

CHAPTER 353

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Sec.	Definitions	Sec.	Unclaimed annuities returned to fund
353.01	Member of legislature; lay-off or leave of absence	353.44	Payment to minor
353.03	Board of trustees	353.46	Options; savings clauses
353.05	Custodian of funds	353.51	Scope and application
353.06	Investments	353.52	Contributions by employees and employers
353.07	Employers recording and reporting requirements	353.53	Retirement benefits
353.08	Attorney general to be legal adviser	353.54	Optional retirement annuities
353.13	Annuities, accounting; accrual; payment	353.55	Retirement before becoming eligible for social security
353.14	Benefits from other funds	353.56	Refundments after death of member or former member
353.15	Annuities exempt from process	353.57	Disability benefits; computation
353.16	Audit of books and accounts; insurance laws not applicable	353.58	Military service credit
353.18	Regulations	353.59	Effective date; application
353.19	Penalties for false information	353.591	Election of benefits
353.26	Membership	353.60	Fee officers; contributions
353.27	Public employees retirement fund	353.61	Retirement annuity, member at least age 65 with five to ten years allowable service
353.271	Participation in Minnesota adjustable fixed benefit fund	353.63	Policy
353.28	Payment of employer contributions	353.64	Membership; qualifications; police officer, fire fighter
353.29	Retirement annuity upon separation from public service	353.65	Contributions
353.30	Annuities upon retirement	353.654	Conversion of benefits
353.31	Survivor benefits	353.655	Benefits
353.32	Refunds after death of member or former member	353.656	Disability benefits
353.33	Total and permanent disability benefits	353.657	Survivor benefits
353.34	Termination of public service	353.66	Retirement annuity
353.35	Consequences of refund and repayment	353.67	Application for annuity
353.36	Purchases of prior service credit	353.68	Scope and application
353.37	Public re-employment of annuitant, effect on annuities	353.69	Officers or employees of non-covered municipalities; optional membership
353.38	Rights limited	353.71	Coverage by more than one retirement system or association; deferred annuity
353.39	Military service credit	353.74	Certain survivor benefits
353.40	Annual leave	353.75	Certain retirement annuity benefits
		353.83	Additional payments to certain annuitants

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

Subd. 2. **Public employee.** (1) "Public employee" means any person performing personal services as an elected or appointed officer or employee for a governmental subdivision or for an elected officer thereof, including any municipal judge or special municipal judge, and whose salary is paid, in whole or in part, from revenue derived from taxation, or by fees, assessments, or from other sources. The term "public employee" also means any person serving as an elected member of the legislature of the state of Minnesota and who was first elected to office prior to December 31, 1969, or any person appointed as a district court reporter in this state and any officer or employee of the public employees retirement association, or any employee of the League of Minnesota Municipalities.

(2) "Public employee" does not mean:

(a) persons employed for professional services where such service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(b) election officers;

(c) persons who are independent contractors and their employees;

(d) patient and inmate help in governmental subdivision charitable, penal and correctional institutions;

(e) any persons by reason of their being members of boards, commissions, bands and others who serve the governmental subdivision intermittently and are paid on a per diem or per meeting basis;

(f) employees who hold positions of an essentially temporary or seasonal character, provided such employment does not continue for a period in excess of 120 working days in any calendar year, and in the event such employees receive compensation on a monthly salary basis, each calendar month for which they are so paid shall constitute 30 working days; however, immediately following the expiration of such 120 working days if such employees continue in public

service and earn in excess of \$75 in any one calendar month, the department heads of the various governmental subdivisions must then report all such employees for membership pursuant to section 353.07 and must cause employee contributions to be made on behalf of such employees in accordance with section 353.27, subdivision 4;

(g) part-time employees who receive monthly compensation not exceeding \$75;

(h) emergency employees who are employed by a governmental subdivision by reason of emergency work caused by fire, flood, storm or similar disaster;

(i) public employees who by virtue of their employment are required to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision, except as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; provided that this paragraph shall not prevent a person who belongs to the public employees retirement association from also belonging to or contributing to a volunteer firemen's relief association that does not determine its benefits or contributions on the basis of the salary or compensation of the fireman;

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

(k) persons who make application to be exempted from membership in the public employees retirement association, due to membership in any religious organization which has been organized five years or more as of January 1, 1963, and whose customs, rites or religious belief forbids their membership in any public retirement association, providing such persons file an application stating the applicable provisions of their religious organization, and waive all claims for retirement annuities or benefits of any kind pursuant to this chapter;

(l) students who are occasionally employed part time by a governmental subdivision in any capacity and full time students who are enrolled and are regularly attending classes at an accredited school, college or university; provided that medical interns and resident physicians are excluded only if they are full time graduate degree candidates.

Subd. 3. Head of department. "Head of department" means the head of any department, institution, office, or branch of service of any governmental subdivision which directly pays salaries out of its revenue or is empowered to authorize the payment of such salaries.

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 and credited to his individual account in the retirement fund without interest.

Subd. 5. [Repealed, 1971 c 106 s 40]

Subd. 6. Governmental subdivision. "Governmental subdivision" means a county, city, village, borough, town, school district within this state, or a department or unit of state government or any other public body employing any person who is a public employee by virtue of specific authorization made in section 353.01, subdivision 2, but does not mean any municipal housing and redevelopment authority organized under the provisions of Minnesota Statutes, Sections 462.415 to 462.711; or any port authority organized pursuant to Minnesota Statutes, Chapter 458; or any soil conservation district organized pursuant to Minnesota Statutes, Chapter 40; or any hospital district organized or reorganized pursuant to legislation enacted by the 1959 Legislature.

Subd. 7. Member; membership. "Member" means a member of the public employees retirement association and "membership" therein is limited to persons who are engaged in performing services as public employees but also includes periods when such persons are on an authorized leave of absence or an authorized temporary layoff. Membership in the retirement association of any person shall terminate upon his ceasing to be a "public employee."

Subd. 8. M.S. 1953 [Repealed, 1957 c 935 s 27]

Subd. 8. Association. "Association" means the public employees retirement association.

Subd. 9. [Repealed, 1957 c 935 s 27]

MINNESOTA STATUTES 1971

4149

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.01

Subd. 10. **Salary.** "Salary" means the periodical compensation of any public employee and also means "wages" and includes net income from fees after deduction of expenses which are paid by the primary public employers. With the exception of justices of the peace who are members of public employees retirement association on June 30, 1971, occasional compensation received from other than the primary public employer or from sources other than public shall not be considered fees for purposes of Laws 1971, Chapter 106.

Subd. 11. **Public service.** "Public service" means service as an officer or employee of the state or of a governmental subdivision.

Subd. 12. M.S. 1949 [Repealed, 1953 c 78 s 18]

Subd. 12. **Temporary layoff.** "Temporary layoff" means a suspension of public employment for a period not exceeding three and one half months in any calendar year, by action of the employing governmental subdivision evidenced prior to the commencement thereof by appropriate current official record of the governmental subdivision.

Subd. 13. [Repealed, 1963 c 641 s 38]

Subd. 14. **Actuarial equivalent.** "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

Subd. 15. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased member, provided such child is (a) under the age of 18, (b) age 18 through 21 and a full time student, and in either case unmarried and actually dependent for more than one half of his support upon such member at the time of death and for not less than 90 days prior thereto; provided, that effective retroactively to April 30, 1970 the child of a deceased member, who at the time of his death was receiving total and permanent disability benefits pursuant to section 353.33, shall be deemed dependent if he was dependent upon the decedent for more than one half of his support during the 90 days prior to his becoming totally and permanently disabled, except that no payment in behalf of such a dependent child shall commence prior to July 1, 1971. It also includes any child of the member conceived during his lifetime and born after his death in any case where a member died after July 1, 1957. It also means any dependent child who is the subject of joint adoption proceedings filed by a member and his wife, and who within two years after death of the member, by judgment and decree duly entered, is adjudged to be the adopted child of the deceased member's surviving wife; subject, however, to the qualifying conditions of age and dependency aforesaid and the dependency of the child hereunder shall date from the decree of adoption.

Subd. 16. **Allowable service.** "Allowable service" means:

(1) Service during years of actual membership in the course of which employee contributions were currently made; periods covered by payments in lieu of salary deductions made as provided in sections 353.35 and 353.39, and service in years during which the public employee was not a member but for which he later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(2) Any period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(3) Any period of authorized leave of absence without pay or temporary layoff, during or for which a member obtained credit by payments to the fund made in lieu of salary deductions, provided that such payments are made in an amount or amounts based on his average salary on which deductions were paid (a) for the last six months of public service, or (b) that portion of the last six months while he was in public service, to apply to the period in either case immediately preceding commencement of such leave of absence or temporary layoff; provided, however, that if the employee elects to pay employee contributions for the period of any leave of absence without pay or temporary layoff, or for any portion thereof, he shall also, as a condition to the exercise of such election, pay to the fund an amount equivalent to both the required employer and additional employer contributions therefor, such payment to be made currently or within one year from the date the leave of absence or temporary layoff terminates,

unless the employer by appropriate action of its governing body and made a part of its official records, prior to the date of the first payment of such employee contribution, certifies to the association in writing that it will cause to be paid such employer and additional employer contributions from the proceeds of a tax levy made pursuant to section 353.28.

(4) Any period during which a member is on an authorized leave of absence or an authorized temporary layoff.

Subd. 17. Approved actuary. "Approved actuary" means any actuary who is a fellow of the society of actuaries or who has at least 15 years of service to major public employee funds or any firm retaining such an actuary on its staff.

Subd. 18. Year of allowable service. "Year of allowable service" means any 12 calendar months not necessarily consecutive in which a public employee received compensation from the governmental subdivision or was eligible to credit for service. It also means 12 months credit each year for employees who are paid on a yearly basis and who may or may not receive compensation in every calendar month in the year.

Subd. 19. Total and permanent disability. "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration.

Subd. 20. Dependent spouse. "Dependent spouse" means: (1) The unremarried widow of a deceased member, or (2) the widower of a deceased member who has attained the age of 65, has not remarried, was living with and dependent upon the member at the time of death for more than one-half of his support; or the widower of a deceased member who has not remarried and is totally and permanently disabled.

Subd. 21. [Repealed, 1971 c 106 s 40]

Subd. 22. [Repealed, 1971 c 106 s 40]

Subd. 23. Retirement annuity; restrictive. "Retirement annuity" means the pension paid or payable by the fund to a former member after retirement.

Subd. 24. Optional survivors annuity. "Optional survivors annuity" means the allowance paid or payable by the fund to a survivor of a former member pursuant to an optional annuity form selected by such member at or before retirement.

Subd. 25. Spouse's annuity. "Spouse's annuity" means the allowance paid or payable by the fund to a surviving spouse of a deceased member who is not an annuitant, if such surviving spouse has not remarried and has attained age 62 years.

Subd. 26. [Repealed, 1971 c 106 s 40]

Subd. 27. Benefit. "Benefit" means an allowance paid or payable by the fund to a surviving dependent spouse or a dependent child and also includes an allowance paid or payable by the fund to a member or former member who is permanently and totally disabled.

Subd. 28. Retirement. "Retirement" means the withdrawal of a member from active public service who is paid a retirement annuity thereafter and commences with the date designated by the board of trustees when the retirement annuity shall first accrue to the former member after his withdrawal from active public service. This date shall determine any rights specified in this chapter which occur either before or after retirement, as the case may be; but if there is not a complete and continuous separation from public service for 30 days following the withdrawal from public service for the purpose of retirement, no rights shall accrue thereunder and retirement shall not be accomplished thereby.

Subd. 29. Designated beneficiary. "Designated beneficiary" means the person designated by a member in writing, filed with the association, to receive the balance of his accumulated deductions after death. If the member fails to designate such a person or if the person so designated predeceases the member, beneficiary in such cases means the estate of the deceased member, except as provided in section 353.32, subdivision 5.

Subd. 30. Designated survivor beneficiary. "Designated survivor beneficiary" means the person designated by a former member to receive a joint and survivor annuity or a modified joint and survivor annuity.

Subd. 31. Leave of absence. "Leave of absence" means any period during which a member is duly authorized by his employer to refrain from active employment, with or without pay, not to exceed in the aggregate 12 months during the entire period of his membership, exclusive of vacation periods, educational leaves,

leaves for job training and sick leave, evidenced in any case prior to the commencement thereof by appropriate current record of the employer and promptly transmitted to the association.

[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; 1955 c 815 s 11; 1957 c 815 s 1; 1957 c 935 s 1-5; 1959 c 650 s 1-7, 39, 43, 58; 1961 c 482 s 1; 1961 c 595 s 1; 1961 c 746 s 1; 1963 c 440 s 1; 1963 c 641 s 3-12; 1965 c 104 s 1; 1965 c 880 s 1, 2; Ex1967 c 26 s 1; Ex1967 c 37 s 1; 1969 c 940 s 1, 2; 1971 c 106 s 1-8; 1971 c 503 s 1, 2] (254-23)

353.015 MEMBER OF LEGISLATURE; LAY-OFF OR LEAVE OF ABSENCE.

Notwithstanding any law to the contrary, if a member of the public employees retirement association is placed on lay-off or leave of absence for the purpose of serving as a member of the legislature, the leave thus granted shall not apply against any of the limitations contained in section 353.01, subdivisions 7, 12, and 31.

[1969 c 940 s 22; 1971 c 106 s 9]

353.02 [Repealed, 1957 c 935 s 27]

353.03 BOARD OF TRUSTEES. Subdivision 1. **Management.** The management of the public employees retirement fund is hereby vested in a board of trustees consisting of 12 members, who shall be known as the board of trustees. This board shall consist of the state auditor, the state insurance commissioner, the state treasurer, and nine other trustees, who shall be elected from the membership by the members of the retirement association by mail ballot. On November 1 of each year, and for seven days thereafter, the board shall accept at its office filings in person or by mail of candidates for the board of trustees. The candidate shall submit at the time of his filing a nominating petition signed by 25 or more members of the fund. No nominee may withdraw his name from nomination after November 15. Candidates shall file at large for all seats vacant at the forthcoming election. The board shall print and distribute to the members a ballot listing the candidates, the number of positions to be filled and blank lines for write in votes. No special marking may be used on the ballot to indicate incumbents. Any candidate may have at his request a list of the membership with their employing subdivision and address shown, if available, prepared at the expense of the fund. It is illegal for a candidate to use or allow the use of the list for any purpose other than furthering his candidacy for the board. After the election the list shall be returned to the board. Ballots shall be sent to the members by December 10 each year. The last day for mailing ballots to the fund shall be December 31. All terms expire on December 31 of the year in which the term expires, and the position shall remain vacant until the newly elected member is qualified. The ballot envelopes shall be so designed and the ballots shall be counted in such a manner as to insure that each member's vote is secret. The election shall be supervised by the ex officio members of the board. Members of the board so elected shall hold office for a term of three years. Present members of the board of trustees shall serve for the terms for which they were elected. It shall be the duty of the board of trustees to faithfully administer the law without prejudice and consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers of the governmental subdivisions which aid in financing it and the public employees who are its beneficiaries.

Subd. 2. No compensation expenses. The members of the board of trustees and members of any authorized committee of said retirement association 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 or on any authorized committee of said retirement association.

Subd. 3. Officers; employees; bylaws. The board shall elect a chairman and vice chairman, and shall appoint a secretary and such other employees and may adopt bylaws, retain an approved actuary and procure other services as it may reasonably deem necessary and fix their compensation subject to subdivision 2 hereof.

Subd. 4. Offices. The commissioner of administration shall make provision for suitable office space in the state capitol or other state office buildings, or at such other location in St. Paul as he shall determine for the use of the board of trustees and its secretary. The commissioner shall give the board at least four months

notice for any proposed removal from their present location. Any and all rental charges shall be paid by the trustees from the public employees retirement fund.

[1931 c 307 s 3; 1949 c 84 s 2; 1951 c 22 s 16; 1959 c 650 s 8, 58; 1963 c 641 s 13; 1967 c 641 s 1; 1969 c 940 s 3; 1971 c 106 s 10, 11] (254-25)

353.04 [Repealed, 1957 c 935 s 27]

353.05 CUSTODIAN OF FUNDS. The state treasurer shall be ex officio treasurer of the retirement funds of the association and his general bond to the state shall be so conditioned as to 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 transmit monthly to the secretary of the board of trustees a detailed statement of all amounts so received and credited by him to the fund. He shall pay out the fund only on warrants issued by the state auditor, upon vouchers signed by the secretary of the board of trustees; provided that vouchers for investment may be signed by the secretary of the state board of investment.

[1931 c 307 s 5; 1959 c 650 s 58; 1971 c 106 s 12] (254-27)

353.06 INVESTMENTS. The board of trustees 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 and reinvest the sum so certified in such securities as are duly authorized as legal investments for state employees retirement fund and shall have authority to sell, convey, and exchange such securities and invest and reinvest the securities when it deems it desirable to do so and shall sell securities upon request of the board of trustees when such funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the state employees retirement fund shall apply to the accounting, purchase and sale of securities for the public employees retirement fund.

[1931 c 307 s 6; 1959 c 650 s 58; 1961 c 380 s 5; 1965 c 305 s 5] (254-28)

353.07 EMPLOYERS RECORDING AND REPORTING REQUIREMENTS. Every head of a department in a governmental subdivision subject to the provisions of this chapter shall on the first day of each calendar month furnish the board of trustees with a statement for his department covering the preceding calendar month showing all new public employees, all removals, withdrawals, layoffs and leaves of absence affecting members during the same period. Additionally, all employing governmental subdivisions and their appropriate agencies shall furnish promptly to the association a membership enrollment form for each new employee, in the form prescribed by the board and such other information relative to the employment status of all employees or former employees, including but not limited to payroll abstracts pertaining to all past and present employees, as may be requested by the association or its secretary, including schedules of salaries applicable to various categories of employment. In the event payroll abstract records have been lost or destroyed, for whatever reason or in whatever manner, so that such schedules of salaries cannot be furnished therefrom, the employing governmental subdivision, in lieu thereof, shall furnish to the association an estimate of the earnings of any employee or former employee for any period as may be requested by the association or its secretary. Should the association receive such schedules of estimated earnings, the secretary is hereby authorized to use the same as a basis for making whatever computations might be necessary for determining obligations of the employee and employer to the retirement fund. If estimates are not furnished by the employer pursuant to the request of the association or its secretary, the association may estimate the obligations of the employee and employer to the retirement fund based upon such records as are in its possession. Where payroll abstracts have been lost or destroyed, the governmental agency need not furnish any information pertaining to employment prior to July 1, 1963. The association shall make no estimate of any obligation of any employee, former employee, or employer covering employment prior to July 1, 1963.

[1931 c 307 s 7; 1933 c 374 s 1; 1941 c 285 s 4; 1947 c 18 s 3; 1951 c 22 s 18; 1959 c 650 s 58; 1963 c 641 s 14; 1969 c 267 s 1; 1971 c 106 s 13; 1971 c 503 s 3] (254-29)

353.08 ATTORNEY GENERAL TO BE LEGAL ADVISER. The attorney general shall be the legal adviser of the board of trustees. The board may sue or be

MINNESOTA STATUTES 1971

4153

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.13

sued in the name of the public employees' board of trustees of the public employees' retirement association and, in all actions brought by it or against it, the board shall be represented by the attorney general.

[1931 c 307 s 8; 1933 c 374 s 1; 1959 c 650 s 58] (254-30)

353.09 [Repealed, 1957 c 935 s 27]

353.10 [Repealed, 1957 c 935 s 27]

353.11 [Repealed, 1957 c 935 s 27]

353.12 [Repealed, 1957 c 935 s 27]

353.13 ANNUITIES, ACCOUNTING; ACCRUAL; PAYMENT. Subdivision 1. **Accounting.** Payment of any annuity or benefit for a given month shall be mailed by the association to the annuitant or survivor, as the case may be, during the first week of the next ensuing month. Evidence of receipt of every warrant issued by the association in payment of an annuity or benefit shall be submitted by the payee thereof to the association, together with his written declaration that the annuitant or recipient of a disability benefit, whichever the case may be, has or has not returned to public service; and shall be furnished on forms provided by the secretary thereof, before the association shall pay to the annuitant, disability recipient, or survivor for the next ensuing month the annuity or benefit to which he may be entitled.

Subd. 2. **Accrual; payment.** Except as to elected public officials, all retirement annuities granted under the provisions of this chapter shall commence with the first day of the first calendar month next succeeding the date of termination of public service and shall be paid in equal monthly installments commencing one month thereafter and continuing only during the lifetime of the annuitant. Any annuity granted to an elective public official after April 30, 1963, shall accrue on the day following expiration of his public office or right thereto, and his annuity for that month shall be pro rated accordingly. No annuity, once granted, shall be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive beyond the first day of the calendar month in which application therefor shall be filed with the association.

[1931 c 307 s 15; 1933 c 374 s 1; 1941 c 285 s 7; 1951 c 22 s 25; 1959 c 650 s 9; 1963 c 641 s 15; 1971 c 106 s 14] (254-37)

353.14 M.S. 1949 [Repealed, 1951 c 22 s 30]

353.14 BENEFITS FROM OTHER FUNDS. No annuity or benefit provided by chapter 353 shall be affected, diminished, or impaired by any pension, benefit, or annuity which any member or his survivor is entitled to receive from a tax supported public retirement system authorized by any other law, for the same or different service for which he is entitled to receive benefit or annuity from the public employees retirement association.

[1963 c 641 s 1]

353.15 ANNUITIES EXEMPT FROM PROCESS. No money, annuity, or benefit provided for in this chapter is assignable or subject to execution, levy, attachment, garnishment, or legal process, or to any state income tax or state inheritance tax, except that none shall be exempt from taxation under chapter 291, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

[1931 c 307 s 18; 1955 c 815 s 9; 1971 c 789 s 5] (254-40)

353.16 AUDIT OF BOOKS AND ACCOUNTS; INSURANCE LAWS NOT APPLICABLE. None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds. The books and accounts of the association and the retirement fund shall be examined and audited annually, if funds and personnel permit, by the public examiner of the state and a full and detailed report thereof made to the board of trustees. The cost of such examination shall be paid by the retirement association in accordance with the provisions of section 16.20, subdivision 9. For the purposes of this section the public employees retirement association shall be considered a board as referred to in subdivision 9.

[1931 c 307 s 19; 1933 c 374 s 1; 1959 c 645 s 1; 1959 c 650 s 58; 1971 c 106 s 15] (254-41)

353.17 [Repealed, 1971 c 106 s 40]

353.18 REGULATIONS. All matters and administrative details not specifically provided for in this chapter shall be governed by rules and regulations issued and

promulgated by the board of trustees. The final power to determine the status of any individual in the employ of any governmental subdivision, for the purposes of this chapter, is hereby vested in the board.

[1931 c 307 s 22; 1941 c 285 s 9; 1959 c 650 s 58] (254-44)

353.19 PENALTIES FOR FALSE INFORMATION. Any person who shall give any false information to the board of trustees or any officer or agent of the retirement association for the purpose of obtaining membership in such association, or any person, who shall wilfully fail or refuse to perform or discharge any duty prescribed by this chapter, shall, upon conviction thereof, be guilty of a misdemeanor.

[1931 c 307 s 23; 1959 c 650 s 58] (254-45)

353.20 [Repealed, 1955 c. 815 s 12]

353.21 [Repealed, 1957 c. 935 s 27]

353.26 MEMBERSHIP. Subdivision 1. **Membership confirmed.** The public employees retirement association created by Laws 1931, Chapter 307, as amended, is confirmed and continued. The membership in the association shall consist only of public employees. Any person who was a member of the association on June 30, 1957, shall continue his membership with the association, until such time as his public service in a position covered by the association shall terminate.

Subd. 2. **Acceptance of public employment deemed consent.** Every public employee not a member of the association on July 1, 1957, becomes a member by acceptance of public employment or continuance in public service. Acceptance of employment is deemed consent to have deductions made from salary for deposit to the credit of the member's account in the fund.

Subd. 3. **Elective positions; optional membership.** Any elected public officer or any person appointed to fill a vacancy in an elective office within any governmental subdivision shall have the right to exercise an option to become a member, but such option, once exercised, may not be withdrawn during the incumbency of such person in office. Such person may exercise this option by filing his application for membership in the office of the association. No person who first occupies an elective office in a governmental subdivision after February 1, 1969, the compensation for which does not exceed \$75 per month, shall be eligible, by reason of service in such position, for membership in the association.

Subd. 4. [Repealed, 1959 c 650 s 57]

Subd. 5. Any part time employee or elected official employed by a governmental subdivision whose annual compensation is stipulated in advance to be not more than \$900 per year, shall be considered to be earning not more than \$75 per month.

Subd. 6. **Appointed state department head.** Any member who is appointed by the governor to be a state department head and elects pursuant to section 352.021, subdivision 3, not to be covered by the Minnesota state retirement system, shall remain a member of the public employees retirement association.

[1957 c 935 s 6; 1959 c 650 s 10, 11, 40, 58; 1963 c 641 s 16, 17; 1969 c 10 s 1; 1969 c 746 s 1; 1971 c 503 s 4]

353.27 PUBLIC EMPLOYEES RETIREMENT FUND. Subdivision 1. There is a special fund known as the "Public Employees Retirement Fund", the "retirement fund", or the "fund", which shall include all of the assets of the association. That fund shall be credited with all contributions, all interest and all other income authorized by law. From this fund there is appropriated the payments authorized by this chapter in the amounts and at such time provided herein, including the expenses of administering the fund authorized by this chapter, and including the proper share of the Minnesota adjustable fixed benefit fund.

Subd. 2. **Employee contributions.** The employee contribution to the fund shall be an amount equal to six percent of the salary of every member. This contribution shall be made by deduction from salary in the manner provided in subdivision 4. Prior to July 1, 1965 no deduction shall be made from any salary in excess of \$4,800 in any calendar year; from July 1, 1965 to July 1, 1967 deductions shall be made on the salary received limited to \$6,000 in any calendar year, and thereafter deductions shall be made on total salary. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the total salary received from all sources.

Subd. 3. **Employer contributions.** The employer contribution to the fund shall be an amount equal to four percent of the salary of each member not exceeding

MINNESOTA STATUTES 1971

4155

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.27

\$4,800 in any calendar year for the period July 1, 1956 to June 30, 1957; five percent of such salary for the following 12 month period; and six percent of such salary subsequently through June 30, 1965; six percent of the salary received limited to \$6,000 in any calendar year for the period from July 1, 1965 to July 1, 1967; and thereafter six percent of the total salary. This contribution shall be made by the means and in the manner provided in section 353.28.

Subd. 4. **Employer's recording and reporting requirements.** The head of each department of the various governmental subdivisions is hereby directed to cause employee contributions to be deducted at least once each month from the salary of each member and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries and to cause the same to be remitted within 15 days thereafter to the secretary of the board of trustees together with a statement showing the amount of each of such deductions, the amount of salaries from which such deductions have been made and the names of the public employees on whose accounts the same have been made. Such statement may be furnished in the form of a carbon or duplicate copy of departmental payroll abstracts and if not submitted in such form, the head of each department is hereby required to furnish the secretary of the board of trustees with a carbon or duplicate copy of his departmental payroll abstract for the last pay period during the months of January and July, respectively, in each year and it shall be the duty of said secretary to check the copies of all such payroll abstracts against the membership records so as to ascertain whether or not any omissions have been made by the several department heads in the reporting of any new public employees, as required by section 353.07. Upon notice from the secretary of omission of a required deduction, or deductions, from the salary of a member, the head of the department shall deduct from the member's next salary payment and forthwith remit to the secretary the amount of the employee contribution delinquency, with cumulative interest thereon at the rate of six percent per annum, compounded annually, payable from the date or dates each delinquent employee contribution was first payable, such interest to be contributed by the employer. To the extent that any such omitted required deductions are not paid by the employee, they shall constitute a liability of the governmental subdivision which failed to make said required deductions, with interest thereon as hereinbefore specified. The failure to deduct any required employee contributions shall not relieve the governmental subdivision of the aforesaid obligation to the retirement fund. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 5, with interest thereon at the rate of six percent compounded annually from the date they were just payable, shall be paid from the proceeds of a tax levy made pursuant to section 353.28, or from other funds available to the employer. This subdivision shall have both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due hereunder. An action for the recovery of delinquent payments shall not be subject to any statutory provision which would otherwise limit the time within which such an action may be commenced. All remittances so received by the secretary of the board of trustees shall be promptly deposited with the state treasurer. Deductions from the salary of a district court reporter in a judicial district consisting of two or more counties shall be made by the auditor of the county in which the bond and official oath of such district court reporter are filed from the portion of his salary paid by such county.

Subd. 5. **Additional employer contributions.** An additional contribution shall be made to the fund based on two and one-half percent of the salary of each member not to exceed \$4,800 in any calendar year from July 1, 1958 to June 30, 1965; two and one-half percent of the salary of each member not to exceed \$6,000 in any calendar year from July 1, 1965 to July 1, 1967; and each year thereafter, two and one-half percent of the total salary of each member, for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Subd. 6. [Repealed, 1971 c 106 s 40]

Subd. 7. (1) Any deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association, when so determined by the board of trustees, shall be refunded to the employee; and the

employer contribution and the additional employer contribution, if any, for the erroneous employee contribution shall be refunded to the employer.

(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 board of trustees. The department's payments shall be refunded to the department if the amount of the required adjustment is more than \$1.

[1957 c 935 s 7; 1959 c 650 s 12, 37, 58; 1961 c 744 s 1; Ex1961 c 50 s 1; 1963 c 641 s 18; 1965 c 714 s 1-3; 1965 c 880 s 3; Ex1967 c 53 s 1-3; 1969 c 267 s 2; 1969 c 940 s 5; 1971 c 106 s 16, 17]

353.271 PARTICIPATION IN MINNESOTA ADJUSTABLE FIXED BENEFIT FUND. Subdivision 1. **Authorization.** The public employees retirement association is hereby authorized to participate in the Minnesota adjustable fixed benefit fund. The provisions hereinafter provided in connection with the participation in the Minnesota adjustable fixed benefit fund as they relate to the computation and recomputation of annuities from time to time and all other matters shall apply as to assets, annuities and members, retired and active of all sections, divisions, and benefit schedules of the public employees retirement association, including but not limited to hospital employees, police and fire employees, those employees who are also members of the federal social security system and those employees who are not. There shall be one general participation in the Minnesota adjustable fixed benefit fund for all purposes by the public employees retirement association.

Subd. 2. **Valuation of assets; adjustment of benefits.** (1) As of June 30, 1969, the present value of all annuities in force as of June 30, 1969, except for supplementary benefits payable from the general fund of the state and except for survivor or disability benefits, shall be determined by the 1965 group annuity table—males, the 1965 group annuity table—females, and three and one-half percent interest, and assets representing the required reserves for these annuities shall be transferred to the Minnesota adjustable fixed benefit fund, during a period of one year in accordance with procedures specified in section 11.25.

(2) Effective July 1, 1969, for those members retiring pursuant to the provisions of the law relating to the public employees retirement association, the required reserves as determined in accordance with these sections shall be transferred to the Minnesota adjustable fixed benefit fund as of the date of retirement. The 1965 group annuity table—males, the 1965 group annuity table—females, and three and one-half percent interest, will be used to determine the amount to be transferred.

(3) Annuity payments shall be adjusted in accordance with the provisions of section 11.25, subdivisions 12 and 13.

(4) Notwithstanding section 356.18, increases in annuity payments pursuant to this section will be made automatically unless written notice is filed by the annuitant with the public employees retirement association.

[1969 c 399 s 1; 1969 c 999 s 4; 1971 c 414 s 9]

353.28 PAYMENT OF EMPLOYER CONTRIBUTIONS. Subdivision 1. Each governmental subdivision shall secure its employer contributions and its contributions to amortize the deficit in the retirement fund from the sources and by the means provided in this section. Each governmental subdivision shall pay these contributions to the retirement fund out of moneys collected from taxes or other revenue of the governmental subdivision as its obligation for all members employed by such subdivision and these contributions shall be charged as administrative costs.

Subd. 2. Not later than September 30 of each year beginning with 1957, the total amount due from each governmental subdivision in respect of employment on or before the immediately preceding June 30, including interest, if any, which was due and payable on that date, or is expected to become due and payable before payment is made to the board of trustees, shall be determined by the board of trustees and certified in duplicate by the secretary or an authorized officer of the board to each auditor of each county whose responsibility it is to furnish one copy to each governmental subdivision within the confines of his county.

Subd. 3. The governmental subdivision shall include in its levy for the year

in which the certification is required to be made at least the lesser of the following amounts:

(a) The amount certified pursuant to subdivision 2, plus 100 percent of the amount reasonably estimated as necessary to pay its employer contributions and its contributions to amortize the deficit in the retirement fund for employment during the period of 12 months ending on June 30 immediately following the certification; or

(b) 125 percent of the amount reasonably estimated as necessary to pay its employer contributions and its contributions to amortize the deficit in the retirement fund for employment during the period of 12 months ending on June 30 immediately following the certification.

The proceeds of any levy made for the purpose of paying employer contributions and contributions to amortize the deficit in the retirement fund shall be used solely for that purpose. Such balances as may exist shall be used solely to discharge future obligations of the subdivision to the fund.

Subd. 4. The amount certified by the board of trustees in 1968 shall be due and payable on December 31, 1969. In respect of contributions arising from employment on or after July 1, 1968, the head of each department of the various governmental subdivisions shall, whenever he issues or approves a voucher in payment of employee contributions pursuant to Minnesota Statutes 1965, Section 353.27, Subdivision 4, issue or approve another voucher in the aggregate amount of the employer contributions and the contributions to amortize the deficit in the retirement fund payable for the same period of employment as that covered by the employee contributions, and shall remit same to the secretary of the board of trustees at the time and in the manner prescribed for employee contributions by Minnesota Statutes 1965, Section 353.27, Subdivision 4.

Subd. 5. Any amount due and payable pursuant to this section by a governmental subdivision on June 30, 1969, shall thereafter bear compound interest at the rate of six percent per year until paid. Any amount which becomes due and payable pursuant to this section on or after July 1, 1969, shall bear compound interest at the rate of six percent per year from the date due until the date paid.

Subd. 6. If the governmental subdivision fails to include the amount required by subdivision 3 in its levy for the year in which the certification is required to be made, the county auditor shall levy in that year upon all taxable property within the governmental subdivision a tax in the amount of 150 percent of the amount certified pursuant to subdivision 2, which is to be added to the levy of the governmental subdivision. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected and apportioned. The proceeds of any taxes levied under this subdivision to the extent of the amount certified pursuant to subdivision 2, shall be remitted directly to the association. The balance shall be remitted to the governmental subdivision.

Subd. 7. The association shall deposit these proceeds in the retirement fund. When payments are to be made by a governmental subdivision from revenues other than revenues derived from taxes, the governmental subdivision shall notify the county auditor of that fact and the county auditor shall thereupon reduce the levy accordingly. For the express purposes of this section, the payment of all such contributory shares of retirement cost is hereby made an obligation of the governmental subdivision concerned in the proportion and to the extent provided.

Subd. 8. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation upon the power of a county, city, village, borough, town, or school district to levy taxes, the governmental subdivision concerned, if it is other than a school district, may levy taxes in excess of the limitation in such amount as is necessary to meet its obligations under this section. The expenditures authorized to be made under this chapter by any municipality are not included in computing the cost of government as defined in any home rule charter of any municipality affected by Laws 1957, Chapter 935.

Subd. 9. The governing body of any governmental subdivision affected by this chapter may make contributions to the retirement fund of the retirement association from moneys derived from revenues other than general taxes. The use of these contributions by the retirement association may be limited to certain specific purposes and these limitations are binding upon the retirement association. The board of trustees may refuse to accept any conditional contribution.

Subd. 10. For the purposes of this section only, the state of Minnesota is considered a governmental subdivision and assumes a liability with respect to legislative officers who are members for any year for which a certification may be made pursuant to the provisions of this section. The certification in such case shall be made to the state auditor who shall transmit the certification to the next regular session of the legislature for appropriate action. Further, for the purposes of this section only, the League of Minnesota Municipalities is considered a governmental subdivision and assumes a liability with respect to its public employees who are members for any year for which a certification may be made pursuant to the provisions of this section.

Subd. 11. [Repealed, 1971 c 106 s 40]

[1957 c 935 s 8; 1959 c 650 s 45, 46, 58; 1961 c 744 s 2; Ex1961 c 50 s 2; Ex1967 c 59 s 1; 1969 c 267 s 3; 1971 c 106 s 18; Ex1971 c 31 art 20 s 11]

353.29 RETIREMENT ANNUITY UPON SEPARATION FROM PUBLIC SERVICE. Subdivision 1. **Entitlement.** Upon separation from public service any person who has attained the age of at least 65 years and who received credit for not less than ten years of allowable service is entitled upon application to a retirement annuity.

Subd. 2. **Average salary.** The retirement annuity hereunder payable at age 65 or thereafter shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3 hereof, on the basis of the member's average salary for the period of his allowable service. Such retirement annuity is known as the "normal" retirement annuity.

(a) For years prior to July 1, 1957, "average salary" for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which employee contributions were paid to the retirement fund for any five consecutive years prior to that date;

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary upon which employee contributions were paid to the retirement fund.

Subd. 3. The average salary, as defined in subdivision 2, of any member multiplied by the applicable percentages indicated below shall determine the amount of the retirement annuity to which the member qualifying therefor is entitled:

Years of Allowable Service	Percentages at the Rate of:
(a) First ten years	1 percent per year of service
(b) Second ten years or completed months of service less than such period	2 percent per year of service
(c) Third ten years or completed months of service less than such period	2½ percent per year of service
(d) Subsequent years or completed months of service less than such period	3 percent per year of service

Subd. 4. **Application for annuity.** Application for retirement annuity may be made by a member or by someone authorized to act in his behalf. Every application for retirement, in the form prescribed by the board of trustees, shall be substantiated in writing by proof of (a) age of the employee and (b) his public service, which shall be submitted by the employee and employer, respectively.

Subd. 5. [Repealed, 1959 c 650 s 57]

[1957 c 935 s 9; 1959 c 650 s 13-16; 1963 c 639 s 1; 1965 c 714 s 4; 1965 c 880 s 4; Ex-1967 c 53 s 4; 1971 c 106 s 19-21]

353.30 ANNUITIES UPON RETIREMENT. Subdivision 1. Upon separation from public service any person who has attained the age of at least 58 years and who received credit for not less than 20 years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, reduced by one-half of one percent for each month that the member is under age 65 at the time of retirement.

Subd. 2. [Repealed, 1971 c 106 s 40]

Subd. 3. The board of trustees shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter; or as a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the forms provided in section 353.29 and this section. In establishing those optional forms the board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board.

Subd. 4. Any monthly payments to which any person may be entitled under this chapter may be reduced in amount upon application of the person entitled thereto to the board of trustees, provided that such person shall first relinquish in writing all claim to that part of the full monthly payment which is the difference between the monthly payment which he would be otherwise entitled to receive and the monthly payment which he will receive. The reduced monthly payment shall be payment in full of all amounts due under this chapter for the month for which the payment is made and acceptance of the reduced monthly payment releases the retirement association from all obligation to pay to such person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which such person would otherwise have received. Upon application of the person who is entitled to such monthly payment to the board of trustees it may be increased to not more than the amount to which such person was originally entitled to receive monthly but such person shall not be entitled to receive or to have any claim for any money which was not paid to him by reason of said reduction in such monthly payments.

[1957 c 935 s 10; 1959 c 650 s 17, 18, 58; 1971 c 106 s 22]

353.31 SURVIVOR BENEFITS. Subdivision 1. **Benefits for surviving spouse and dependent children.** Upon the death of the member before retirement or upon the death of a member who was disabled and receiving disability benefits pursuant to section 353.33 at the time of his death who has had at least 18 months of credited allowable service, his surviving dependent spouse and dependent children, as defined in section 353.01, subdivisions 15 and 20, shall receive the monthly benefit provided below.

- | | |
|--------------------------------------|--------------------------------------------------------------------------------|
| (a) Surviving dependent spouse | 30 percent of the member's monthly average salary not to exceed \$65 per month |
| (b) Each dependent child | 20 percent of the member's monthly average salary not to exceed \$45 per month |

In addition to the amounts provided in (a) and (b) hereof, ten percent of the member's monthly average salary not to exceed \$20 per month shall be paid to be divided equally among the dependent children. Payments for the benefit of any dependent child, as defined in section 353.01, subdivision 15, shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit shall not exceed \$250 for any one family. The surviving dependent spouse benefit shall terminate upon his or her remarriage, and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

Any survivor of a member whose average salary was less than \$75 per month shall not be entitled to the benefits provided in this subdivision. If the survivor benefits provided in this subdivision exceed the monthly average salary of the deceased member, these benefits shall be reduced to an amount equal to the deceased member's monthly average salary.

Subd. 2. Upon the death of a member before retirement who has had at least 20 years of credited allowable service and who has attained age 58, his surviving dependent spouse upon attaining age 62 shall be entitled to a spouse's annuity in an amount equal to 75 percent of the member's annuity computed on the basis provided in sections 353.29 and 353.30 not to exceed \$150 per month. This annuity shall be payable commencing on the first day of the month after such surviving dependent spouse attains the age of 62 and shall terminate upon remarriage. The surviving dependent spouse has the option, if qualified, to receive the benefits provided in subdivision 1 or the annuity provided in this subdivision but not both.

Subd. 3. **Death after retirement; payment to surviving spouse.** If any person dies after he has retired under the provisions of section 353.29 or 353.30, subdivision 1, and after his accumulated salary deductions have been fully paid out

in the way of annuities, there shall be paid to his surviving spouse an amount equal to the annuity for the entire month in which death occurs, if no optional annuity was designated by the former member.

Subd. 4. Whenever subsequent to April 29, 1957, but prior to July 1, 1957, a member died leaving surviving a spouse, with or without dependent children under 18 years of age, the surviving spouse and dependent children shall be entitled to the benefits provided by section 353.31, subdivisions 1 and 2, and for which they or any of them would qualify had the member died subsequent to June 30, 1957.

Subd. 5. Whenever subsequent to June 30, 1957, a member died and his surviving spouse qualified to receive a survivor's benefit under section 353.31, applies for and receives instead a refundment under section 353.32, the surviving spouse, upon repaying to the association within two years thereafter the amount of such refundment, with accrued interest at the rate of four percent per annum, shall be paid the benefits provided by section 353.31 for which she was qualified at the time of the death of the member as if she had not applied for or received such refundment.

Subd. 6. If a former member died after June 30, 1957, and he was receiving disability benefits pursuant to section 353.33 at the time of his death, his survivors shall be entitled to the benefits provided in subdivision 1 from and after June 30, 1961. If any such survivor received a refundment after the death of such person, the refundment shall be repaid to the fund before the survivors benefits provided herein are payable.

Subd. 7. Whenever a member, upon proof satisfactory to the board of trustees, is determined by the board to have been afflicted with a fatal illness on his last working day prior to July 1, 1959, in a position covered by Minnesota Statutes 1957, Chapter 353, as amended, which illness rendered him disabled to the date of his death occurring not more than one year from his last working day, substantiated by certificate of his attending physician, and if by reason of mistake or inadvertence of his governmental employer no official authorized leave of absence for such illness was granted him; and if the board determines, upon appropriate proof, that the said employer intended and considered, notwithstanding lack of previous official action so providing, that he be on such leave for not more than one year by reason of said fatal illness, and if such member dies within one year after his last working day and prior to July 1, 1959, all of which is established by resolution of the governing body of the employing governmental unit, the surviving widow and dependent child or children is entitled retroactively to survivor benefits as provided by Minnesota Statutes 1957, Section 353.31, as amended, in the same manner and to the same extent as if said employee, as a member of said association, had been on official authorized leave for said period.

Subd. 8. All benefits under this section and survivor benefits otherwise provided in this chapter when payable to persons qualifying therefor shall accrue on the first day of the month following the death of a member or annuitant, whichever is applicable, but no payment may be made (a) retroactively for more than three months prior to that month in which the application is filed, or (b) for the month, or any portion thereof, in which entitlement to such benefits has terminated.

Subd. 9. Every claim or demand for a survivor benefit or spouse's annuity shall be initiated by written application in the manner and form prescribed by the board of trustees, filed in the office of the retirement association, showing compliance with the statutory conditions qualifying the applicant for such survivor benefit or spouse's annuity.

Subd. 10. Minnesota Statutes 1967, Sections 353.01, Subdivision 15 and 353.31, Subdivision 1 govern the payment of benefits allocable to periods after their effective date to a dependent child whose right to receive benefits under chapter 353 commenced before their effective date to the same extent as they govern the payment of benefits to a dependent child whose right to receive benefits under chapter 353, commenced on or after their effective date provided that any such dependent child was receiving monthly survivor benefits on July 1, 1967. Benefits hereunder shall commence June 1, 1969.

Subd. 11. The benefit rolls as they exist immediately prior to July 1, 1971 are approved and continued except for any instance when it may be subsequently determined eligibility to benefits may have been obtained by fraud or deception.

[1957 c 935 s 11; 1959 c 646 s 1; 1959 c 650 s 19, 20, 47; 1959 c 651 s 1; 1961 c 467 s 1-4; Ex1961 c 79 s 1; 1963 c 641 s 19-21; 1965 c 880 s 5; Ex1967 c 26 s 2; 1969 c 858 s 1; 1969 c 940 s 6; 1971 c 106 s 23-25]

353.32 REFUNDS AFTER DEATH OF MEMBER OR FORMER MEMBER.

Subdivision 1. Before retirement. If a member dies before retirement or before he has received any retirement annuity or allowance and no other payment of any kind is or may become payable to any person, a refund shall be paid to his designated beneficiary or, if there be none, to his surviving spouse, or, if none, to the legal representative of his estate, in an amount equal to his accumulated deductions plus interest thereon at the rate of two percent per annum compounded annually less the sum of any disability or other benefits, if any, that may have been paid by the fund; provided that a survivor who has a right to benefits pursuant to section 353.31 may waive such benefits in writing, except such benefits for a dependent child under the age of 21 years may only be waived pursuant to an order of the district court. If a former member dies before he received a retirement annuity or allowance, a refundment shall be paid to his designated beneficiary or, if there be none, to his surviving spouse or, if none, to the legal representative of his estate in an amount equal to his accumulated deductions without interest.

Subd. 2. After retirement. If a former member dies after retirement and no payment of any kind is or may become payable to any person, including any deferred benefit or annuity, there shall be paid to the same succession of payees set forth in subdivision 1, a refund of his accumulated deductions, less the total payments of all kinds made by the fund to the former member during his lifetime or to any authorized person after his death.

Subd. 3. Optional survivor annuity cases; designated beneficiary. If a former member selected an optional annuity by the terms of which an optional survivor's annuity was paid to a survivor after his death, upon the death of the survivor there shall be paid to the former member's designated beneficiary a refund of his accumulated deductions less the total payments of all kinds made by the fund to the former member during his lifetime or to any authorized person after his death. If said beneficiary should die before making application for such refund, the same shall be paid to the legal representative of the estate of the former member. The refunds provided in this section shall not be interpreted to apply in any case where survivor's benefits are paid pursuant to section 353.31.

Subd. 4. If a member or former 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 or former 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 disposed of in the manner provided in section 353.17.

Subd. 5. If a member or former member dies without having designated a beneficiary, or if the beneficiary should die before making application for refundment of the sum to the credit of such deceased member or former member, and the amount of the refundment is \$500 or less, the retirement board may 90 days after the date of death of the member or former member in the absence of probate proceedings make payment to the surviving spouse of the deceased member or former member, or, if none, to the next of kin under the laws of descent of the state of Minnesota and such payment shall be a bar to recovery by any other person or persons. Any retirement allowance or annuity which shall have accrued at the time of death of an annuitant may be paid in like manner.

Subd. 6. [Repealed, 1963 c 641 s 38]

Subd. 7. A beneficiary, legal representative, or next of kin shall be paid on demand the full amount of any additional penalty paid into the retirement fund by the deceased member in accordance with the provisions of Laws 1937, Chapter 466, Section 2; Laws 1947, Chapter 18, Section 2, or any rules made by the board of trustees pursuant to these laws, without interest thereon unless the additional penalty was previously refunded upon retirement of the said member.

Subd. 8. [Repealed, 1971 c 106 s 40]

[1957 c 935 s 12; 1959 c 646 s 2; 1959 c 650 s 42, 48, 58; 1963 c 641 s 22-24; 1969 c 940 s 7-9; 1971 c 106 s 26-28]

353.33 TOTAL AND PERMANENT DISABILITY BENEFITS. Subdivision 1.

Age, service and salary requirements. Any member who becomes totally and permanently disabled before age 65 and after ten years of allowable service or after

age 50 with five years of allowable service, whichever is sooner, shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's public service has terminated at any time, at least five of the required ten years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to a disability benefit.

Subd. 2. Applications; accrual of benefits. Every claim or demand for a total and permanent disability benefit shall be initiated by written application in the manner and form prescribed by the board of trustees, filed in the office of the retirement association, showing compliance with the statutory conditions qualifying the applicant for such total and permanent disability benefit. A former member who has become totally and permanently disabled during his period of membership may file his application for total and permanent disability benefits within one year next following termination of public service, but not thereafter; provided, however, that if he is otherwise qualified therefor, benefits shall not be paid retroactively for more than three months immediately preceding the month in which he files his application. This benefit shall begin to accrue 90 days following the commencement of disability or 30 days after the application is filed whichever is later. If annual or sick leave is paid for more than the said 90 or 30-day period, which ever applies, the benefit shall accrue from the date salary ceased.

Subd. 3. Computation of benefits. This disability benefit is an amount equal to the normal annuity payable to a member who has reached 65 with the same number of years of allowable service and the same average salary, as provided in section 353.29 plus a supplementary monthly benefit computed in accordance with the following table:

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

If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's monthly average salary.

Subd. 4. Procedure to determine eligibility. The board shall have the member examined by at least two licensed physicians selected by the board. These physicians shall make written reports to the board concerning the member's disability including medical opinions as to whether the member is totally and permanently disabled within the meaning of section 353.01, subdivision 19. The board shall also obtain written certification from the employer stating whether or not the member was separated from service because of a disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer. If upon the consideration of the reports of the physicians and such other evidence presented by the member or others interested therein, the board finds the member totally and permanently disabled, it shall grant him a disability benefit. The fact that an employee is placed on leave of absence without compensation because of disability shall not bar him from receiving a disability benefit.

Subd. 5. Benefits paid under other laws. The disability benefit shall be reduced by any amounts received or receivable by a member from the employer under applicable workmen's laws.

Subd. 6. Regular physical examinations. At least once each year during the first five years following the allowance of a disability benefit to any member, and at least once in every three-year period thereafter, the board shall require the person disabled to undergo a medical examination to be made at the place of residence of such person, or at any other place mutually agreed upon, by a physician or physicians engaged by the board. If any examination indicates that he is no

longer permanently and totally disabled or that he is engaged or is able to engage in a gainful occupation, payments of the disability benefit by the fund shall be discontinued. The payments shall discontinue as soon as he is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after physicians engaged by the board find that such person is no longer permanently and totally disabled.

Subd. 7. **Partial re-employment.** Should such disabled person resume a gainful occupation and his earnings are less than his salary at the date of disability or the salary currently paid for similar positions, the board shall continue the disability benefit in an amount which when added to such earnings does not exceed his salary at the date of disability or the salary currently paid for similar positions, whichever is lower, provided the disability benefit in such case does not exceed the disability benefit originally allowed. No deductions for the retirement fund shall be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Subd. 8. **Refusal of examination.** Should any such disabled person refuse to submit to a medical examination as herein provided, payments by the fund shall be discontinued, and all rights of the member in any disability benefit shall be revoked by the board.

Subd. 9. **Return to public service.** Any person receiving a disability benefit who is restored to active public service except persons receiving benefits as provided in subdivision 7, shall have deductions taken for the retirement fund and upon subsequent retirement have his retirement annuity based upon all allowable service including that upon which the disability benefits were based. No person shall be entitled to receive disability benefits and a retirement annuity at the same time.

Subd. 10. **Disability in special cases.** Any member, other than a non-employee member, who on June 30, 1957 (1) was totally and permanently disabled, (2) had contributed to the retirement fund, either by salary deductions or assessments to and including June 30, 1957, or who was on authorized leave on June 30, 1957, (3) had made application for disability benefits, and who (4) met the allowable service or age requirements of this subdivision, as of June 30, 1957, shall be entitled to the benefits provided by this section retroactive to July 1, 1957.

Subd. 11. **Retirement status at age 65.** No person shall be entitled to receive disability benefits and a public retirement annuity at the same time. The disability benefits paid to a person hereunder shall terminate when he reaches age 65, if he is still totally and permanently disabled. At that time he shall be deemed to be on retirement status and may at his option be paid either a straight life retirement annuity as provided in section 353.29 or straight life retirement annuity equal to the disability benefit paid to him before he reached age 65, whichever amount is greater. He may instead of taking the straight life annuity provided herein, however, select an optional retirement annuity as provided in section 353.30, subdivision 3. In no event after he has attained age 65, shall his surviving spouse or dependent child or children be entitled to the benefits provided in section 353.31.

[1957 c 935 s 13; 1959 c 650 s 21, 41; 1961 c 595 s 2; 1963 c 641 s 25; 1965 c 880 s 6; 1967 c 711 s 1; Ex1967 c 37 s 2, 3; 1969 c 940 s 10; 1971 c 106 s 29, 30]

353.34 TERMINATION OF PUBLIC SERVICE. Subdivision 1. **Refundment or deferred annuity.** Any member who ceases to be a public employee by reason of termination of public service, shall be entitled to a refundment of his accumulated deductions as provided in subdivision 2, or to a deferred annuity as provided in subdivision 3. Application for refundment may not be made prior to date of termination of public service, and refund shall be paid within 120 days following receipt of such application, provided applicant has not again become a public employee required to be covered by the association.

Subd. 2. **Refundment without interest.** Except as provided in subdivision 1, any person who ceases to be a public employee shall receive a refundment in an amount equal to his accumulated deductions without interest.

Subd. 3. **Deferred annuity; eligibility, computation.** Any person with at least ten years of allowable service when such termination occurs may at his option leave his accumulated deductions in the fund and thereby be entitled to a deferred annuity commencing at age 65. The deferred annuity shall be computed in the manner provided in section 353.29, subdivisions 2 and 3, on the basis of allowable

service prior to termination of service and shall be augmented as provided in section 353.71, subdivision 2. Such person may revoke this option at any time prior to the commencement of deferred annuity payments by making application for a refund. Such person shall be entitled to a refund of his accumulated deductions within 30 days following date of receipt of such application by the secretary of the association.

Subd. 4. [Repealed, 1971 c 106 s 40]

Subd. 5. **Refundment generally unlimited.** The right of refundment provided in chapter 353, and laws amendatory thereof, is not restricted as to time unless specifically provided and the statute of limitation does not apply thereto.

Subd. 6. **Additions to fund.** The board of trustees may credit to the fund any moneys received in the form of contributions, donations, gifts, appropriations, bequests, or otherwise. If a former public employee does not apply for refund within five years after the last deduction was taken from his salary for the retirement fund, and the total amount of his accumulated deductions is not over \$25, such accumulated deductions shall be credited to and become a part of the retirement fund proper. Refundable accumulated deductions of any former member, if over \$25 in amount and if unclaimed for a period of five years after separation from public service, shall be credited to a donations suspense account. The board of trustees may pay refunds of accumulated deductions without interest, from such donations suspense account, upon proper application therefor. After the refundable accumulated deductions of any former member have remained in such donations suspense account for a period of ten years, without application for a refund thereof having been made, such deductions shall be transferred to and credited to the retirement fund proper. In the event the former public employee should return to public service, the amount so credited to the retirement fund shall be restored to his individual account.

[1957 c 935 s 14; 1959 c 650 s 22-24, 49; 1963 c 641 s 26-29; 1969 c 940 s 11; 1971 c 106 s 31; 1971 c 412 s 1]

353.35 CONSEQUENCES OF REFUND AND REPAYMENT. When any member accepts a refund all existing service credits and all rights and benefits to which the member was entitled prior to the acceptance of such refund shall terminate and shall not again be restored until the former member acquires not less than 18 months allowable service credit subsequent to taking his last refund. In that event he may repay all refund taken plus interest at five percent per annum compounded annually. If more than one refund has been taken, all refunds must be repaid with interest at five percent per annum compounded annually.

[1957 c 935 s 15; 1959 c 650 s 38; 1963 c 641 s 30; 1971 c 106 s 32]

353.36 PURCHASES OF PRIOR SERVICE CREDIT. Subdivision 1. [Repealed, 1971 c 106 s 40]

Subd. 2. Purchases of prior service credit are authorized and shall be effective only if (a) the member shall pay, in a lump sum, to the association an amount equivalent to the required employee contributions for the prior service sought to be purchased at the rate of six percent of salary not exceeding \$4,800 in any calendar year through June 30, 1965, and at the rate of six percent of salary on which employee contributions are based from and after July 1, 1965, plus accrued interest thereon at the rate of five percent per annum, compounded annually from the year of service purchased to the date payment is made; and (b) the member at the same time shall pay additionally a matching amount equivalent to that required to be paid under (a); (c) as an alternative to the employee obligation under (b) hereof, the employer may, by appropriate action of its governing body and made a part of its official records, certify to the association, in writing, at the time of or prior to the payment by the member of the amount required under (a) hereof, that it assumes the obligation and will pay to the association the matching amount as required under (b) hereof from the proceeds of a tax levy made pursuant to section 353.28 or from other funds available to the employer. No member shall be entitled to service credit under this subdivision unless the association has first received in full (1) the employee's contributions, plus interest thereon; and (2) the matching amount from the employee or from the employer; or (3) in lieu of (2) hereof, the employer's certification assuming the obligation for the matching amount. The employer's obligation under (c), if assumed, shall be limited on a pro rata basis to that portion of the service included

in the purchase which was rendered by the member for the respective employing governmental subdivisions.

Subd. 3. [Repealed, 1971 c 106 s 40]

Subd. 4. [Repealed, 1965 c 715 s 4]

Subd. 5. Nothing in Laws 1965, Chapter 715, shall be construed to confer membership, as that term is defined in Minnesota Statutes 1961, Section 353.01, Subdivision 7, as amended, on any public employee who would not otherwise be a member.

Subd. 6. The option to pay retroactive contributions on total salary as provided in subdivisions 7, 8 and 9 may be exercised after January 1, 1968, except that any member who retires before January 1, 1968 and after May 25, 1967, may exercise the option prior to such retirement if the member certifies his intent to so retire in writing at the time of exercising the option. Members whose benefits are governed by sections 355.71 to 355.89 and members whose benefits are governed by sections 353.51 to 353.59 shall pay contributions on past service in the amount of three percent of salary plus the interest provided in subdivision 2 hereof. Members whose benefits are governed by sections of the law providing benefits to members not covered by Title II of the federal social security act, as amended, shall pay contributions on past service in the amount of six percent of salary plus the interest provided in subdivision 2 hereof. It is the intent of this section to grant the option to purchase retroactive coverage on total salary to all members of the public employees retirement association within the time limits provided regardless of the member's benefit schedule.

Subd. 7. For the period from July 1, 1957 to June 30, 1967, any member may exercise an option to pay employee contributions based on total salary received in excess of the \$4,800 per annum salary limitation which was in effect through June 30, 1965, and in excess of the \$6,000 per annum salary limitation which was in effect through June 30, 1967, providing (a) the member shall pay, in a lump sum, to the association an amount equivalent to six percent or three percent, as the case may be, of the total salary received in excess of the aforementioned annual salary limitations, plus accrued interest thereon at the rate of four percent per annum, compounded annually; and (b) the member at the same time shall pay additionally a matching amount equivalent to that required to be paid under (a); (c) as an alternative to the employee obligation under (b) hereof, the employer may, by appropriate action of its governing body and made a part of its official records, certify to the association, in writing, at the time of or prior to the payment by the member of the amount required under (a) hereof, that it assumes the obligation and will pay to the association the matching amount as required under (b) hereof from the proceeds of a tax levy made pursuant to section 353.28 or from other funds available to the employer. No member shall be entitled to credit based on total salary under this subdivision unless the association has first received in full (1) the employee's contributions, plus interest thereon; and (2) the matching amount from the employee or from the employer; or (3) in lieu of (2) hereof, the employer's certification assuming the obligation for the matching amount. The employer's obligation under (c), if assumed, shall be limited on a pro rata basis to that portion of the period of service involved in the purchase which was rendered by the member for the respective employing governmental subdivisions. The contributions paid pursuant to this subdivision shall be considered contributions by payroll deductions for the purpose of computing the member's average salary.

Subd. 8. Any employer which certifies to the association that it assumes the obligation set forth in clause (c) of subdivision 7 shall certify that it agrees to pay the matching amount therein provided in respect to all of its employees who exercise the option provided for in this section.

Subd. 9. In lieu of the lump sum payment provided in subdivision 7 a member may enter into an agreement with the board of trustees wherein such amount would be paid in equal installments not exceeding a five year period, except such agreement shall not extend beyond the date of the member's retirement. Any such agreement shall provide for interest thereon at the rate of four percent per annum, compounded annually.

Subd. 10. All options provided by subdivisions 6, 7 and 8 may be exercised until June 30, 1970.

[1957 c 935 s 16; 1959 c 650 s 25, 58; 1965 c 715 s 1-3; 1967 c 687 s 1; 1969 c 999 s 3; 1971 c 106 s 33]

353.37 PUBLIC RE-EMPLOYMENT OF ANNUITANT, EFFECT ON ANNUITIES. Subdivision 1. **Conditions.** The annuity of a person otherwise eligible therefor under this chapter shall be suspended if he re-enters and as long as he remains in public service as a non-elective employee of a governmental subdivision, if his earned compensation for such service exceeds \$2,000 in any calendar year. The suspension of the annuity shall commence as of the first of the month in which the maximum permitted compensation is exceeded as herein provided, but shall not apply to any months in which the annuitant is not actually employed in non-elective service in a position covered by chapter 353. Any annuitant of the association, who is elected to public office after his retirement following June 30, 1959 shall be entitled to hold such office and receive his annuity otherwise payable from the public employees retirement association from and after July 1, 1959. Upon proper showing by an annuitant that this ineligibility no longer exists the board of trustees shall order that the monthly annuity payments be resumed. Public service performed by an annuitant subsequent to his retirement under this chapter does not increase or decrease any benefit when payments thereof are resumed. The annuitant is not required to make any further contributions to the retirement fund by reason of this subsequent public service. Provided, however, that the foregoing shall not apply to any benefits authorized by federal law to which any public employee and public official may be entitled.

Subd. 2. **Reinstatement of annuities.** Notwithstanding any provision of Minnesota Statutes 1957, Chapter 353 and acts amendatory thereof to the contrary, any person who retired subsequent to November 30, 1953, and who prior to October 2, 1959, re-entered public service as a non-elective employee of a political subdivision and whose monthly average compensation during such periods of public service did not exceed \$95, shall not be subject to suspension of any annuity payments, regardless of the dates so served as a non-elective public employee following retirement, and the provisions of this subdivision shall be retroactive to the date he re-entered public service as aforesaid.

Subd. 3. **Reinstatement of annuities; emergency police service.** Notwithstanding the provisions of Minnesota Statutes 1961, Chapter 353, and any act amendatory thereof to the contrary, whenever any public employee (a) prior to August 1, 1959, terminated his public service, and (b) had filed with the public employees retirement association his application for annuity based upon such service termination, and (c) had then fulfilled all membership, age, service, and contribution requirements for such annuity, and (d) while thereafter receiving annuity payments was employed by the same governmental subdivision as a policeman in an emergency capacity for any period, or periods, between April 1, 1958 and December 31, 1962, and (e) if the monthly average of his earnings from such subsequent employment did not exceed \$95, and (f) if the governing body of the employing governmental subdivision, by resolution, duly adopted, certifies to the association that such subsequent employment, for its entire duration, was of an emergency nature, he shall be deemed to have retired immediately following original termination of public service prior to August 1, 1959, and his subsequent employment as an emergency policeman shall not affect, diminish, or impair, retroactive to the date of resumption of public service and until the effective date of this act, his right to the annuity for which he had applied, and he shall until said latter date be entitled to receive all annuity payments withheld or suspended because of his subsequent employment, and no employee or employer contributions shall be required therefor. Upon termination of the emergency service herein provided, the employing governmental subdivision shall, in every case, promptly notify the association thereof.

[1957 c 935 s 17; 1959 c 650 s 26, 58; Ex1961 c 87 s 1; 1963 c 641 s 31; 1963 c 853 s 1, 2; 1967 c 711 s 2; 1971 c 412 s 2]

353.38 RIGHTS LIMITED. Nothing done under the terms of Minnesota Statutes, Chapter 353 and acts amendatory thereof shall create or give any contract rights to any person, except the right to receive back upon withdrawal from the association through separation from the public service, the accumulated deductions, as by law defined, standing to his credit on the books of the association.

[1957 c 935 s 18; 1959 c 650 s 54]

353.39 MILITARY SERVICE CREDIT. Any employee given a leave of absence to enter military service and who returns to public service upon discharge from military service as provided in section 192.262, may obtain credit for his pe-

riod of military service, but he shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty. Such member may obtain such credit by paying into the fund an employee contribution based upon his salary at the date of return from military service. The amount of this contribution shall be as prescribed by section 353.27, subdivision 2, plus interest at five percent per annum compounded annually. In such cases the matching employer contribution and additional contribution provided in section 353.27 shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor and such contributions shall be made at the time and in the manner provided in section 353.27.

[1957 c 935 s 19; 1959 c 650 s 50; 1965 c 714 s 5; Ex1967 c 53 s 5; 1971 c 106 s 34]

353.40 ANNUAL LEAVE. Any person whose service with any governmental subdivision has terminated and who has been paid for any unused portion of his annual leave allowance, the unused portion of his annual leave for which he was so paid shall be deemed allowable service if no refundment is taken. If application for refundment is made, the last working day is deemed the date public service terminates and credit for such service ceases on that date.

[1957 c 935 s 20]

353.41 [Repealed, 1959 c 650 s 57]

353.42 [Repealed, 1963 c 641 s 38]

353.43 [Repealed, 1959 c 650 s 57]

353.44 UNCLAIMED ANNUITIES RETURNED TO FUND. Subdivision 1. Any retirement allowance or annuity which is payable after the death of an annuitant shall be paid to the estate of the decedent or, if probate proceedings have not been commenced, to the persons entitled thereto under the laws of intestate succession.

Subd. 2. [Repealed, 1963 c 641 s 38]

[1957 c 935 s 24; 1971 c 106 s 35]

353.45 PAYMENT TO MINOR. If a member or former member dies having named as his beneficiary a person who is a minor at the time of the application for benefit, and the amount of the benefit does not exceed \$500, the board of trustees, in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of such minor beneficiary, for the benefit of such child. Any retirement allowance or annuity payable at the time of death of an annuitant, which is payable to a beneficiary who is a minor, may be paid in the same manner and such payment shall be a bar to recovery by any other person or persons.

[1957 c 935 s 25; 1959 c 650 s 58]

353.46 OPTIONS; SAVINGS CLAUSES. Subdivision 1. Any person who was a member of the association on June 30, 1957, and who then had ten or more years of allowable service and whose deductions from salary continue at the rate in effect under Laws 1957, Chapter 935 shall have the option when he retires to receive the retirement benefits computed under Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or the benefits computed under Laws 1957, Chapter 935, and all laws amendatory thereof.

A person who was a member on June 30, 1957, who had less than ten years allowable service, may elect to receive a retirement annuity computed as follows: (a) for all full years of allowable service credit at the time of retirement, a computation shall be made based thereon according to Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815; (b) for all allowable service credit at the time of retirement, a computation shall be made according to Minnesota Statutes 1961, Section 353.29, Subdivision 3; (c) determine the difference between the amounts under (a) and (b); (d) for each full year of allowable service credit prior to July 1, 1957, not exceeding ten years, $\frac{1}{40}$ of the amount of the difference determined under (c) shall be added to the amount determined under (b); and the aggregate of the amounts under (b) and (d) shall constitute the annuity, notwithstanding other provisions of the law to the contrary. An annuity increment additional to (a) shall be paid for each completed year of allowable service credit after June 30, 1965 based on that portion of salary on which employee contributions are paid in excess of \$4,800 in any full year according to the applicable percentages specified in Minnesota Statutes 1961, Section 353.29, Subdivision 3.

Subd. 2. Any person who ceased to be a public employee prior to July 1, 1957 and who left his accumulated deductions in the fund for the purpose of receiving, when eligible, a retirement annuity or allowance in accordance with the law in effect at the date public service terminated, shall have his annuity or retirement allowance computed in accordance with the law in effect on the date he ceased to be a public employee.

Subd. 3. Any survivor benefits selected by a member prior to July 1, 1957 pursuant to Laws 1955, Chapter 815, Section 10, shall continue in effect until the member retires. Such survivor shall have the option of receiving the payments provided under such election or the survivor benefits provided in Laws 1957, Chapter 935. In the case of death after retirement of a member who qualifies for and elects to receive a retirement annuity computed under subdivision 1 of this section, the survivor benefits under Laws 1955, Chapter 815, Section 10 shall apply.

Subd. 4. Any member who retires with a deferred annuity payable pursuant to Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, may select an optional annuity payable as a joint and survivor annuity which shall be in lieu of the straight life deferred annuity otherwise payable. This optional annuity shall be the actuarial equivalent of such straight life deferred annuity. The selection of this optional annuity shall be made at least 30 days before the deferred annuity payments are to begin except that any person who began receiving a deferred annuity after June 30, 1957, and before July 1, 1961, pursuant to Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, may select the optional annuity provided herein by making application to the board of trustees before January 1, 1962.

Subd. 5. Any person who held the status of a non-employee member shall be entitled to a refund of his accumulated deductions at any time, as provided in section 353.34, subdivision 2, or a deferred annuity as provided in section 353.34, subdivision 3, except that any such person who on July 1, 1957, had ten or more years of allowable service as an employee member of the fund shall be entitled also to the options provided in this section if he otherwise qualifies. Any person whose majority of years of membership or last membership in the fund has been in the status of non-employee member or any person claiming rights through such non-employee member shall be entitled only to the annuities specified in this subdivision.

[1957 c 935 s 26; 1959 c 650 s 27; Ex1961 c 87 s 2; 1965 c 814 s 1, 3; 1971 c 106 s 36]

353.51 SCOPE AND APPLICATION. Sections 353.51 to 353.59 apply to any hospital employee, as defined by section 355.71 and any member of the public employees retirement association included in any agreement or modification made between the state and the secretary of health, education and welfare, making the provisions of the federal old age and survivors insurance act applicable to such member. Sections 353.51 to 353.59 also apply to any government subdivision employing such member. Except as otherwise specifically provided in sections 353.51 to 353.59, the provisions of chapter 353 shall apply.

[Ex1957 c 20 s 1; 1971 c 295 s 1]

353.52 CONTRIBUTIONS BY EMPLOYEES AND EMPLOYERS. Subdivision 1. **Employee contribution.** The employee contribution to the public employees retirement fund shall be an amount equal to three percent of the salary of every member. This contribution shall be made by deduction from salary in the manner provided in section 353.27, subdivision 4. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the total salary received from all sources.

Subd. 2. The employer contribution to the fund shall be an amount equal to three percent of the salary of each member.

Subd. 3. An additional contribution shall be made to the fund based on the salary of each member for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision. The amount of this additional contribution shall be one and one-half percent.

[Ex1957 c 20 s 2; 1967 c 687 s 2; 1971 c 295 s 2]

353.53 RETIREMENT BENEFITS. Subdivision 1. The retirement annuity hereunder shall be computed in accordance with the applicable provisions of the formula stated in subdivision 2 hereof on the basis of each member's average salary for the period of his allowable service.

(a) For years prior to July 1, 1957, average salary for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which deductions are based for any five consecutive years prior to that date.

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding in any one year \$4,800 through June 30, 1965, and his total salary not in excess of \$6,000 through June 30, 1967, and his total salary in each year thereafter for which he had made contributions to the retirement fund by payroll deductions.

Subd. 2. The average salary, as defined in subdivision 1, of any member multiplied by the applicable percentages indicated below shall determine the amount of the annuity to which the member qualifying therefor is entitled:

Years of allowable Service:	Percentages at the Rate of:
(a) First ten years	.625 percent per year of service.
(b) Second ten years of completed months of service less than such period	1.25 percent per year of service.
(c) Third ten years of completed months of service less than such period	1.70 percent per year of service.
(d) Subsequent years of completed months of service less than such period	2.40 percent per year of service.

Subd. 3. [Repealed, 1959 c 650 s 57]

Subd. 4. [Repealed, 1959 c 650 s 57]

[Ex1957 c 20 s 3; 1959 c 650 s 51, 52; 1967 c 687 s 3]

353.54 OPTIONAL RETIREMENT ANNUITIES. The board of trustees shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter; or as a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the normal forms. In establishing these optional forms the board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board.

[Ex1957 c 20 s 4; 1959 c 650 s 58]

353.55 RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY. Any member who retires before he is eligible for social security retirement benefits may elect to receive retirement benefits from the association in an amount greater than his annuity computed on the basis of his age when he retires, provided in section 353.53. He shall exercise this option by making application to the board on a form provided by the board. This greater amount shall be the actuarial equivalent of the member's retirement annuity computed on the basis of his age when he retires. This greater amount shall be paid until the member reaches the age of 65, at which time the payment from the association shall be reduced. These annuities provided in this section shall be computed by an approved actuary.

[Ex1957 c 20 s 5]

353.56 REFUNDMENTS AFTER DEATH OF MEMBER OR FORMER MEMBER. Subdivision 1. **Before retirement.** If a member dies before retirement, there shall be paid to his designated beneficiary or, if there be none, to his surviving spouse or, if none, to the legal representative of his estate, as the case may be, an amount equal to his accumulated deductions plus interest thereon at the rate of two percent per annum compounded annually. In the event a member dies who had received a refundment which he had subsequently repaid in full, interest shall be paid on such repaid refundment only from the date of repayment. If the member had received a disability benefit during his lifetime, no interest shall be paid on his accumulated deductions in the fund at the time of his death. If a former member dies before he received a retirement annuity or allowance, a refundment shall be paid to his designated beneficiary or, if there be none, to his surviving spouse or, if none, to the legal representative of his estate in an amount equal to his accumulated deductions without interest.

Subd. 2. **After retirement.** If a former member dies after retirement, and an optional annuity pursuant to section 353.54 was not payable at the time of his death, there shall be paid to his designated beneficiary or, if there be none, to his surviv-

ing spouse or, if none, to the legal representative of his estate a refundment of his accumulated deductions, less the total payments of all kinds made by the fund to the former member during his lifetime.

Subd. 3. Under the terms of sections 353.51 to 353.59 there are no survivors benefits payable as such to the surviving spouse or dependent children of any deceased member. However, any member may provide for payments to a surviving spouse or any dependent child by selecting an appropriate annuity payable after his death to any such person in the manner authorized by the board as provided in section 353.54.

[*Ex*1957 c 20 s 6; 1969 c 940 s 12, 13]

353.57 DISABILITY BENEFITS; COMPUTATION. The disability benefit is an amount equal to the "normal" annuity payable to a member who has reached age 65 with the same number of years of allowable service and the same average salary, as provided in section 353.53. The optional annuities provided for in section 353.54 do not apply to this section.

[*Ex*1957 c 20 s 7; 1967 c 687 s 4; 1969 c 940 s 14]

353.58 MILITARY SERVICE CREDIT. After any agreement or modification is made pursuant to section 353.59, an employee given a leave of absence to enter military service and who returns to public service upon discharge from military service as provided in section 192.262, may obtain credit for his period of military service but he shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty. Such member may obtain such credit by paying into the fund an employee contribution based upon his salary at the date of return from military service. The amount of this contribution shall be three percent of his salary not to exceed \$4,800 in any fiscal year through June 30, 1965, and his total salary not in excess of \$6,000 for any year through June 30, 1967, and his total salary for each year thereafter, plus interest at five percent per annum compounded annually. In such cases the matching employer contribution and additional contribution shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor.

[*Ex*1957 c 20 s 8; 1959 c 650 s 53; 1967 c 687 s 5; 1971 c 106 s 37]

353.59 EFFECTIVE DATE; APPLICATION. Sections 353.51 to 353.59 take effect on the date any agreement or modification is made between the state and secretary of health, education and welfare, making such agreement or modification applicable to service performed in positions covered by the public employees retirement association after a referendum was held as provided by law. Sections 353.51 to 353.59 shall apply to any coverage group consisting of members of the public employees retirement association included in any such agreement or modification. Sections 353.51 to 353.59 do not apply nor have any effect upon any member who holds a position which under the social security act may not be included in an agreement between the state and secretary of health, education and welfare.

[*Ex*1957 c 20 s 9; 1967 c 687 s 6]

353.591 ELECTION OF BENEFITS. No member of the public employees retirement association whose benefits are governed by sections 353.51 to 353.59 may elect to receive the optional benefits provided by section 353.46.

[1967 c 687 s 7]

353.60 FEE OFFICERS; CONTRIBUTIONS. Subdivision 1. **Employee and employer contributions.** Any appointed or elected officer of a governmental subdivision who was or is a public employee within the meaning of section 353.01 and was or is a member of the fund and whose salary was or is paid in whole or in part from revenue derived by fees and assessments, shall pay his employee contribution in the amount, at the time, and in the manner provided in section 353.27, subdivisions 2 and 4. The employer contribution as provided in section 353.27, subdivision 3, and the additional employer contribution to amortize the unfunded actuarial accrued liability in the fund as provided in section 353.27, subdivision 5, with respect to such service shall be paid by the governmental subdivision. No officer paid entirely on a fee basis shall be accepted for membership after June 30, 1971.

Subd. 2. **Obligations of employers.** The employer contribution and the additional employer contribution to amortize the unfunded actuarial accrued liability in the fund as provided in sections 353.36, subdivision 2, and 353.27, subdivisions 3

and 5, due with respect to the services of any public employee who as a member was or is employed by an appointed or elected officer of a governmental subdivision deriving revenue from fees or assessments, shall be paid by the governmental subdivision. This subdivision shall have both retroactive and prospective application as to all such members; and every employing governmental subdivision is deemed liable, retroactively and prospectively, for all employer and additional employer contributions for every such member in its employ. Delinquencies under this section shall be governed in all respects by section 353.28.

[1959 c 650 s 28; 1963 c 641 s 32, 33; 1965 c 880 s 7; 1971 c 106 s 38]

353.61 RETIREMENT ANNUITY, MEMBER AT LEAST AGE 65 WITH FIVE TO TEN YEARS ALLOWABLE SERVICE. Any member who has attained the age of at least 65, has acquired at least five but less than ten years of allowable service, was at least 60 years of age on June 30, 1957, was a member of the fund and had five years of allowable service on June 30, 1957, shall upon written application be entitled to a retirement annuity computed in the manner provided in section 353.29, except that the percentage rate shall be two percent per year of allowable service and except that such member shall be entitled to this annuity notwithstanding the fact that he has not acquired ten years of allowable service.

[1959 c 650 s 29]

353.62 [Repealed, 1971 c 106 s 40]

353.63 POLICY. It is the recognized policy of the state that special consideration should be given to employees of governmental subdivisions who devote their time and skills to protecting the property and personal safety of others. Since this work is hazardous, special provisions are hereby made for retirement pensions, disability benefits and survivors benefits based on the particular dangers inherent in these occupations. The benefits provided in sections 353.63 to 353.68 are more costly than similar benefits for other public employees since they are computed on the basis of a shorter working lifetime taking into account experience which has been universally recognized. This extra cost should be borne by the employee and employer alike at the ratio of 40 percent employee contributions and 60 percent employer contributions.

[1959 c 650 s 31]

353.64 MEMBERSHIP; QUALIFICATIONS; POLICE OFFICER, FIRE FIGHTER. Subdivision 1. Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or fire fighter, shall as long as he remains in either position, be deemed to continue his membership in said fund. Any other employee serving on a full-time basis as a police officer or fire fighter on or after July 1, 1961, shall become a member of the public employees police and fire fund. Any employee serving on less than a full-time basis as a police officer or fire fighter, as determined by the rules prescribed by the board of trustees, shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the governmental subdivision employing such person declaring that the position such person holds is either that of a police officer or fire fighter. Any police officer or fire fighter who by virtue of his employment is required to contribute to any other pension, relief, or retirement fund established for the benefit of officers and employees of a governmental subdivision shall not be a member of this fund.

Subd. 2. Before a governing body may declare a position to be that of a police officer, the duties of the person so employed shall, as a minimum, include services as an officer of a designated police department or sheriff's office or person in charge of a designated police department or sheriff's office who is engaged in the hazards of protecting the safety and property of others and who has the power to arrest by warrant.

Subd. 3. Before a governing body may declare a position to be that of a fire fighter, the duties of the person so employed shall, as a minimum, include services as an employee of a designated fire company or person in charge of a designated fire company or companies who is engaged in the hazards of fire fighting.

Subd. 4. A copy of the resolution of the governing body declaring a position to be that of police officer or fire fighter shall be filed with the board of trustees and shall be irrevocable.

Subd. 5. Any person employed on less than a full-time basis as a police officer or fire fighter who is a member of the public employees police and fire fund on June 30, 1961, shall remain a member of the fund unless before July 1, 1962, the

governing body of the political subdivision employing such person adopts and files a resolution with the board of trustees declaring the position such person holds is not that of a police officer or fire fighter employed on a full-time basis and that the governing body desires that he not be a member of the public employees police and fire fund. If such a resolution is filed, the employee, if otherwise qualified, shall become a general member of the public employees retirement association.

[1959 c 650 s 32; 1961 c 743 s 1; 1963 c 641 s 34]

353.65 CONTRIBUTIONS. Subdivision 1. There is a special fund known as the "Public Employees Police and Fire Fund." In that fund there shall be deposited employee contributions, employer contributions and other amounts authorized by law including all employee and employer contributions of members transferred.

Subd. 2. The employee contribution to the fund shall be an amount equal to six percent of the salary of every member. Effective July 1, 1971, the employee contribution shall be seven percent of the salary of every member. This contribution shall be made by deduction from salary in the manner provided in subdivision 4. Prior to July 1, 1965 no deduction shall be made from any salary in excess of \$4,800 in any calendar year; from July 1, 1965 to June 30, 1967 deductions shall be made on the salary received limited to \$6,000 in any calendar year, and from and after July 1, 1967 deductions shall be made on total salary. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the total salary received from all sources.

Subd. 3. The employer contribution to the fund shall be an amount equal to nine percent of the salary of each member not exceeding \$4,800 in any calendar year for the period July 1, 1958 through June 30, 1965; nine percent of the salary received limited to \$6,000 in any calendar year for the period from July 1, 1965 to June 30, 1967; nine percent of the total salary received in any calendar year for the period July 1, 1967 through June 30, 1971; and thereafter 10½ percent of the total salary. This contribution shall be made by the means and in the manner provided in section 353.28.

Subd. 4. The head of each department of the various governmental subdivisions is hereby directed to cause employee contributions to be deducted in the manner and subject to the terms provided in section 353.27, subdivision 4.

Subd. 5. An additional contribution shall be made to the fund based on two and one-half percent of the salary of each member not to exceed \$4,800 in any calendar year through June 30, 1965; two and one-half percent of the salary of each member not to exceed \$6,000 in any calendar year from July 1, 1965 to June 30, 1967, two and one-half percent of the total salary of each member in any calendar year from July 1, 1967 through June 30, 1971, and each year thereafter, one and one-half percent of the total salary of each member, for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Subd. 6. All contributions shall be credited to the fund and all interest and other income of the fund shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said fund and the annuities herein provided upon retirement shall be paid from said fund.

[1959 c 650 s 33; 1965 c 714 s 6-8; Ex1967 c 53 s 6-8; 1971 c 297 s 5]

353.654 CONVERSION OF BENEFITS. Subdivision 1. As used in this section "old law" means a retirement law in effect prior to July 1, 1957, under which a member of the police and fire fund of the public employees retirement association has had his benefits preserved by Minnesota Statutes 1969, Section 353.68, Subdivisions 8 or 9. "Present law" means Minnesota Statutes 1969, Sections 353.66 and 353.68, Subdivisions 1 to 7. "New law" means sections 353.655, 353.656, and 353.657. The purpose of this section is to remove all remaining members from coverage under the old law and include them in coverage under the new law.

Subd. 2. Any person who was a member of the police and fire fund of the public employees retirement association prior to July 1, 1957, and who is eligible for benefits pursuant to an old law shall, after June 30, 1971, be included within coverage under the new law. The actuary for the public employees retirement association shall calculate benefits to be provided such member under the new law in the manner detailed in the following subdivisions.

Subd. 3. The present value of retirement benefits as of June 30, 1971, calculated under both the old and new laws shall be ascertained.

MINNESOTA STATUTES 1971

4173

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.656

Subd. 4. The present value of survivor's benefits as of June 30, 1971, calculated under both the old and new laws shall be ascertained. Calculations shall be made in the manner prescribed by section 356.21, based on an assumed continuation of the member's salary as of June 30, 1971. An average age differential between member and spouse and an average number of children per family decreasing with the age of the member may be assumed for calculation purposes.

Subd. 5. If the present value of the benefits calculated pursuant to subdivision 4 under the old law exceeds the present value of the benefits calculated pursuant to subdivision 4 under the new law the amount of the excess shall be added to the present value of retirement benefits calculated under the old law pursuant to subdivision 3. If the total thus calculated for the old law pursuant to this subdivision exceeds the present value of retirement benefits under the new law calculated pursuant to subdivision 3, the excess present value shall be deferred until actual retirement of the police officer or fire fighter.

Subd. 6. For all police officers or fire fighters retiring on or after July 1, 1971, benefits shall be calculated pursuant to the new law with the addition of any annuity which the excess present value calculated pursuant to subdivision 5 shall purchase.

[1971 c 297 s 1]

353.655 BENEFITS. Subdivision 1. Every member of the police and fire fund whose employment has been ten years or more, and during such time shall have paid by salary deductions, or otherwise, into the police and fire fund, the amount required by law, shall be entitled to separate himself from such service and upon attaining the age of 55 years, shall be entitled to receive a normal annuity, contingent upon his separation from service.

Subd. 2. The annuity shall be paid in monthly installments equal to that portion of the average monthly salary of the annuitant as a police officer or fire fighter from which deductions were made for contribution to the fund, multiplied by two and one-half percent for each year of service not exceeding 20 and two percent of each year of service in excess of 20. In lieu of the life annuity herein provided, the member may elect a joint and survivor annuity, payable to his surviving spouse during her natural life, adjusted to the actuarial equivalent value of such life annuity.

[1971 c 297 s 2]

353.656 DISABILITY BENEFITS. Subdivision 1. Any member of the police and fire fund less than 55 years of age, who shall become disabled and physically unfit to perform his duties as a police officer or fire fighter subsequent to June 30, 1971, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which shall render him physically or mentally unable to perform his duties as a police officer or fire fighter, shall receive disability benefits during the period of such disability. The benefits shall be paid in monthly installments equal to that portion of the average monthly salary of the beneficiary as a police officer or fire fighter from which deductions were made for contribution to the police and fire fund, multiplied (a) by 50 percent and, (b) by an additional two percent for each year of service in excess of 20.

Subd. 2. If a member, as described in subdivision 1, is injured under circumstances which entitle him to receive benefits under the workmen's compensation law, he shall receive the same benefits as provided in subdivision 1, less the amount paid to him in weekly benefits under the workmen's compensation law.

Subd. 3. Any member who after not less than five years of allowable service, before reaching the age of 55, retires because of sickness or injury occurring while not on duty as a police officer or fire fighter, and the retirement is necessary because the member is unable to perform his duties shall be entitled to receive a life annuity. The annuity shall be in the same amount and paid in the same manner as if the annuitant were 55 years of age at the date of his disability and the annuity were paid pursuant to section 353.655. Should disability under this clause occur after five but in less than ten years allowable service, the disability benefits shall be the same as though the member had at least ten years service.

Subd. 4. No member shall receive any disability benefit payment when there remains to his credit unused annual leave or sick leave or under any other circumstances, when during the period of disability there has been no impairment of his salary and should such member resume a gainful occupation and his earnings

are less than his salary at the date of disability or the salary currently paid for similar positions, the association shall continue the disability benefit in an amount which when added to such earnings does not exceed his salary at the date of disability or the salary currently paid for similar positions, whichever is higher, provided the disability benefit in such case does not exceed the disability benefit originally allowed.

Subd. 5. No disability benefit payment shall be made except upon adequate proof furnished to the association of the existence of such disability, and during the time when any such benefits are being paid, the association shall have the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed.

Subd. 6. All disability benefits payable under this section shall terminate when the disabled fireman or police officer becomes 55 years of age. Thereafter, retirement benefits shall be paid to the disabled fireman or police officer in the same amount as the disability benefits which he was previously receiving, except that he may elect when he attains 55 years of age to receive retirement benefits in accordance with any option then available to other members retiring at the time.

[1971 c 297 s 3]

353.657 SURVIVOR BENEFITS. Subdivision 1. In the event any member of the association, serving actively as a police officer or fire fighter, shall die from any cause, the association shall grant survivor benefit payments from the retirement fund to any dependent spouse who was residing with him at the time of his death and who was married to him, for a period of at least one year, while or prior to the time he was an active member of the association, and to a child or children under the age of 18 years who were living while the deceased police officer or fire fighter was an active member of the association, the spouse and child or children shall be entitled to benefit as provided in the following subdivisions.

Subd. 2. To the spouse, for her natural life, a monthly benefit equal to 20 percent of that portion of the average monthly salary of the decedent as a police officer or fire fighter from which deductions were made for contribution to the police and fire fund. If the spouse remarries, the benefit shall cease as of the date of the remarriage. The spouse of a police officer or fire fighter who, after attaining 55 years of age elected to receive a joint and survivor annuity, shall, notwithstanding her remarriage, receive such joint and survivor annuity, for her natural life, in lieu of the spouse's benefit prescribed by this section. In the event such police officer or fire fighter did not elect to receive a joint and survivor annuity his spouse shall receive the spouse's benefit provided herein.

Subd. 3. To each unmarried child, until the child reaches the age of 18 years, a monthly benefit equal to eight percent of that portion of the average monthly salary of the decedent as a police officer or fire fighter from which deductions were made for contribution to the police and fire fund. In addition, the association shall make a payment of \$20 per month to be prorated equally to such children when the member is survived by one or more children. Payments for the benefit of any qualified dependent child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of such child. The maximum monthly benefit shall not exceed \$200 for any number of children.

Subd. 4. If the member shall die under circumstances which entitle his surviving spouse and dependent children to receive benefits under the workmen's compensation law, the amounts so received by them shall not be deducted from the benefits payable under this section.

[1971 c 297 s 4]

353.66 RETIREMENT ANNUITY. Subdivision 1. After separation from public service, any police officer or fire fighter member who has attained the age of at least 58 years and who received credit for not less than ten years of allowable service is entitled upon application to a retirement annuity.

Subd. 2. The retirement annuity hereunder payable at age 58 or thereafter shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3 hereof, on the basis of the member's average salary for the period of his allowable service while performing the duties of a police officer or fire fighter. If the member has earned allowable service while performing services other than those of a police officer or fire fighter, the annuity representing such service shall be computed in accordance with sections 353.29 and 353.30. Such retirement annuity is known as the "normal" retirement annuity.

(a) For years prior to July 1, 1957, "average salary" for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which employee contributions were paid to the retirement fund for any five consecutive years prior to that date limited to \$4,800 per year;

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding \$4,800 in any one calendar year through June 30, 1965; his salary not in excess of \$6,000 for every calendar year from July 1, 1965 to June 30, 1967, and thereafter his total salary, upon which employee contributions were paid to the retirement fund.

Subd. 3. The normal annuity for any member shall be computed by multiplying his average salary times two percent per year of allowable service for the first 30 years of service and one percent per year of service thereafter.

Subd. 4. The board of trustees shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter; or as a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the forms provided in subdivision 3. In establishing such optional forms the board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board.

[1959 c 650 s 34; 1961 c 748 s 2; 1965 c 714 s 9; 1965 c 880 s 8; *Ex*1967 c 53 s 9]

353.67 APPLICATION FOR ANNUITY. Application for retirement annuity may be made by a member or by someone authorized to act in his behalf.

[1959 c 650 s 35; 1965 c 880 s 9]

353.68 SCOPE AND APPLICATION. Subdivision 1. The general provisions of Minnesota Statutes, Chapter 353, apply to all police officers and fire fighters who are members of the police and fire fund and also to all governmental subdivisions employing such members except where otherwise specifically provided in sections 353.63 to 353.68.

Subd. 2. The disability benefit is an amount equal to the normal annuity payable to a member who has reached age 58 with the same number of years of allowable service and the same average salary, as provided in section 353.66, plus a supplementary monthly benefit computed in accordance with the following table:

Age when Disabled	Supplementary Benefit
Under 51	\$50
51	44
52	38
53	32
54	26
55	20
56	12
57	6

Subd. 3. If a member of the police and fire fund is permanently and totally disabled in the line of duty regardless of his age or years of service when disabled, he shall be paid a disability benefit in an amount equal to 40 percent of his average salary as defined in section 353.66. Except as specifically provided in this subdivision, all other terms and conditions of section 353.33 shall apply to establish qualifications in these cases of special line of duty disability.

Subd. 4. **Deferred annuity; eligibility, computation.** The deferred annuity of section 353.34, subdivision 3, as it applies to members of the police and fire fund shall commence at age 58 and shall be computed in the manner provided in section 353.66 on the basis of allowable service prior to termination of service and shall be augmented as provided in section 353.71, subdivision 2.

Subd. 5. The spouse's annuity of section 353.31, subdivision 2, shall be paid in behalf of members of the police and fire fund under the following terms and conditions: Upon the death of a member before retirement who has had at least 20 years of allowable service, his surviving dependent spouse upon attaining age 62 shall be entitled to a spouse's annuity in an amount equal to 75 percent of the member's normal annuity provided in section 353.66 not to exceed \$150 per month. If at the time of death the member was under 58 years of age, his normal annuity shall be reduced by one half of one percent for each month that he was under age 58. This annuity shall be payable commencing on the first day of the month after

such surviving dependent spouse attains the age of 62 and shall terminate upon remarriage. The surviving dependent spouse has the option, if qualified, to receive the annuity provided in this subdivision or the benefit provided in section 353.31, subdivision 1, but not both.

Subd. 6. No person shall be entitled to receive total and permanent disability benefits and a retirement annuity at the same time. The disability benefits paid to a person under this section shall terminate when he reaches age 58, if he is still totally and permanently disabled. At that time he shall be deemed to be on retirement status and may at his option be paid either (a) an annuity in an amount computed under section 353.66, or (b) an annuity equal to the disability benefit paid to him before he reached age 58, whichever is greater. In no event after he has attained age 58, shall his surviving spouse or dependent child or children be entitled to the benefits provided in section 353.31.

Subd. 7. No annuity or benefit provided by sections 353.63 to 353.68, payable from the "public employees police and fire fund" shall be affected, diminished, or impaired by any pension, benefit, or annuity which any member or his survivor is entitled to receive from a tax supported public retirement system authorized by any other law, for the same or different service for which he is entitled to receive benefit or annuity from the public employees retirement association.

Subd. 8. Any person described in section 353.64 who was a member of the association on June 30, 1957, and who then had ten or more years of allowable service and who thereafter becomes a member of the police and fire fund, whether his membership in either fund is continuous or not shall, if he qualifies therefor while a member and under the respective laws hereinafter mentioned, have the option when he retires to elect benefits or annuities based on his public service to be computed under (1) Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or (2) Minnesota Statutes 1961, Section 353.66, and all laws amendatory thereof, and if he elects the option under (1) hereof, the survivor benefits provided in Laws 1955, Chapter 815, Section 10 shall apply exclusively. Any annuitant who became such after April 20, 1961, and who first files with the association prior to December 31, 1963, his application therefor, shall be entitled to a recomputation of his annuity in accordance with option (1) hereof, if applicable, and to receive the unpaid amount thereof for such period retroactively to April 20, 1961, or to date of termination of his public service, whichever is later, and to the increased annuity thereafter. The provisions of section 353.46 shall apply to members of the public employees police and fire fund except as otherwise provided in this subdivision.

Subd. 9. Any person described in section 353.64 who was a member of the association on June 30, 1957, and who thereafter becomes a member of the police and fire fund, whether his membership in either fund is continuous or not shall have the option when he retires to elect benefits or annuities based on his public service to be computed under (1) Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, or (2) Minnesota Statutes 1961, Section 353.66, and all laws amendatory thereof. The annuities authorized by this section to be paid under Minnesota Statutes 1953, Chapter 353, as amended by Laws 1955, Chapter 815, shall be computed according to the respective formulae therein provided, but as to persons who retire after June 30, 1965 such annuities shall not be subject to any maximum limitation. If he elects the option under (1) hereof, the survivor benefits provided in Laws 1955, Chapter 815, Section 10, shall apply exclusively. Any annuitant who became such after April 20, 1961, and who first files with the association prior to December 31, 1963, his application therefor, shall be entitled to a recomputation of his annuity in accordance with option (1) hereof, if applicable, and to receive the unpaid amount thereof for such period retroactively to April 20, 1961, or to date of termination of his public service, whichever is later, and to the increased annuity thereafter. The provisions of section 353.46 shall apply to members of the public employees police and fire fund except as otherwise provided in this subdivision.

[1959 c 650 s 36; 1961 c 743 s 3; 1963 c 639 s 2; 1963 c 641 s 35-37; 1963 c 659 s 1; 1965 c 814 s 2; Ex1967 c 37 s 4; 1969 c 940 s 15; 1971 c 412 s 3]

353.69 OFFICERS OR EMPLOYEES OF NON-COVERED MUNICIPALITIES; OPTIONAL MEMBERSHIP. Any former member who is an elected official or an employee of a municipality not covered by the public employees retirement association, has the option to continue his membership in the association for any period of service with the municipality. This option applies to future service as well as

MINNESOTA STATUTES 1971

4177

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.71

past service. Any person desiring to exercise this option shall make application to the board, shall designate the period of service for which he desires coverage and shall pay the employee contribution to the fund for such service at the rate of six percent of salary as prescribed by section 353.27, subdivision 2. The municipality shall pay a matching amount plus the amount to amortize the deficit in the fund in the manner provided in sections 353.27, subdivisions 3 and 5, and 353.28. Contributions for any past service shall be paid with interest at the rate of five percent per annum compounded annually. Notwithstanding any provision to the contrary, no such person shall be entitled to credit for service with the public employees retirement association if for the same period of service he receives credit with any other public retirement or pension plan maintained by the municipality.

[1959 c 650 s 56; 1965 c 714 s 10; Ex1967 c 53 s 10; 1971 c 106 s 39]

353.70 [Repealed, 1963 c 641 s 38]

353.71 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION; DEFERRED ANNUITY. Subdivision 1. **Eligibility.** Any person who has been a member of the public employees retirement association or the Minnesota state retirement system or the teachers retirement association or any other public retirement system in the state of Minnesota having a like provision, except a fund providing benefits for policemen or firemen as referred to in section 69.71, shall be entitled when qualified to an annuity from each fund if his total allowable service in all funds or in any two of these funds totals ten or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that he has not taken a refundment from any one of these funds since his membership in that association or system last terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ten years of allowable service in the respective association or system shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ten or more years.

Subd. 2. **Deferred annuity computation.** The deferred annuity, if any, accruing under subdivision 1 or sections 353.34, subdivision 3, and 353.68, subdivision 4, shall be computed in the manner provided in said sections, on the basis of allowable service prior to termination of public service and augmented as provided herein. The required reserves applicable to a deferred annuity or to any deferred segment of an annuity shall be augmented by interest compounded annually from the first day of the month following the month in which the employee ceased to be a public employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose shall be the interest assumptions which were in effect during the period for which interest is compounded. If a person has more than one period of uninterrupted service, the required reserves related to each period shall be augmented by interest pursuant to this subdivision. The sum of the augmented required reserves so determined shall be the present value of the annuity. Uninterrupted service for the purpose of this subdivision shall mean periods of covered employment during which the employee has not been separated from public service for more than two years. If a person repays a refund, the service restored thereby shall be considered as continuous with the next period of service for which the employee has credit with this association. The formula percentages used for each period of uninterrupted service shall be those as would be applicable to a new employee. The mortality table and interest assumption used to compute such annuity shall be those in effect at the time the employee files application for annuity. The annuity payable hereunder shall not be less than the annuity as computed under sections 353.29, subdivisions 2 and 3; 353.53, subdivisions 1 and 2; 353.66, subdivisions 2 and 3; and ~~355.84, subdivisions 1 and 2;~~ whichever is applicable. This subdivision shall apply to deferred annuitants of record on July 1, 1971 and to employees who thereafter become deferred annuitants.

Subd. 3. **Postponement of deferred annuity.** No deferred annuity shall commence to be paid from the public employees retirement fund during the time the former member is working and accruing service credit as a member of the Minnesota state retirement system or the teachers retirement association or any other public retirement system in the state of Minnesota as referred to in subdivision 1.

Subd. 4. **Repayment of refund.** Any person who has received a refundment

from the public employees retirement fund prior to July 1, 1961, and who is a member of the Minnesota state retirement system or the state teachers retirement association or any other public retirement system in the state of Minnesota as referred to in subdivision 1, may repay such refundment with interest to the public employees retirement fund. If a refundment is repaid to the fund and more than one refundment has been received from the fund, all refundments must be repaid. Such repayment shall be made as provided in section 353.35, and under such terms and conditions consistent therewith as may be agreed upon with the board of trustees. If a refundment has been received from the fund subsequent to June 30, 1961, the provisions of this subdivision do not apply and repayment of refundment can be made only as provided in section 353.35.

[1963 c 641 s 2; 1969 c 940 s 16-18; 1971 c 412 s 4-7]

NOTE: See also sections 352.72 and 354.60.

353.74 CERTAIN SURVIVOR BENEFITS. The surviving spouse of a former member of the public employees retirement association for not less than 18 years who was separated from the association by becoming a member of the judicial branch of the state government shall receive the same benefits as if the former member was a member of the public employees retirement association on the date of his death. This section shall only apply when neither the former member nor his survivor have received any refundment of the accumulated salary deduction of the former member.

[1963 c 520 s 1]

NOTE: Laws 1963, Chapter 520, Section 2 reads:

"Sec. 2. Payments under this act shall begin July 1, 1963."

353.75 CERTAIN RETIREMENT ANNUITY BENEFITS. Any public employee who retired on or after December 31, 1964, and who (1) has attained the age of 65 years, and who (2) had more than 22 years of continuous service in his first public employment, (3) had more than five years of subsequent continuous service in public employment before his retirement, (4) and has made contributions to the public employees retirement fund during all his public employment, and who (5) has not withdrawn any of his contributions to the public employees retirement fund, is entitled to receive a retirement annuity from May 14, 1965, based upon the sum total of such periods of public employment in like manner as if his public employment had been continuous.

[1965 c 432 s 1]

353.76 M.S. 1969 [Special]

353.77 M.S. 1969 [Special]

353.78 M.S. 1969 [Special]

353.79 M.S. 1969 [Special]

353.80 M.S. 1969 [Special]

353.81 M.S. 1969 [Special]

353.82 M.S. 1969 [Special]

353.83 ADDITIONAL PAYMENTS TO CERTAIN ANNUITANTS. Payments of retirement annuities pursuant to chapter 353, to annuitants who (a) retired prior to July 1, 1962, (b) had at least 20 years of allowable service credit in the public employees retirement association upon their termination of public employment, and (c) receive annuities of less than \$200 per month shall, retroactive to July 1, 1967, be supplemented by additional payments by the public employees retirement association from moneys in the general fund of the state of Minnesota in the amount of \$15 per month, provided that such annuitants have not previously qualified for the additional payments pursuant to this section, and provided further that in no case shall the annuities plus the additional payments exceed \$200 per month. Moneys necessary to pay the supplemental benefit provided by this section are hereby annually appropriated from the said general fund. These additional payments shall be made in the same manner and at the same time retirement annuities are paid and shall be included in the warrants on which the annuities are so paid. The supplemental payment herein provided shall be excluded from the computation of any monthly survivor benefit or optional annuity which may become due and payable to any person following the death of an annuitant who, during his lifetime, received a benefit pursuant to this section. If an annuitant entitled to receive additional payment under this section should die before such retroactive payment is received, payment shall be made upon demand to his designated beneficiary in an amount equal to his accumulated benefit from July 1, 1967, to the date of his death, without interest.

[1967 c 688 s 1; 1969 c 399 s 1; 1969 c 998 s 1]