

CHAPTER 352

STATE EMPLOYEES RETIREMENT ASSOCIATION

Sec.	Definitions	Sec.	Amount paid refunded in certain cases
352.01	Membership	352.09	Ex-member returning to state employment
352.02	State employees retirement association	352.10	Retirement annuity
352.03	Board of managers; officers	352.11	Refundment after death
352.04	Payments into retirement fund	352.12	Annuities paid monthly
352.05	State treasurer to be treasurer of association	352.13	Date of retirement
352.06	Investment board to invest funds	352.14	Funds not subject to process
352.07	Civil service department to furnish information as to status	352.15	Insurance laws not to apply
352.08	Legal adviser	352.16	May receive gifts and bequests
		352.17	Rules and regulations

352.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **State employee.** "State Employee" means employees in the classified and unclassified services of the State of Minnesota as defined in the State Civil Service Act, and employees of the Minnesota Historical Society, the State Horticultural Society, the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, and the Minnesota Crop Improvement Association, and currently contributing members of the association who are temporarily employed by the legislature during a legislative session or any currently contributing member employed for any special service as defined in paragraph eight of this subdivision; but does not include the following:

- (1) Elective state officers;
- (2) Students who secure employment with the state or a state institution incidental to and in furtherance of their education whether employed during the school year or during vacation periods;
- (3) Employees who are eligible to membership in the state teachers retirement fund, except employees of the department of education who have elected or may elect to become members of the state employees retirement association instead of the teachers retirement fund;
- (4) Employees of the University of Minnesota who are excluded from membership by action of the Board of Regents;
- (5) Officers and enlisted men in the national guard and the naval militia except such as are assigned to permanent peacetime duty;
- (6) Election officers;
- (7) Persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;
- (8) Officers and employees of the Senate and House of Representatives and persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation, except permanent employees of the Legislative Research Committee who may become members upon notifying the secretary in writing within six months from the date of their respective employment or the effective date of this act, whichever may be later; of their election to become a member;
- (9) All courts and all employees thereof, referees, receivers, jurors, and notaries public, except employees of the supreme court and referees and adjusters employed by the industrial commission;
- (10) Patient and inmate help in state charitable, penal and correctional institutions including the Minnesota Soldiers Home;
- (11) Persons employed for professional services where such service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

MINNESOTA STATUTES 1949

2713

STATE EMPLOYEES RETIREMENT ASSOCIATION 352.01

- (12) Employees of the Sibley House Association;
- (13) Employees of the Grand Army of the Republic and employees of the Ladies of the G. A. R.;
- (14) Operators and drivers employed pursuant to Laws 1941, chapter 478;
- (15) Members of the board of tax appeals, the civil service board, and the members of any other state board or commission who serve the state intermittently and are paid on a per diem basis;
- (16) State Highway Patrolmen.
- (17) Temporary employees of the Minnesota State Fair employed during the State Fair.

Subd. 3. **Head of department.** "Head of department" means the head of any department, institution, or branch of the state service which directly pays salaries out of its income or which prepares, approves, and submits salary abstracts of its employees to the state auditor and state treasurer.

Subd. 4. **Accumulated deductions.** "Accumulated deductions" means the total of the amounts deducted from the salary of a member, and the total amount of assessments paid by a member in lieu of such deductions prior to July 1, 1939, and the payments made while on leave of absence for employment in essential war work as provided by Laws 1943, Chapter 622; Section 3, Subdivision 3 (4), and Laws 1945, Chapter 284, Section 5, Subdivision 6, and payments by a member as authorized in Laws 1947, Chapter 631, and credited to his individual account in the retirement fund, without interest.

Subd. 5. **The retirement fund.** "The retirement fund" means and includes the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, prior to July 1, 1939, and all other moneys paid into the state treasury or received by the retirement board pursuant to the provisions of this chapter, together with all income and profits therefrom and interest thereon, including contributions on the part of the federal government, state and departments thereof.

Subd. 6. **Monthly deductions from salaries.** "Monthly deductions from salaries" means the actual receipts received or credited to the fund from salary deductions in any calendar month.

Subd. 7. **Prior service.** "Prior service" means the service of a member rendered before the first day of July, 1929, and includes the service during the first world war of officers, soldiers, sailors, marines, and army nurses who were state employees at the time of enlisting or being drafted into the military service of the United States, and who returned directly to the service of the state upon returning from the first world war.

Subd. 8. **Allowable service.** Except as provided in subdivision 9 "allowable service" for retirement purposes means:

(1) For persons who were required to pay a membership fee under Laws 1929, Chapter 191, prior service and all service subsequent to June 30, 1929, while members of the retirement association and for which the required deductions from salaries or payments in lieu of deductions have been deposited in the retirement fund, including the time during which membership was maintained by the payment of assessments between July 1, 1929, and July 1, 1939.

(2) For persons entering the state service after July 1, 1929, and required to become members of the retirement association, prior service and all service subsequent to July 1, 1929, while members of the retirement association and for which the required deductions or payments in lieu of deductions have been deposited in the retirement fund, including the time during which membership was maintained by the payment of assessments prior to July 1, 1939.

(3) For persons who entered the state service on or before July 1, 1929, but did not exercise the option to become members of the retirement association on or before July 1, 1931, who were required to become members as of July 1, 1941, all service subsequent to June 30, 1941, while members of the retirement association and for which the required deductions have been deposited in the retirement fund, and all service subsequent to June 30, 1929, and prior to July 1, 1941, for which payments in lieu of salary deductions have been or will be deposited in the retirement fund.

(4) For all persons listed in paragraphs (1), (2) and (3), service while on leave of absence for employment in essential war work for which payments have been or will be deposited in the retirement fund as provided in this section.

(5) For all members of the association who were employed by the commissioner of banks in the liquidation of closed banks during the period July 1, 1929, to July 1, 1943, or any portions of such period, and for all members of the association whose compensation was paid in whole or in part from Federal funds under the State Relief Agency or State Emergency Relief Agency who elect to make the payments provided for in Section 352.02, Subdivision 2, Clause (1), the period for which payment is made in addition to the service which they are entitled to under paragraphs (1), (2), (3), and (4) of this subdivision and subdivision 9 (4).

(6) For all persons becoming members of the retirement association under the provisions of Laws 1945, Chapter 284, and all persons becoming members under Laws 1947, Chapter 631, all service for which payments are required and all service for which payments are permitted provided payments are made in the manner and within the time provided in this section.

(7) Periods for which payments are made as provided in Section 352.04, Subdivision 5 (1).

(8) For all temporary and provisional employees who had completed six months continuous employment at the time of leaving the state service to enter military service and who return to state service upon discharge from military service and all persons included in this subdivision, paragraphs (1), (2) and (3), who were members of the retirement association at the time of leaving the state service to serve in the military forces of the United States or of the State of Minnesota, the period of such military service if such service began between July 1, 1940, and December 31, 1946.

(9) For all persons whose service with the state has terminated and who have been paid for any unused portion of their annual leave allowance under authority of Minnesota Statutes 1945, Section 351.12, credit for the unused portion of their annual leave for which they were so paid.

(10) For members of the retirement association who were officers or employees of the legislature for five or more consecutive sessions thereof prior to July 1, 1929, credit for their service during those legislative sessions.

(11) For members of the retirement association who were officers or employees of the legislature during the period beginning January 1, 1931, and ending December 31, 1939, who elect to make the payments provided for in Section 352.02, Subdivision 2 (2), credit for service for which payments are made.

Subd. 9. Exclusions from allowable service. (1) "Allowable service" from and after June 30, 1947, includes only those calendar months in which the member received salary or wages from which deductions are made and deposited to the member's credit in the retirement fund.

(2) "Allowable service" does not include credit for service any periods members may have been on leave of absence or lay-off from July 1, 1933, to July 1, 1939, unless payments equal to the deductions that would have been made from salary had it been received were deposited in the retirement fund within 90 days from the date members returned to the state service.

(3) "Year of allowable service" means any 12 months not necessarily consecutive, in which a member received compensation from the state, or was eligible to credit for service as provided in this section, and employees in the University, the state teachers colleges and state institutions who are paid on a yearly basis and who may or may not receive compensation in every calendar month in the year, credit for 12 months service each year. Salaries paid for a fractional part of any calendar month shall be considered the compensation for the entire calendar month unless state service has terminated.

(4) No employee or member who after August 14, 1945, re-enters military service or who first enters military service after December 31, 1946, shall be entitled to credit for such military service except as provided by section 192.262.

Subd. 10. Temporary disability. (1) Members who are absent from their duties because of temporary disability resulting from injuries for which the state is liable under the workmen's compensation law shall have the period of such absence for which compensation is paid under the workmen's compensation law included in determining the period of service for the state. The industrial commission shall furnish the retirement board with a copy of each abstract submitted to the state auditor and to be charged to the state compensation revolving fund which shall be construed as notice to the retirement board that the employees listed thereon have sustained injury arising out of and in the course of employment by

MINNESOTA STATUTES 1949

2715

STATE EMPLOYEES RETIREMENT ASSOCIATION 352.02

the State of Minnesota and are entitled to credit for service on the records of the association during the time compensation is received for temporary disability resulting from such injury, but shall not be used for any other purpose.

(2) Members of the state employees retirement association who were on July 1, 1929, employed by the state or by the division of closed banks or the Minnesota historical society, and who were not on July 1, 1929, "state employees" as defined in Laws 1929, Chapter 191, Section 1, and who were ineligible to membership on or before July 1, 1931, shall be given credit for service prior to July 1, 1929, upon approval by the retirement board.

[1929 c 191 s 1; 1931 c 351 s 1; 1933 c 326 s 1; 1935 c 238 s 1; 1939 c 432 s 1; 1941 c 391 s 1; 1943 c 622 s 1; 1945 c 38 s 1; 1945 c 284 s 1, 2; 1947 c 631 s 2, 3, 4, 5, 6; 1949 c 644 s 2, 3] (254-1)

352.015 MEMBERSHIP. Subdivision 1. **Persons aged 65.** No state employee who has reached the full age of 65 at the time he becomes entitled to membership in the association shall be eligible to membership.

Subd. 2. **Heads of department, when exempted.** Heads of departments required by law to be appointed by the governor or other elective officials may request exemption from membership provided they are not members of the association at the date of such appointment and the request for exemption is made within 90 days from the date of entering upon the duties of the position to which appointed, and they shall not thereafter be entitled to membership so long as they continue in the position which entitled them to exemption from membership.

Subd. 3. **Termination.** Nothing in this chapter shall terminate the membership of any present member of the association unless he should become eligible to and elect membership in the state teachers retirement fund in which event membership in the state employees retirement association shall cease; and if such member is entitled to service credit in the teachers retirement fund for the same period of service during which he was a member of the state employees retirement association he shall be entitled to a refundment but not entitled to an annuity from the state employees retirement fund for such duplicated period of service.

Subd. 4. **Membership not retroactive.** The membership of any person who became entitled to membership under Laws 1945, Chapters 38 and 284, shall not be retroactive except as provided in Laws 1947, Chapter 631.

Subd. 5. **Status of certain employees.** The membership of employees of the Minnesota Historical Society and employees of The Disabled American Veterans, Department of Minnesota, paid by state auditor's warrants and all employees of such society and such veterans' organization heretofore so paid or now contributing to the retirement fund are hereby declared to have such status as of the date their respective contributions began.

[1945 c 284 s 2; 1947 c 631 s 7; 1949 c 644 s 4]

352.02 STATE EMPLOYEES RETIREMENT ASSOCIATION. Subdivision 1. **Established.** (1) There is hereby established a state employees retirement association the membership of which shall consist only of state employees. Membership in such association shall be optional on the part of persons in the employ of the state on July 1, 1929, but all new state employees entering the service of the state thereafter, except elective state officers and others specifically excluded from membership by this chapter, shall become members of the association by acceptance of state employment and the head of the department shall thereupon cause deductions to be made from the salary of such new employees, and acceptance of employment shall be deemed consent to have such deductions made from salary for deposit to the credit of the member's individual account in the retirement fund.

(2) All state employees other than provisional employees who are employed continuously for more than three months, probationary employees and permanent employees in the classified and unclassified service of the civil service of the state may elect in writing prior to the first day of employment for which they will be paid not to become members of the association. An election not to become a member may be revoked prospectively at any time by filing notice thereof in writing with the secretary of the association.

(3) In the event that any error has been or should be made in the deductions from the salaries of members it shall be the duty of heads of departments to cause corrections to be made in such deductions upon discovery of the error. No person in the employ of the state on July 1, 1929, shall be eligible to apply for membership in the retirement association after July 1, 1931, except as provided in this chapter.

Subd. 2. **State employees who may be members.** (1) Any person employed by the state on July 1, 1941, who was a state employee on July 1, 1929, and did not exercise his option to become a member of the association on or before July 1, 1931, shall become a member as of July 1, 1941, the same as though he had on that day become a new state employee. Such persons and any person who has prior to the effective date of this act become a member by reason of being a new state employee shall have the option of electing to become a member as of July 1, 1929, or July 1 of any year between July 1, 1929, and July 1, 1941, beginning with the year between July 1, 1940, and July 1, 1941, and extending retroactively for as many years as the member elects, by making payments in lieu of salary deductions from July 1, 1929, or July 1 of the year elected, at the rate of five per cent plus interest at four per cent per annum compounded annually. Such payments to be based upon the salary, wages or compensation actually received, subject to the \$300 maximum provision, including any allowance for maintenance or housing not in excess of \$50 a month. Nothing in this subdivision shall give any person required to become a member on July 1, 1941, or any person electing to become a member as of July 1, 1929, or a subsequent year prior to July 1, 1941, credit for any service prior to July 1, 1929, nor shall any person becoming a member as provided herein have the right to make any payments in lieu of salary deductions, or receive credit for service for any period he was out of the state service or when he was on leave of absence or lay-off from July 1, 1929, to the date of becoming a member. A member who does not elect to obtain credit for the entire period July 1, 1929, to July 1, 1941, in his first election to obtain service credit may make additional elections at any time prior to July 1, 1954.

(2) Persons employed by the commissioner of banks for the liquidating of closed banks during the period July 1, 1929, to July 1, 1943, or any portions of such period, who are members of the retirement association and who have not heretofore had the right to elect to make payments to the retirement fund, and persons who became members of the retirement association pursuant to Laws 1945, Chapters 38 and 284, and who had not theretofore had the right to elect to make payments into the retirement fund, may at their option elect to pay into the retirement fund for the period of state service or if service was intermittent, periods of state service subsequent to June 30, 1929, on the same basis as persons who were required to become members on July 1, 1941, as provided in this subdivision. Members of the association whose compensation has been paid in part from federal and county funds may at their option elect to pay into the retirement fund the sum required had deductions been permitted from this portion of their compensation from the date of becoming members of the association at a deduction rate of five per cent limited to \$300 a month, plus interest at four per cent per annum compounded annually. Members whose compensation was paid in whole or in part from federal funds under the State Relief Agency or State Emergency Relief Agency may elect to pay into the retirement fund the sum required had deductions been permitted from this compensation beginning on the first day of the calendar month following the completion of six months' continuous employment as an employee of such agency, at a deduction rate of five per cent limited to \$300 a month plus interest at four per cent per annum compounded annually. Members of the association who were officers or employees of the legislature during a legislative session held during the period beginning January 1, 1931, and ending December 31, 1939, and who were not then eligible to obtain credit for the legislative service, may obtain credit therefor by paying into the retirement fund an amount equal to five per cent of their salary, wages or compensation actually received during the period or periods of legislative service described above, but not in excess of \$300 a month, plus interest thereon at four per cent per annum compounded annually.

(3) The method of making payments permitted by this subdivision shall be determined at the time of election to make such payment subject to the approval of the Retirement Board. Payments elected to be made must be completed in increments of full years in order for the member to be entitled to credit for service between July 1, 1929, and July 1, 1941, or before he may receive a retirement benefit and no election or payments may be made after the termination of state service. A member whose state service terminates before he has completed the payments he has elected to make shall be given credit for each year for which payment has been completed and shall have returned to him the sums paid for any fractional part of a year and shall thereupon be a member from July 1, 1941, the effective date

of Laws 1947, Chapter 631, the date of becoming a member by reason of being a state employee or the date from which payments have been completed, whichever applies.

Subd. 3. Employment by political subdivision, credit. Any "state employee" who has been employed by any political subdivision of the state for a period of not less than five years and who has been a member of the Public Employees Retirement Association may at his option obtain credit for such public service by paying into the state employees retirement fund a sum equal to deductions at a rate of five per cent on the basis of the salary received from such political subdivision limited to \$300 a month on earnings prior to July 1, 1949, and to \$4800 in any fiscal year subsequent to June 30, 1949, plus interest at four per cent per annum compounded annually. Such payment to be made within five years from the date of becoming a member of the state employees retirement association or within five years from the effective date of Laws 1947, Chapter 631, whichever applies.

Subd. 4. Termination of membership; rejoining and repayment of refundment. Upon acceptance of a refundment of the accumulated deductions standing to the credit of a member in the retirement fund, all existing service credits and all rights and benefits to which the member was entitled prior to the acceptance of such refundment shall terminate and shall not again be restored. If any former member of the retirement association who has taken a refundment or refundments from the retirement fund prior to July 1, 1945, again becomes a member of the retirement association he may, by making application to the retirement board within six months from the date of again becoming a member, repay the last refundment received from the retirement fund with interest at four per cent per annum compounded annually from the date of refundment to the date of repayment and thereupon have restored all service credits and all rights and benefits which were forfeited by the acceptance of the refundment; repayment to be completed within five years upon such terms and conditions as the retirement board may by general rule prescribe, but payment with interest must be completed before any member may receive an annuity from the retirement fund.

Subd. 5. Retirement board decision final. The final power to determine the status of any individual in the employ of the state for the purposes of this chapter is vested in the retirement board and its decision is final. Any individual or group of employees who have made contributions to the retirement fund for a period of two years shall not have membership terminated so long as such individual or group continues in the same employment, except as herein specifically provided.

[1929 c 191 s 2; 1931 c 351 s 2; 1933 c 326 s 2; 1935 c 238 s 2; 1941 c 391 s 2; 1943 c 622 s 2; 1945 c 284 s 3, 4; 1947 c 631 s 8; 1949 c 644 s 5, 6, 7] (254-2)

352.03 BOARD OF MANAGERS; OFFICERS. The management of the state employees retirement fund is hereby vested in a board of seven members, who shall be known as the state employees retirement board. This board shall consist of the state auditor, the state treasurer, the insurance commissioner, and four state employees who shall be elected by the members of the retirement association at a time and in a manner to be fixed by the retirement board. Two board members, whose terms of office shall begin on the first Monday in March next succeeding their election, shall be elected biennially. The terms of the two board members whose terms expire in 1949 and 1950 shall terminate on the first Monday in March, 1950, and the terms of the two board members whose terms expire in 1951 and 1952 shall terminate on the first Monday in March, 1952. The members of the board so elected shall hold office for a term of four years and until their successors are elected and have qualified. A state employee on leave of absence shall not be eligible for election or re-election to membership on the retirement board; and the term of any board member who is on leave for more than six months shall automatically terminate upon the expiration of such period. Any vacancy in the board caused by the death, resignation, or removal of any member so elected shall be filled by the retirement board for the unexpired portion of the term in which the vacancy occurs. The members of the retirement board shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties, and shall suffer no loss of salary or wages through service on the board. The board shall elect a chairman and appoint a secretary and such other employees including actuarial services as may be necessary, and fix their compensation. The board shall, from

time to time, subject to the limitations of this chapter and of the law, establish rules and regulations for the administration of the retirement and other provisions of this chapter and for the transaction of its business.

[1929 c 191 s 3; 1931 c 351 s 3; 1935 c 238 s 3; 1941 c 391 s 3; 1947 c 631 s 9; 1949 c 644 s 8] (254-3)

352.04 PAYMENTS INTO RETIREMENT FUND. Subdivision 1. Special fund.

(1) There is hereby created a special fund to be known as the "State Employees Retirement Fund" to be used for the purposes herein specified.

(2) From and after July 1, 1945, members shall pay into the retirement fund five per cent of the compensation paid them including compensation for overtime and any allowance for maintenance or housing, but those members now paying into the retirement fund 5½ per cent and 6 per cent of the compensation paid them including compensation for overtime and any allowance for maintenance or housing shall continue to pay at the rate of 5½ per cent and 6 per cent, respectively, but no person becoming a member after June 30, 1945, shall pay more than 5 per cent. Such payments shall be made by deduction thereof from salary. No deductions shall be made from salaries on any amount thereof in excess of \$4800 in any fiscal year. Any member whose salary or a portion of whose salary is paid from other than state funds shall pay into the retirement fund on the basis of the entire salary received limited to \$4800 in any fiscal year. The head of each department is hereby required to cause such deductions to be made from the salary of each member of the retirement association on every payroll abstract and to approve one voucher payable to the state treasurer for the aggregate amount so deducted from the salaries covered by the payroll abstract. Deductions from salaries of employees paid direct by any department, institution, or agency of the state shall be made by the officer or employee authorized by law to pay such salaries, and remitted by him to the secretary of the retirement association with a statement showing the amount of each of such deductions and the names of the employees on whose account the same have been made.

(3) The state of Minnesota shall make contributions to the retirement fund of such amounts as, together with (a) the contributions made by the members, (b) income on investments, and (c) other income of the fund, shall be sufficient to provide a fund equal to the accumulated contributions of all active members, including interest, plus an amount which, after giving effect to annuitants' accumulated deductions, is sufficient to pay the annuities and benefits payable at the end of any year for a period of ten years from the end of such year, provided that any amounts in the fund in excess thereof shall be returned to the general revenue fund and departments according to a method determined by the board as would result in an equitable distribution of such excess as between the general revenue fund and the departments.

(4) Every department, bureau, division, commission, committee, or board which functions as a unit of the state government which pays salaries to its employees from income or revenue derived from its own activities, federal grants, or any other sources and not from an appropriation from the general revenue fund, is hereby authorized, required, and directed to pay into the state employees retirement fund on each payroll abstract and charge as an administrative cost, an amount equal to 60 per cent of the total amount deducted from the salaries of such employees for the state employees retirement fund. The moneys necessary to provide for the administrative cost as herein provided are hereby appropriated for such purpose out of any funds derived by such units of government as income or revenue from their own activities, federal grants, or any other sources. For the employees of the State Horticultural Society, The Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, and the Minnesota Crop Improvement Association, these units of government shall also pay into the retirement fund a sum equal to 60 per cent of the deductions taken from the salaries paid employees from funds other than those appropriated by the state from the general revenue fund.

(5) All such salary deductions and all contributions to the retirement fund and all interest and other income of the association shall be credited to this fund.

(6) The retirement fund shall be disbursed only for the purposes herein provided. The expenses of the association and the retirement allowances and annuities herein provided upon retirement shall be paid only from such fund.

MINNESOTA STATUTES 1949

2719

STATE EMPLOYEES RETIREMENT ASSOCIATION 352.05

(7) Under the direction of the retirement board the head of each department shall furnish such information and keep such records as the board may require for the discharge of its duties.

(8) The state auditor shall cause to be levied for the year 1949 and each year thereafter upon all taxable property in the state, in the manner in which other taxes are levied, six-tenths of one mill. The proceeds of such tax are hereby appropriated to the state employees retirement fund.

Subds. 2, 3, 4. [Repealed, 1947 c 631 s 1]

Subd. 5. Limitation of payments in lieu of salary deductions. (1) From and after July 1, 1939, members shall not be entitled to make payments in lieu of salary deductions for periods no salary or wages are received, except as hereinafter provided. (a) Beginning January 1, 1947, members who are on leave of absence from the state service for employment by other units of government, whether federal, state or local, which leaves are incident to the functions of Minnesota state government or any political subdivision thereof, or who are absent to teach preparatory courses for highway engineers, shall continue to pay into the retirement fund during the period of such leave of absence. Such payments shall be made on the basis of the salary received from the state at the time such leave of absence began and shall be made either monthly or within one year from the date of returning to the state service. (b) Members who were granted leaves of absence for employment by other units of government subsequent to June 30, 1939, and prior to January 1, 1947, may at their option make payments in lieu of salary deductions for the period of such leave or leaves and subject to the maximum limitation, the salary upon which such payments are based may be either the salary received from the state at the time the leave began or the salary received from another unit of government as the member may elect. The payments herein provided for shall be completed within five years from July 1, 1949. Upon making the payments provided for in (a) or (b) hereof members shall have credit for service on the records of the Retirement Association the same as though they had continued to receive compensation from the state. Any payments provided for in this subdivision which are not paid monthly shall be paid with interest at four per cent per annum compounded annually and any payments which are not made before the expiration of state service cannot be made thereafter and no credit for service shall be allowed for any part of such leave for which payment has not been made as herein provided.

(2) All individuals who have been granted a leave of absence from state service to enter the employ of the United States Employment Service may, when returned to the state service, elect to pay into the retirement fund for the period they were in the employ of the United States Employment Service a sum equal to the deductions required on the basis of salary received from the state at the time such leave of absence commenced. Such payments shall be made either monthly or in a lump sum within three years from the date such individuals returned or return to state service. No credit for service shall be allowed for any periods for which payments are not made as provided in this subdivision.

Subd. 6. Serviceman granted leave of absence. Any member, however, who is granted a leave of absence to accept employment in essential war work during the present war emergency and until the cessation of hostilities as declared by proper federal authority, or until July 1, 1947, whichever may first occur, shall be required to pay into the retirement fund during such leave of absence, a sum equal to the deductions required on the basis of the salary received from the state at the time such leave began, payments to be made either monthly or within one year from the date of returning to the service of the state. Those members of the state employment service of the division of employment and security who were transferred to the United States Employment Service for the purpose of the war emergency shall be considered as engaged in essential war work.

Subds. 7, 8. [Repealed, 1949 c 644 s 1]

[1929 c 191 s 4; 1931 c 351 s 4; 1933 c 326 s 4; 1935 c 238 s 4; 1939 c 432 s 2; 1941 c 391 s 4; 1943 c 622 s 3; 1945 c 284 s 5, 6, 7; 1945 c 603 s 1; 1947 c 631 s 10, 11; 1949 c 644 s 9, 10] (254-4)

352.05 STATE TREASURER TO BE TREASURER OF ASSOCIATION. The state treasurer shall be ex-officio treasurer of the retirement funds of the association and his general bond to the state shall cover all liability for his acts as treasurer of these funds. All moneys of the association received by him shall be set aside in the state treasury to the credit of the proper fund. He shall deliver to the secretary of

the retirement board each month copies of all payroll abstracts of the state together with the state auditor's warrants covering the deductions made on these payroll abstracts for the retirement fund; whereupon the secretary shall cause to be made, in triplicate, a list of the auditor's warrants and these warrants shall then be deposited with the state treasurer to be credited to the retirement fund. He shall pay out of this fund only on warrants issued by the state auditor, upon abstracts signed by the secretary of the retirement board; provided, that abstracts for investments may be signed by the secretary of the state board of investment.

[1929 c. 191 s. 5; 1931 c. 351 s. 5; 1935 c. 238 s. 5; 1941 c. 391 s. 5; 1945 c. 284 s. 8] (254-5)

352.06 INVESTMENT BOARD TO INVEST FUNDS. The retirement board shall, from time to time, certify to the state board of investment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. The state board of investment shall thereupon invest the sum so certified in such securities as are duly authorized legal investments for savings banks and trust companies, and shall sell any such securities upon request of the retirement board.

[1929 c. 191 s. 6; 1931 c. 351 s. 6; 1935 c. 238 s. 6; 1941 c. 391 s. 6] (254-6)

352.07 CIVIL SERVICE DEPARTMENT TO FURNISH INFORMATION AS TO STATUS. Upon the request of the retirement board, the civil service department shall furnish such information relative to the status of state employees as may be required by the board in the performance of its duties.

[1929 c. 191 s. 7; 1931 c. 351 s. 7; 1941 c. 391 s. 7] (254-7)

352.08 LEGAL ADVISER. The attorney general shall be the legal adviser of the retirement board.

[1929 c. 191 s. 8] (254-8)

352.09 REFUNDMENT IN CERTAIN CASES. Subdivision 1. **Rights of member applying for annuity after separating from state service.** Any person, after separation from state service and before applying for a retirement allowance, shall be entitled to the return of the full amount of his accumulated deductions upon making application therefor on a form furnished by the retirement board, which form shall include certification of the fact of his separation from the state service by the head of the department where the member was last employed, which application and certification shall be conclusive proof of the fact of the member's separation from the state service. Any such person who has been a member of the association for not less than five years may, in lieu of a refundment, leave the sum to his credit in the retirement fund and when eligible, receive a retirement allowance in accordance with the law in effect at the date state service terminated. Such allowance shall begin on the first day of the calendar month in which the application for it is acted upon by the retirement board which shall act within 60 days from the filing of the application for the allowance.

Subd. 2. **Surrender of certificates of deferred annuity.** (1) Former members who hold numbered certificates of deferred annuity and who again become members of the retirement association shall surrender such certificates and shall be entitled to full credit for the service covered by the surrendered certificates. Former members who hold numbered certificates of deferred annuity may surrender them at any time prior to receiving an annuity and receive a refundment of their accumulated deductions upon application.

(2) Membership in the retirement association ceases upon the termination of employment in the classified and unclassified services of the state, or as employees of the Minnesota Historical Society, the State Horticultural Society, the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, and Minnesota Crop Improvement Association, whichever applies, except that persons receiving an annuity shall be considered members.

Subd. 3. **Refundment in case of error.** (1) Any deductions taken from the salary of an employee for the retirement fund in error shall, upon discovery and verification by the department making the deduction, be refunded to the employee.

(2) 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 refundment of the sum so deducted, or any portion of it as is required to adjust the deductions, shall be made to the department or institution provided application for it is made on a form furnished by the retirement board.

MINNESOTA STATUTES 1949

2721

STATE EMPLOYEES RETIREMENT ASSOCIATION 352.11

(3) Notwithstanding any provision of law to the contrary, an adjustment of moneys paid upon an abstract to the retirement fund pursuant to Section 352.04, Subdivision 1(4), to which it is not entitled, shall not be made by the association or any department or agency, unless the total adjustment upon the abstract is more than \$12, in which event the department or agency, upon certification of the amount of the adjustment by the secretary of the association, shall make the adjustment upon its next abstract.

[1929 c 191 s 9; 1931 c 351 s 8; 1933 c 326 s 5; 1935 c 238 s 7; 1939 c 432 s 3; 1941 c 391 s 8; 1945 c 284 s 9; 1947 c 631 s 12; 1949 c 644 s 11] (254-9)

352.10 [Repealed, 1945 c 284 s 1]

352.103 EX-MEMBER RETURNING TO STATE EMPLOYMENT. Subdivision

1. Whenever a member who has withdrawn his accumulated deductions shall re-enter employment entitling him to membership in the state employees retirement association, he shall become a member of the association on the same basis as a new employee and shall not be entitled to credit for any former service, nor shall the annuity rights forfeited at the time of taking a refundment be restored, except that members who took refundments prior to July 1, 1945, may repay the last refundment as is provided in this chapter.

Subd. 2. Should any former member who has received an annuity or retirement allowance again receive salary or wages from the state his annuity or retirement allowance shall cease during the period of employment but no deductions shall be made from his earnings for the retirement fund. Upon the termination of his employment the annuity or retirement allowance shall be resumed and there shall be no change in the amount of such annuity or retirement allowance because of such employment.

[1945 c 284 s 10; 1947 c 631 s 13; 1949 c 644 s 12]

352.11 RETIREMENT ANNUITY. Subdivision 1. (1) After separation from state service any person who has attained the age of at least 65 years and who is entitled to credit for not less than five years allowable service as a member of the association, or any person who has attained the age of at least 58 years and who is entitled to credit for not less than 35 years allowable service of which at least ten years are as a member of the association, is entitled upon application to a retirement allowance but retirement is not compulsory prior to attaining the age of 70.

(2) After five but less than ten years of allowable service credit as a member of the association the amount of the retirement allowance hereunder shall be equal to one-sixtieth of the average salary upon which deductions for the retirement fund have been based for each full year of allowable service as a member of the association.

(3) After not less than ten years allowable service credit as a member of the association the amount of the retirement allowance hereunder shall be equal to one-sixtieth of the average salary upon which deductions for the retirement fund have been based during any ten consecutive salary years when salary was highest, for each full year of allowable service, plus a service allowance of \$5.00 per year for each full year of allowable service. (The total monthly retirement allowance for any member shall not exceed two-thirds of the average monthly salary upon which salary deductions were based during any ten consecutive salary years when salary was highest, nor shall any monthly retirement allowance exceed \$150 a month.)

(4) Any member having credit for at least 20 years allowable service is eligible to apply for a retirement allowance at any time after attaining the age of 58 years, but in the event of retirement before attaining the age of 65, the retirement allowance shall be computed as in clause (3) of this subdivision, but shall not exceed \$150 a month, and then reduced at the rate of one-quarter of one per cent for each month that the member is under the age of 65 years. The retirement allowance for any member entitled to 35 years allowable service credit shall not be subject to such reduction.

(5) With the condition that this option shall not become effective in the event a member dies within 30 days after filing an application for a retirement allowance or before the first payment of his retirement allowance is due, a member may elect at the time of retirement to take a lesser retirement allowance payable during his lifetime with the provision that upon his death his surviving spouse shall receive a reversionary annuity as may be provided, according to the actuarial tables in use by the fund, from the remainder of his equity as determined at the time of retire-

ment. The reversionary annuity resulting from such election shall be not less than \$120 per year, nor more than the amount of reduced retirement allowance to which the member may be entitled under his election. The amount of reversionary annuity shall be that determined by the board in accordance with the written direction of the member. Any such reversionary annuity shall begin as of the day following the date of death of the member receiving a retirement allowance, provided that if the spouse does not survive the member at the date of his death, no reversionary annuity shall be payable under the provisions hereof, nor shall any change be permitted by the board in the written direction filed with the board after the retirement allowance has been granted and has become effective except as hereinabove otherwise provided. If the member and surviving spouse or either or both have not received in the form of an annuity prior to the death of the last survivor thereof a total equal to or in excess of the amount of the accumulated contributions to the credit of the member at the date of retirement, a refund of the remainder of such accumulated contributions shall be payable to the estate of the member or to such person as he shall have nominated by written direction duly acknowledged and filed with the board.

(6) In lieu of the retirement allowances otherwise provided for in this section any member who on June 30, 1949, is entitled to credit for not less than ten years allowable service as a member of the retirement association, may elect to receive, when otherwise eligible, an annuity as provided for by Minnesota Statutes 1945, Chapter 352, as amended by Laws 1947, Chapter 631. "Allowable service" under this paragraph shall include periods of service for which payments have been or may be made under Minnesota Statutes 1945, Section 352.02, as amended by Laws 1947, Chapter 631, Section 8.

(7) All retirement allowances granted hereunder shall be for the remainder of the person's life.

Subd. 2. Retirement may be made upon application of the member or of some one acting in his behalf, or in the case of an employee in active service, upon the application of the head of the department in which the member is employed.

Subd. 3. Provided application for the retirement allowance is made within 30 days from the date salary ceases, the first payment shall be prorated for any fraction of a calendar month elapsing after the date salary ceases, but no retirement allowance shall commence prior to the date through which the member is paid for any accumulated leave, whether payment is made in a lump sum or otherwise. In no event shall any retirement allowance be retroactive for more than three months from the date the application for such allowance is filed with the retirement board as provided herein. A retirement allowance shall cease with the last payment received by the retired employee in his lifetime unless he had elected that his surviving spouse should receive a reversionary annuity, such reversionary annuity to cease with the last payment received by the surviving spouse in his or her lifetime.

Subd. 4. If the total of annuities shall, during any month, become greater in amount than the monthly deductions from salaries and contributions made by the state, the board shall proportionally reduce the amount of annuities for that month. In determining the contributions made by the state in any month, it shall be considered that one-twelfth of the amount appropriated for the fiscal year is the amount of the contributions made by the state for that month; provided, such one-twelfth does not exceed 50 per cent of the annuities paid and payable for that month. If such one-twelfth exceeds 50 per cent of the annuities paid and payable for that month, then, in that case, 50 per cent of the annuities paid and payable for that month shall be considered the amount of the contributions made by the state for that month. The balance of any annuities heretofore not paid in full by reason of the fact that the total of annuities and refundments were greater than the monthly deductions from salaries, shall be paid proportionally in the first and subsequent months when the salary deductions exceed the total of annuities and refundments. Any annuity payments which may subsequent to July 1, 1939, be proportionally reduced by reason of the fact that annuities exceed the salary deductions and contributions made by the state, shall be paid proportionally in the first and subsequent months when the salary deductions and contributions by the state exceed the annuity payments.

Subd. 5. In making proportional annuity payments for prior months in which the annuities were not paid in full, full payments shall be made for the first month in which annuities were proportionally reduced before any proportional payments shall be made to apply on subsequent months when annuity payments were re-

duced, and this method shall be followed for each month when only proportional annuity payments were made.

[1929 c 191 s 11; 1931 c 351 s 10; 1933 c 326 s 7; 1935 c 238 s 9; 1939 c 432 s 5; 1941 c 391 s 10; 1945 c 38 s 2; 1947 c 631 s 14; 1949 c 644 s 13, 14] (254-11)

352.12 REFUNDMENT AFTER DEATH. Subdivision 1. Upon the death of any active member of the association there shall be paid to his beneficiary or legal representative as the case may be his accumulated deductions plus interest thereon at the rate of two per cent per annum compounded annually. Active member as used in this subdivision shall mean any member whose state service had not terminated before death.

Subd. 2. Upon the death of any former member of the association who is not receiving an annuity or a retirement allowance there shall be paid to his beneficiary or legal representative as the case may be the accumulated deductions to his credit in the retirement fund.

Subd. 3. Upon the death of a member who is receiving an annuity or a retirement allowance, unless a reversionary annuity is payable under the provisions of 352.11, Subdivision 1(5), there shall be paid in a single cash sum to his estate or to such person as he shall have nominated by written direction duly acknowledged and filed with the board, consisting of the excess, if any, of the accumulated deductions of the member at the time of retirement over the total amount of all annuities or retirement allowance payments received by the retired member prior to his death.

Subd. 4. If a member dies without having designated a beneficiary or if the beneficiary should die before making application for refundment, and if there is no surviving spouse, and if the legal representative of such member does not apply for refundment within five years from the date of death of the member or former member, the accumulated deductions to his credit at the time of death shall be credited to and become a part of the retirement fund.

[1929 c 191 s 14; 1933 c 326 s 1; 1935 c 238 s 12; 1941 c 391 s 11; 1947 c 631 s 15; 1949 c 644 s 15] (254-11)

352.13 ANNUITIES PAID MONTHLY. All annuities granted under the provisions of this chapter shall be paid in equal monthly instalments and shall not be increased, decreased, or revoked except as provided herein.

[1929 c 191 s 15; 1931 c 351 s 1; 1933 c 326 s 1; 1935 c 238 s 13; 1941 c 391 s 12] (254-15)

352.14 DATE OF RETIREMENT. No member of the retirement association shall be entitled to receive an annuity or a retirement allowance until he shall have paid into the retirement fund by deductions from salary for a period of five years after becoming a member.

[1929 c 191 s 16; 1931 c 351 s 1; 1933 c 326 s 1; 1935 c 238 s 14; 1941 c 391 s 13; 1949 c 644 s 16] (254-16)

352.15 FUNDS NOT SUBJECT TO PROCESS. None of the moneys, annuities, or other benefits mentioned herein shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process, nor shall they be subject to any state income tax.

[1929 c. 191 s. 17; 1931 c. 351; 1933 c. 326; 1935 c. 238 s. 15; 1941 c. 391 s. 14] (254-17)

352.16 INSURANCE LAWS NOT TO APPLY. None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds.

[1929 c. 191 s. 18; 1933 c. 326; 1935 c. 238 s. 16; 1941 c. 391 s. 15] (254-18)

352.17 MAY RECEIVE GIFTS AND BEQUESTS. The retirement board is hereby authorized and empowered to credit to the retirement fund any moneys received in the form of donations, gifts, appropriations, bequests, or otherwise, or derived therefrom.

[1929 c. 191 s. 19; 1933 c. 326; 1935 c. 238 s. 17; 1939 c. 432 s. 6; 1941 c. 391 s. 16] (254-19)

352.18 RULES AND REGULATIONS. Any changes or additions which may be found necessary or advisable for the management of the retirement fund, may be made by a majority vote of the board of directors, provided no increase is made in the amount of deductions from salaries, or decrease in the amount of benefits paid.

[1929 c. 191 s. 22; 1933 c. 326; 1935 c. 238 s. 20; 1941 c. 391 s. 18] (254-22)