

CHAPTER 352

STATE EMPLOYEES RETIREMENT ASSOCIATION

352.01 DEFINITIONS.

Subd. 1, amended by L. 1947 c. 631 s. 2.

Subd. 4, amended by L. 1947 c. 631 s. 3.

Subd. 5, amended by L. 1947 c. 631 s. 4.

Subd. 7, amended by L. 1947 c. 631 s. 5.

Subd. 8. **Allowable service.**

HISTORY. 1947 c. 631 s. 6.

Defendant, created by statute as a state agency to provide pensions for superannuated and disabled state employees, was given no power to fix the amount of the unaccrued monthly pension or annuity, on retirement of a member, other than fixed by statute in force when payable. Any subsequent legislature has the power to alter or modify such amount as deemed proper. A pensioner or "beneficiary has no vested right in pension granted by government except as payments due him absolutely under the law." *Hessian v Ervin*, 204 M 287, 283 NW 404; *Johnson v State Employees' Assn.* 208 M 111, 292 NW 767.

Under the state civil service act the Minnesota Historical Society is not a state agency. OAG June 5, 1945 (644-B).

Relating to rights of a member or former member of the association on becoming a professor at the State University. OAG June 19, 1945 (331-a-1); OAG Aug. 27, 1945 (331-a-1).

Employees of post war council and post war planning commission are under this act, but members of the respective boards are not. OAG Nov. 16, 1945 (331-A-7).

Deductions from the salary of a teacher employed in a state teachers college are compulsory. He must be a member of either the teachers retirement fund, or of the state employees retirement fund. OAG Dec. 21, 1945 (175).

Member is not obliged to return to state employment in order to retain his military leave service credit. OAG Feb. 5, 1946 (331-A-9).

Time served in the armed service is included in determining if member has sufficient employment service to be entitled to a proportional annuity. OAG Feb. 8, 1946 (331-A-1).

A provisional member who took no refundment upon entry into military service is entitled to credit for service to date of resignation. OAG Feb. 8, 1946 (331-A-9).

Effect of L. 1945, c. 284, ss. 1 and 2, relating to temporary employees of the state legislature, modifying the report of the 1944 OAG 270, and relating to the employees rights under the employees retirement association act. OAG Aug. 12, 1946 (331-A-1).

A person employed by the highway department returned to state service upon being mustered out of the navy. Under the servicemen's readjustment act he attends school forenoons and works in the highway department afternoons. He is an employee primarily and only incidentally a student, and is a member of the retirement association and deductions must be taken from his hourly wage. OAG Nov. 19, 1946 (331-a-6).

Under L. 1947, c. 631, s. 2 (8), an annuitant employed by the legislature may continue to receive his annuity. OAG July 15, 1947 (331-a-1).

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Power of congress to provide for compulsory retirement and pension system for carriers. 20 MLR 49.

Vested interest of a state employee in a pension fund. 23 MLR 540.

352.015 MEMBERSHIP.

Subd. 4, amended by L. 1947 c. 631 s. 7.

A state employee wrongfully discharged, and who on Feb. 1, 1939, would have been employed continuously for six months if he had not been discharged, was entitled to be considered a member of the association as of Feb. 1, 1939. OAG Oct. 5, 1945 (331-A-6).

352.02 STATE EMPLOYEES RETIREMENT ASSOCIATION.

Subd. 2, amended by L. 1947 c. 631 s. 8.

Where a veteran is wrongfully discharged, and on review determined to be a legal state employee, he is entitled to membership in the state employees retirement association. OAG Oct. 5, 1945 (331-a-6).

Teacher serving a state teachers college must be a member of either the teachers retirement fund or of the state employees association, and in either case the deductions prescribed by section 135.06 are compulsory. OAG Dec. 21, 1945 (175).

Member paid in part from federal or county funds may elect to make payments into the retirement fund. OAG July 21, 1947 (331-a-7).

352.03 BOARD OF MANAGERS; OFFICERS.

Amended by L. 1947 c. 631 s. 9.

Relating to the power of the board to make rules and regulations. 1944 OAG 271, July 11, 1944 (331-A-6).

352.04 PAYMENTS INTO RETIREMENT FUND.

Subd. 1, amended by L. 1947 c. 631 s. 10.

Subds. 2, 3, and 4, repealed by L. 1947 c. 631 s. 1.

Subd. 5, amended by L. 1947 c. 631 s. 11.

See, *Hessian v Ervin*, 204 M 287, 283 NW 404; *Johnson v Association*, 208 M 111, 292 NW 767, noted under section 352.01.

A member on military leave who resigned and accepted his refundment may upon his return to state service repay the amount refunded to him, and will be entitled to service credit for the time he was on military service leave. If he took refundment before he took military leave, he is not entitled to credit. OAG Feb. 5, 1946 (331-A-9); OAG Feb. 8, 1946 (331-A-9).

Division of vocational rehabilitation of the department of education is neither wholly nor substantially financially self-sustaining within the meaning of section 352.04. OAG May 25, 1946 (331-A-4).

An employee of the employees retirement association is entitled to have the period of his employment while on leave, because transferred to the United States employment service, included in the time required in determining his rights to a partial annuity provided he makes required payments. OAG Nov. 9, 1946 (331-a-1).

Member serving with the United Nations Relief and Rehabilitation Administration during the period of hostilities should be considered as engaged in essential war work within the meaning of the state employees retirement act. OAG Feb. 8, 1947 (331-a-9).

A member of the state employees retirement association on essential war leave enlisting in army is entitled to military service leave credit. OAG March 31, 1947 (331-A-9).

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The provision for a tax levy was first incorporated in the retirement laws by L. 1945, c. 603, s. 1, at which time a three-tenths of a mill tax was established. L. 1947, c. 631, s. 10, subd. 1 (3), raised the amount to four-tenths of a mill. OAG June 27, 1947 (331-a-4).

352.09 REFUNDMENT IN CERTAIN CASES.

Amended by L. 1947 c. 631 s. 12.

See, *Hessian v Ervin*, 204 M 287, 283 NW 404; *Johnson v Association*, 208 M 111, 292 NW 767, noted under section 352.01.

A member on becoming a professor at the University may in lieu of taking refundment make application for annuity upon reaching the age of 65. OAG June 19, 1945 (331-A-1); OAG Aug. 27, 1945 (331-A-1).

In determining whether or not a member has sufficient service to be eligible for proportional annuity, the credit for service allowed while on military leave may be included. OAG Feb. 8, 1946 (311-A-1).

Annuities may not be made retroactive beyond the first day of the calendar month in which application for annuity is granted. OAG Jan. 8, 1947 (331-a-1).

The board has no power to increase annuities provided by statute. The legislature, in L. 1947, c. 631, s. 12, or otherwise, has not authorized an increase to a \$150 maximum. OAG July 11, 1947 (331-a-1).

352.103 EX-MEMBER RETURNING TO STATE EMPLOYMENT.

Subd. 2, amended by L. 1947 c. 631 s. 13.

On returning to state service, employee gave his note in refundment of his previous withdrawal. On again leaving the service, continued payments on his note may be accepted. OAG May 24, 1945 (331-a-17).

A former member who is receiving an annuity upon reemployment shall no longer have deductions taken from his salary. OAG July 3, 1945 (331-A-12).

Under section 352.103, subd. 2, annuitant employed by the legislature in any other capacity than for purpose stated in section 352.01, subd. 2(8) is a state employee and not entitled to his annuity during the period of such employment but no deductions shall be made from his earnings. OAG Aug. 13, 1946 (331-A-1).

352.11 RETIREMENT ANNUITY.

Subd. 2, amended by L. 1947 c. 631 s. 14.

Subds. 3, 4, repealed by L. 1947 c. 631 s. 1.

To qualify for annuity a person returning to state service must repay refundment and must have credit for salary deductions for full five-year period. OAG June 26, 1945 (331-a-1).

See, OAG Feb. 5, 1946 (331-A-9) and OAG Feb. 8, 1946 (331-A-9), noted under section 352.04.

Where there was no showing that university employee, who had been drafted into the army, had resigned or been dismissed from such employment, and it appeared that employee desired to return to former employment and had not applied for refundment of sum to his credit in state employees' retirement fund, employee was entitled to credit for service to the university during the period of his military service, on the records of the state employees' retirement association, though university had not granted him a leave of absence. OAG May 17, 1946 (331-A-1).

Vested interest of a state employee in pension fund. 23 MLR 540.

352.12 SURVIVING SPOUSE OR LEGAL REPRESENTATIVE OF DECEASED MEMBER TO RECEIVE LUMP SUM.

Amended by L. 1947 c. 631 s. 15.

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Where a federal civil service employee, employed in the Duluth post office, in compliance with the regulations of the civil service retirement act, files a designation of beneficiary with the proper officer, his designated beneficiary is entitled to the fund, not the representative of his estate. *Anderson v Nelson*, 219 M 433, 18 NW(2d) 140.

Where mother who was named as beneficiary predeceased the member, if the member left a widow, the accumulated deductions were payable to the surviving spouse and not to the legal representative, but if no widow, then to the representative. OAG July 3, 1943 (331-A-4); OAG July 13, 1943 (331-A-4).

352.14 DATE OF RETIREMENT.

To entitle a member of state employees' retirement association, who has taken refundment and later returned to state employment, to an annuity, he must repay the refundment, and have deductions taken from his salary for full five year period. OAG June 26, 1945 (331-A-1).

Time served in the armed forces is included in determining whether such member has made payments for the five years after becoming a member. OAG Feb. 5, 1946 (331-A-9).

An employee of the employees retirement association is entitled to have the period of his employment while on leave, because transferred to the United States employment service, included in the time required in determining his rights to a partial annuity provided he makes required payments. OAG Nov. 9, 1946 (331-a-1).

352.18 RULES AND REGULATIONS.

The board may not increase the amount of benefits to be paid; but may make changes and additions in the management of the fund within the mandates, and not inconsistent with the provisions of chapter 352. OAG May 21, 1945 (331-A-2).