

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 352.13 STATE EMPLOYEES RETIREMENT ASSOCIATION

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If there has been no change in beneficiary, subsequent divorce does not affect the rights of beneficiary to refundment. OAG Nov. 9, 1953 (331-A-11).

### 352.13 ANNUITIES, ALLOWANCES; PAID MONTHLY

HISTORY. Amended, 1951 c 441 s 25.

The words "last payment received" as used in section 352.11, subdivision 3, should be construed to mean "last payment accrued," and where a member dies after the accrual of annuity instalment and before actual receipt thereof, the instalment should be paid to the personal representative of the estate. OAG July 31, 1950 (331-A-1).

Under the state employees retirement law, monthly annuity accrues if the annuitant is alive at any time during the last day of the month. This applies to one who died at some time during the last 24 hours of the month. OAG March 2, 1953 (331-A-1).

### 352.14 DATE OF RETIREMENT

HISTORY. Amended, 1949 c 644 s 16.

### 352.15 FUNDS, NOT SUBJECT TO PROCESS

HISTORY. 1929 c 191 s 17; 1931 c 351 s 1; 1933 c 326; 1935 c 238 s 15; 1941 c 391 s 14.

Refundments to former employees of the University of Minnesota are subject to offsets for debts owed to the staff and employees loan fund of the University. OAG Oct. 14, 1952 (331-A-11).

## CHAPTER 353

### PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

#### 353.01 DEFINITIONS

HISTORY. 1931 c 307 s 1; 1933 c 374 s 1; 1937 c 466 s 1; 1941 c 285 s 1; 1945 c 78 s 1; 1947 c 18 s 1; 1949 c 84 s 1; 1951 c 22 s 1-8; 1953 c 78 s 1, 18.

The employees of the Hutchinson Light and Power Commission are subject to the public employees retirement provisions and may not set up a pension plan of their own. OAG July 29, 1952 (59-A-33).

All school districts are subject to the public employees retirement law without any action on the part of the district. Teachers are not members of such association but are members of the state teachers retirement fund. OAG Oct. 29, 1947 (331-B-1).

A public school librarian who is eligible to membership in the teachers retirement fund is ineligible to membership in the public employees retirement association. OAG Dec. 26, 1947 (331-B-1).

Where one person divides his time equally between employment by the city of Fergus Falls and the independent school district of Fergus Falls and by virtue of his employment by the school district is a member of the state teachers retirement fund and deductions from his salary are made he is under the provisions of section 353.01 prohibited from becoming a member of the public employees retirement association. OAG Dec. 26, 1947 (331-B-1); OAG Jan. 6, 1948 (331-B-1).

An alderman is a full time employee and entitled to membership in the public employees retirement association even if during his term of four years, he received

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## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.02

only \$5 per month and followed his usual civil business life. He was full time because he was subject to call at all times. OAG Jan. 21, 1948 (331-B-1).

After the effective date of Laws 1947, Chapter 18, a school district having a village within its boundaries is under the provisions of the Public Employees Retirement Act. A clerk in the office of the school superintendent on and after June 1, 1947, should contribute to the fund unless already a member of some other similar fund. Independent contractors are not subject to the act. Regular employees earning more than \$60 per month and employed for more than six months must contribute. Employees earning less than \$300 per year are temporary employees. OAG Feb. 2, 1948 (331-B-1).

The employees of towns are not eligible for membership in the public employees retirement association. OAG March 18, 1948 (331-B-1).

An employee of the Metropolitan Airport Commission formerly employed by the city of St. Paul is entitled to continue as a member of the public employees retirement association. OAG Oct. 4, 1949 (331-B-1).

Employees of a county hospital are public employees within the purview of the Public Employees Retirement Act. OAG April 25, 1951 (331-B-1).

Employees in the office of register of deeds are public employees within the meaning of the Public Employees Retirement Act. OAG June 14, 1951 (331-B-1).

Supply teachers, ineligible for membership in the teachers retirement fund, are eligible for membership in the public employees retirement association unless they have the categories specified in section 353.02, subdivision 2. OAG June 15, 1951 (331-B-1).

Deductions must be made from the salary or wage of occasional or part-time employees. The village attorney or village health officer who works on a part-time basis is a public employee within the purview of the Public Employees Retirement Act. OAG June 27, 1951 (331-B-1).

Where the park district was an instrumentality of the city of Bemidji employees of the park district were employees of the state for the purposes of public employees retirement. OAG Nov. 29, 1951 (331-B-1).

Employees of school district lunch program operated by the school district are eligible to membership in the public employees retirement association. OAG April 8, 1952 (331-B-1):

Employees of the state soil conservation districts are not eligible for membership in either the state or the public employees retirement association. OAG Aug. 22, 1951 (705-A-3).

### 353.02 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

HISTORY. 1931 c 307 s 2; 1933 c 374 s 1; 1935 c 106 s 1; 1937 c 466 s 2; 1941 c 285 s 2; 1947 c 18 s 2; 1951 c 22 s 9-15, 28, 29; 1953 c 78 s 2, 3.

Upon adoption of a resolution by the county board making the provisions of the public retirement association applicable to the county, all new employees automatically become members of the association upon their acceptance of public employment. OAG May 9, 1947 (331-B).

Janitors and bus drivers who are employees and not independent contractors, who accept employment after June 1, 1947, automatically become members of the public employees retirement association and deductions must be made from their salary; old employees who were on the payroll on June 1, 1947, have their option as to whether or not they accept membership in the retirement association. OAG Oct. 29, 1947 (331-B-1).

In case of a newly-created consolidated school district employees of a district not theretofore covered by the public employees retirement act but when included

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in the consolidation they become new employees upon the consolidation and membership is compulsory. They are not required to pay the \$10 membership fee. OAG Dec. 28, 1949 (331-B-1).

All employees of the city of New Ulm not coming within the first three exceptions enumerated in section 353.02 are members of the public employees retirement association. OAG July 24, 1951 (331-B-1).

All employees of the city of Luverne, including the city attorney and engineer, not excepted under section 353.02, subdivision 2, are required to be members of the public employees retirement association. OAG March 12, 1952 (331-B-1).

Teachers under the age of 25 and those having an option to become members of the state teachers retirement fund are not eligible to membership in the public employees retirement association. OAG Nov. 18, 1952 (331-B-1).

A deputy register of deeds in the employ of the county until his appointment as register of deeds, and who paid deductions up to the time of that appointment, remains a member of the association. OAG Oct. 10, 1950 (331-B-3).

Members of the police relief association organized under sections 423.37 to 423.392 need not remain members of the public employees retirement association and may obtain a refund of accumulated salary deductions. OAG June 27, 1952 (331-B-5).

### 353.03 BOARD OF DIRECTORS

HISTORY. 1931 c 307 s 3; 1949 c 84 s 2; 1951 c 22 s 16.

### 353.04 RETIREMENT FUND

HISTORY. Amended, 1949 c 84 s 3; 1951 c 22 s 17.

The city cannot relieve an employee from payment of current deductions relating to public employee retirement. OAG Oct. 31, 1947 (331-B).

The public employees retirement law does not authorize municipal corporations to make payments into the retirement fund out of a general fund without making salary deductions. OAG July 23, 1951 (331-B).

An employee may become a non-employee member of the public employees retirement association after four years of continuous service as a member who joined prior to 1943, and after ten years of continuous service as a member who joined after 1943. Thereupon and thereafter the additional one half of one percent which he paid in if he remains in the public service is irretrievable and belongs to the association fund. OAG Feb. 10, 1948 (331-B-1).

Individual public employees were mandatorily made members of the public employees retirement association by the amendment of section 353.02, subdivision 2. Under section 353.04, subdivision 4, deductions must be made from their salaries. OAG June 20, 1951 (331-B-1).

### 353.05 CUSTODIAN OF FUNDS

An indemnifying bond need not be furnished to municipal corporations in case of lost checks issued to the public employees retirement fund. OAG Nov. 12, 1952 (159-C-7).

### 353.07 MONTHLY STATEMENTS

HISTORY. Amended, 1951 c 22 s 18.

When an employee, who has been employed by both the county and the school board and has been making contributions from each salary, deductions should be made only by the county during the time he is not employed by the school board. OAG Nov. 18, 1947 (331-B).

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PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.11

## 353.09 PAYMENT UPON TERMINATION OF MEMBERSHIP

**HISTORY.** Amended, 1947 c 18 s 4; 1949 c 84 s 4; 1951 c 22 s 19-22; 1953 c 78 s 4-6.

An employee may become a non-employee member of the public employees retirement association after four years of continuous service as a member who joined prior to 1943, and after ten years of continuous service as a member who joined after 1943. Thereupon and thereafter the additional one-half of one percent which he paid in if he remains in the public service is irretrievable and belongs to the association fund. OAG Feb. 10, 1948 (331-B-1).

The public employees retirement board has power to adopt a rule increasing the contributions of non-employee members who became such prior to July 1, 1949, from four percent to six percent. OAG Oct. 4, 1949 (331-B).

A district court reporter who ceases to be such may continue as a non-employee member of the public employees retirement association or may receive a deferred annuity even though he is subsequently employed as a reporter of the municipal court in which capacity he would be eligible for membership in the municipal court retirement fund. OAG Dec. 21, 1949 (331-B-1).

Where a public employee resigns his position on one day and the next day is appointed to public office in the same city he may withdraw his deductions theretofore accumulated and exercise his option not to become or remain a member of the association. OAG Dec. 30, 1949 (331-B-3).

## 353.11 RETIREMENT

**HISTORY.** 1931 c 307 s 11; 1933 c 374 s 1; 1935 c 106 s 2; 1937 c 466 s 4; 1941 c 285 s 5; 1943 c 167 s 3; 1945 c 78 s 3; 1947 c 18 s 6; 1949 c 84 s 5; 1951 c 22 s 23; 1953 c 78 s 7-13.

Money in the city treasury received from source other than taxation may be used for public employees retirement association. City funds cannot be used to pay premiums for group insurance of employees. OAG Oct. 20, 1947 (59-A-28) (331-B).

The city cannot relieve an employee from payment of current deductions relating to public employees retirement. OAG Oct. 31, 1947 (331-B).

No authority is given to municipalities to contribute toward payment of annuities of aged or disabled employees compelled to retire before completing payments from salary deductions during the period prescribed by statute. OAG Feb. 16, 1949 (331-B).

The public employees retirement board has power to adopt a rule increasing the contributions of non-employee members who became such prior to July 1, 1949, from four percent to six percent. OAG Oct. 4, 1949 (331-B).

One who has been an employee of a city since 1932, and desiring to pay all back charges and qualify for retirement compensation cannot draw an annuity until he has been a member of the retirement association for ten full years. OAG Aug. 28, 1947 (331-B-1).

An alderman is a full time employee and entitled to membership in the public employees retirement association even if during his term of four years, he received only \$5 per month and followed his usual civil business life. He was full time because he was subject to call at all times. OAG Jan. 21, 1948 (331-B-1).

Payment by a municipality out of its funds to the public employees retirement fund of unpaid accumulated deductions of its employees for years previous to their becoming members of the association would amount to a gratuity and cannot be permitted. OAG April 1, 1952 (331-B).

The county's share, payable to the public employees retirement fund, should be levied as an item of the general revenue fund expense. OAG Oct. 6, 1950 (519-D).

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## 353.12 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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### 353.12 BENEFITS OF FUNDS, BY WHOM RECEIVED

HISTORY. Amended, 1951 c 22 s 24; 1953 c 78 s 14.

The simultaneous death section, section 525.90, is applicable in case of accumulated deductions to the credit of a public employee in the retirement fund who has designated a beneficiary. OAG Nov. 18, 1952 (331-B).

Upon the death of an annuitant, the unpaid accrued annuities are paid to the estate of the annuitant. OAG March 19, 1953 (331-B).

### 353.13 ANNUITIES PAYABLE MONTHLY

HISTORY. Amended, 1951 c 22 s 25.

353.14 Repealed, 1951 c 22 s 30.

### 353.17 CONTRIBUTION TO RETIREMENT FUND

HISTORY. Amended, 1951 c 22 s 26.

### 353.20 APPLICATION

HISTORY. Amended, 1951 c 22 s 27; 1953 c 78 s 15.

Old employees of the city may join the public employees retirement association by paying \$10, but new employees, after July 1, 1947, are required only to pay the deductions. OAG July 18, 1947 (331-B-1).

Since the enactment of Laws 1947, Chapter 18, all school districts are subject to the Public Employees Retirement Act, except that under section 353.01, subdivision 2, school teachers are under the state teachers retirement law and are not eligible to membership under section 353.01, subdivision 2. Janitors, who are new employees and who appear on the payroll after June 1, 1947, automatically become members of the public employees retirement association and old employees who were continued on the payroll on June 1, 1947, have an option to join but are not compelled to do so. Same rule applies to bus drivers and other employees, except teachers and independent contractors. OAG Oct. 29, 1947 (331-B-1).

Except teachers who may become members of the state teachers association, all school district employees come within the provisions of the Public Employees Retirement Act without any action on the part of the school district. OAG Nov. 29, 1947 (331-B-1).

Where a sanatorium is occupied by Polk and Norman counties, employees of the sanatorium are eligible for membership in the public employees retirement association. OAG Nov. 23, 1949 (331-B-1).

Where the attorney for the village of Richfield became a member of the public employees retirement association and was thereafter appointed municipal judge for the city of Minneapolis, he may at his option continue to make payments to the retirement fund on the basis of his salary as municipal judge, not being eligible for membership in any other fund. OAG Dec. 28, 1949 (331-B-1).

Villages are subject to the public employees retirement law. OAG July 25, 1951 (331-B-1).

### 353.21 ANNUITANTS; EXTENT OF BENEFITS

HISTORY. 1953 c 78 s 16.