverage is elected, the election is irrevocable, accumulated employer and employee contributions and prior allowable service credit under section 354.05, subdivision 13, or 354A.011, subdivision 4, whichever applies, must remain with the applicable teachers retirement fund, and the teacher is eligible for an augmented deferred retirement annuity from the teachers retirement association under section 354.55, subdivision 11, or the applicable first class city teachers retirement fund association under section 354A.37, subdivision 2.

Subd. 3. EMPLOYER CONTRIBUTION AMOUNT FOR CERTAIN COVERAGE ELECTIONS. Employer contributions for technical college teaching personnel who elect coverage by the teachers retirement fund association are governed by section 354.42, subdivisions 3 and 5, and employer contributions for technical college teaching personnel who elect coverage by a first class city teacher retirement fund association are governed by the applicable employer contribution provisions of section 354A.12, subdivision 2a.

Sec. 12. Minnesota Statutes 1993 Supplement, section 354B.05, subdivision 3, is amended to read:

Subd. 3. SELECTION OF FINANCIAL INSTITUTIONS. The supplemental investment fund administered by the state board of investment is one of the investment options for the plan. The state board of investment may select ~~two~~ up to five other financial institutions to provide annuity products. In making their selections, the board shall consider at least these criteria:

(1) the experience and ability of the financial institution to provide retirement and death benefits suited to the needs of the covered employees;

(2) the relationship of the benefits to their cost; and

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

(3) the financial strength and stability of the institution.

The state board of investment must periodically review at least every three years each financial institution selected by the state board of investment. The state board of investment may retain consulting services to assist in the periodic review, may establish a budget for its costs in the periodic review process, and may charge a proportional share of those costs to each financial institution selected by the state board of investment. All contracts must be approved by the state board of investment before execution by the state university board and the community college board. The state board of investment shall also establish policies and procedures under section 11A.04, clause (2), to carry out this subdivision.

The chancellor of the state university system and the chancellor of the state community college system shall redeem all shares in the accounts of the Minnesota supplemental investment fund held on behalf of personnel in the supplemental plan who elect an investment option other than the supplemental investment fund, except that shares in the fixed interest account must not be redeemed until the expiration dates for the guaranteed investment contracts. The chancellors shall transfer the cash realized to the financial institutions selected by the state university board and the community college board under section 354B.05.

Sec. 13. [354B.15] TRANSFER OF CERTAIN TRA MEMBER CONTRIBUTION REFUNDS TO IRAP.

(a) Notwithstanding any provision of law to the contrary, a former member of the teachers retirement fund association who has less than three years of allowable service and who is a member of the plan governed by this chapter may elect to transfer to the plan an amount equal to the refund that the member could otherwise receive under section 354.49, subdivision 2. The transfer must be made from the teachers retirement fund association directly to the plan and credited by the plan appropriately. No amount under this section is payable directly to an individual.

(b) The election must be made on a form prescribed by the executive director of the teachers retirement fund association, after consultation with the administrators of the plan.

Sec. 14. CHAPTER 354B RECODIFICATION.

(a) The staff of the legislative commission on pensions and retirement, in conjunction with representatives of the higher education board, the state university board, the state community college board, one representative from each employee bargaining unit covered by chapter 354B, and other interested parties, shall prepare proposed legislation to recodify Minnesota Statutes, chapter 354B.

(b) The proposed legislation must be submitted to the chairs of the senate committee on governmental operations and reform, the senate committee on education, the house of representatives committee on governmental operations

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

and gambling, and the house of representatives committee on education by January 15, 1995.

(c) The proposed legislation must accomplish the following:

(1) eliminate obsolete and duplicate references in Minnesota Statutes, chapter 354B;

(2) clarify obscure or ambiguous language in Minnesota Statutes, chapter 354B, with special attention given to the effects of the higher education systems merger provided in Minnesota Statutes, chapter 136E;

(3) merge the separate individual retirement account plans currently administered by the state university system and the state community college system;

(4) wherever possible, eliminate unnecessary or duplicative administrative provisions; and

(5) implement those appropriate retirement plan provisions necessary to give effect to the purposes of Minnesota Statutes, chapter 136E.

Sec. 15. **EFFECTIVE DATES.**

(a) Sections 1, 2, 4, 10, 12, and 13 are effective July 1, 1994.

(b) Sections 3, 5, 6, 7, 8, and 11 are effective July 1, 1995.

ARTICLE 2

INDIVIDUAL RETIREMENT ACCOUNT PLAN

Section 1. **[354C.01] DEFINITIONS.**

Subdivision 1. TERMS. Unless the language or context clearly indicates that a different meaning is intended, the following terms have the meanings given.

Subd. 2. INDIVIDUAL RETIREMENT ACCOUNT PLAN OR PLAN. "Individual retirement account plan" or "plan" means the individual retirement account plan established by sections 354B.01 to 354B.05.

Subd. 3. COVERED EMPLOYMENT. "Covered employment" means employment as an eligible employee as defined under section 354C.02, subdivision 2.

Subd. 4. PROFESSIONAL EMPLOYEE. "Professional employee" means an employee who is engaged in work that:

(1) is predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical;

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

- (2) involves discretion and judgment in its performance;
- (3) cannot be standardized in relation to a given period of time; and
- (4) requires advance knowledge in a field of science or learning usually acquired by long study in an institution of higher learning or hospital.

Subd. 5. SUPERVISORY EMPLOYEE. "Supervisory employee" means an employee having the authority to hire, transfer, suspend, promote, discharge, assign, reward, or discipline employees, direct the work of employees, or adjust employees' grievances on behalf of the employer. To be included as a supervisory function, the exercise of the authority by the employee may not be merely routine or clerical in nature but must require the use of independent judgment.

Sec. 2. [354C.02] PARTICIPANTS.

Subdivision 1. ELECTION. An eligible employee as enumerated in subdivision 2 who is eligible for membership in the Minnesota state retirement system under chapter 352, the public employees retirement association under chapter 353, or the teachers retirement association under chapter 354 may elect to participate in the individual retirement account plan rather than in the general state retirement plan. Election to participate in the plan must be made pursuant to section 354C.04.

Subd. 2. ELIGIBILITY. Eligible employees are:

- (1) any supervisory or professional employee of the state arts board; and
- (2) any supervisory or professional employee of the Minnesota humanities commission.

Sec. 3. [354C.03] SOCIAL SECURITY COVERAGE.

Plan participants remain members of the general state retirement plan for purposes of social security coverage only remain covered by the applicable agreement entered into under section 355.02 but are not members of the general state retirement plan for any other purpose while employed in covered employment.

Sec. 4. [354C.04] PLAN COVERAGE.

Eligible employees shall elect to participate in either the individual retirement account plan or their respective retirement plan as follows:

- (1) An eligible employee first employed after the effective date of this act in covered employment may elect retirement coverage under either their respective state retirement plan or the individual retirement account plan within 60 days of the start of covered employment. An election made under this subdivision is irrevocable.
- (2) An eligible employee with prior allowable service as a member of the

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

Minnesota state retirement system, the public employees retirement association, or the teachers retirement association may elect coverage by the plan. If plan coverage is elected, accumulated employer and employee contributions and allowable service credit shall remain with the applicable retirement association or system. Notwithstanding any provision of law to the contrary, an individual who has transferred coverage for the same employment to the plan is entitled to an augmented deferred retirement annuity based on the amount representing the employer and employee contributions made on the individual's behalf in the retirement association or system in which the individual was formerly enrolled without regard to whether or not the individual meets the service credit vesting requirements of the applicable retirement association or system. An election made under this subdivision must be made within 120 days and is irrevocable.

Sec. 5. [354C.05] CONTRIBUTIONS.

Subdivision 1. MEMBER CONTRIBUTIONS. Eligible employees who would otherwise be eligible to participate in the Minnesota state retirement system, the public employees retirement association, or the teachers retirement association, but who participate in the individual retirement account plan, shall make a member contribution in an amount equal to the member contribution amount required by the plan for which the individual was originally eligible for membership. The contribution must be made by payroll deduction each pay period and must be in accordance with either section 403(b) or 414(h) of the Internal Revenue Code.

Subd. 2. EMPLOYER CONTRIBUTIONS. The employer of eligible employees described in subdivision 1 who are eligible to participate in either the Minnesota state retirement system or the public employees retirement association shall make an employer contribution to the plan in an amount equal to the employer contribution amount required by the plan for which the individual was originally eligible for membership. The employer of eligible employees described in subdivision 1 who are eligible to participate in the teachers retirement association shall make an employer contribution to the plan in an amount equal to the employer contribution required by section 354.42, subdivision 3, and shall make an employer contribution to the teachers retirement association in an amount equal to the employer contribution required by section 354.42, subdivision 5.

Sec. 6. [354C.06] ADMINISTRATION.

The Minnesota state university system or its successor shall administer the individual retirement account plan for eligible employees in accordance with sections 354B.01 to 354B.05.

Sec. 7. [354C.07] TRANSFER OF CERTAIN MSRS MEMBER CONTRIBUTION REFUND AMOUNTS TO PLAN.

(a) Notwithstanding any provision of law to the contrary, a former member of the general state employees retirement plan of the Minnesota state retirement system who is a member of the individual retirement account plan under this chapter may elect to transfer to the individual retirement account plan an

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

amount equal to the refund under section 352.22, subdivision 2, that the member could otherwise receive. The transfer must be made from the general state employees retirement fund directly to the individual retirement account plan and credited by the plan appropriately. No amount under this section is payable directly to any individual.

(b) The election must be made on a form prescribed by the executive director of the Minnesota state retirement system, after consultation with the administrators of the plan.

Sec. 8. EFFECTIVE DATE.

This article is effective July 1, 1994.

Presented to the governor April 22, 1994

Signed by the governor April 25, 1994, 1:11 p.m.

CHAPTER 509—S.F.No. 760

An act relating to natural resources; granting power to the commissioner of natural resources to give nominal gifts, acknowledge contributions, and sell advertising; appropriating money; amending Minnesota Statutes 1992, section 84.027, by adding a subdivision.

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

Section 1. Minnesota Statutes 1992, section 84.027, is amended by adding a subdivision to read:

Subd. 12. PROPERTY DISPOSAL; GIFT ACKNOWLEDGMENT; ADVERTISING SALES. (a) The commissioner may give away to members of the public items with a value of less than \$10 that are intended to promote conservation of natural resources or create awareness of the state and its resources or natural resource management programs. The total value of items given to the public under this paragraph may not exceed \$25,000 per year.

(b) The commissioner may recognize the contribution of money or in-kind services on plaques, signs, publications, audio-visual materials, and media advertisements by allowing the organization's contribution to be acknowledged in print of readable size.

(c) The commissioner may accept paid advertising for departmental publications. Advertising revenues received are appropriated to the commissioner to be used to defray costs of publications, media productions, or other informational materials. The commissioner may not accept paid advertising from any elected official or candidate for elective office.

New language is indicated by underline, deletions by strikeout.