

# MINNESOTA STATUTES 1973 SUPPLEMENT

## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.01

### CHAPTER 353. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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#### 353.01 Definitions

[For text of subd. 1, see M.S.1971]

**Subd. 2. Public employee.** "Public employee" means any person performing personal services for a governmental subdivision, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term also includes special classes of persons listed in subdivision 2a, but excludes special classes of persons listed in subdivision 2b.

[1973 c 753 s 3]

**Subd. 2a. Included employees.** The following persons are included in the meaning of "public employee":

- (a) Elected or appointed officers and employees of elected officers.
- (b) District court reporters.
- (c) Officers and employees of the public employees retirement association.
- (d) Employees of the League of Minnesota Municipalities.
- (e) Officers and employees of public hospitals, owned or operated by or an integral part of, any governmental subdivision or governmental subdivisions.
- (f) Employees of a school district who receive separate salaries for driving their own buses.

**Subd. 2b. Excluded employees.** The following persons are excluded from the meaning of "public employee":

- (a) Persons employed for professional services where such service is incidental to regular professional duties.
- (b) Election officers.
- (c) Independent contractors and their employees.
- (d) Patient and inmate help in governmental subdivision charitable, penal and correctional institutions.
- (e) Members of boards, commissions, bands and others who serve the governmental subdivision intermittently.
- (f) Employees who hold positions of an essentially temporary or seasonal character, provided such employment does not continue for a period in excess

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of 120 working days in any calendar year. 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 must then report all such employees for membership 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, and part-time employees and elected officials whose annual compensation is stipulated in advance to be not more than \$900 per year.

(h) Persons who first occupy an elected office after February 1, 1969, the compensation for which does not exceed \$75 per month.

(i) Emergency employees who are employed by reason of work caused by fire, flood, storm or similar disaster.

(j) 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 clause 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.

(k) 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.

(l) 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, and whose customs, rites or religious beliefs forbid 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.

(m) 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.

(n) Resident physicians, medical interns and pharmacist interns who are serving in public hospitals.

(o) Appointed or elected officers, paid entirely on a fee basis, and who were not members on June 30, 1971.

(p) Nothing in Laws 1973, Chapter 753 shall be interpreted to impair or revoke any option exercised under Laws 1963, Chapter 793.

[1973 c 753 s 4]

[For text of subd. 3, see M.S.1971]

### **Subd. 4. Accumulated deductions**

"Accumulated deductions" means the total of the amounts deducted from the salary of a member, exclusive of interest, and the total of the amounts paid by a member in lieu of such deductions and credited to his individual account in the retirement fund.

[1973 c 753 s 5]

[Subd. 5 repealed in M.S.1971]

**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, the League of Minnesota Municipalities, or any public body employing any person who is a public employee by

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virtue of specific authorization made in section 353.01, subdivisions 2 and 2a, but does not mean any municipal housing and redevelopment authority organized under the provisions of sections 462.415 to 462.711; or any port authority organized pursuant to chapter 458; or any soil conservation district organized pursuant to chapter 40; or any hospital district organized or reorganized pursuant to legislation enacted by the 1959 Legislature.

[1973 c 753 s 6]

**Subd. 7. Member.** A member is a person who accepts employment as a "public employee" and remains a member while performing services as a public employee and while on an authorized leave of absence or an authorized temporary layoff; provided, however, (1) that any elected public officer or any person appointed to fill a vacancy in an elective office shall have the right to exercise an option to become a member by filing application for membership, but such option, once exercised, may not be withdrawn during the incumbency of such person in office; (2) that 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. Membership in the retirement association of any person shall terminate upon his ceasing to be a "public employee."

[1973 c 753 s 7]

[For text of subds. 8 and 9, see M.S.1971]

**Subd. 10. Salary.** "Salary" means the periodical compensation of any public employee, before deductions for deferred compensation or supplemental retirement plans, and also means "wages" and includes net income from fees.

[1973 c 753 s 8]

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

[1973 c 753 s 9]

**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 by appropriate record of the employer and promptly transmitted to the association.

[1973 c 753 s 10]

[For text of subds. 13 and 14, see M.S.1971]

**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 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 the decedent's 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 adoption proceedings filed by a member, 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; 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.

[1973 c 753 s 11]

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### **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 section 353.35, 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 sick leave of absence, with or without pay.

(5) Any period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service pursuant to section 192.262, and pays into the fund employee contributions based upon his salary at the date of return from military service. The amount of these contributions shall be in accord with the contribution rates and salary limitations, if any, in effect during such leave, plus interest thereon at six percent per annum compounded annually from the date of return to public service to the date payment is made. In such cases the matching employer contribution and additional employer contribution provided in section 353.27, subdivisions 3 and 3a, 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. Such member 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.

[1973 c 753 s 12]

[For text of subds. 17 to 19, see M.S.1971]

**Subd. 20. Dependent spouse.** "Dependent spouse" means the unremarried spouse of a deceased member who was living with and dependent upon the member at the time of death for more than one-half of support.

[1973 c 753 s 13]

[Subds. 21 and 22 repealed in M.S.1971]

**Subd. 23. Retirement annuity.** "Retirement annuity" means the amount paid or payable by the fund to a former member after retirement.

[1973 c 753 s 14]

[For text of subd. 24, see M.S.1971]

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Subd. 25. [Repealed, 1973 c 753 s 85]

[For text of subd. 26, see M.S.1971]

**Subd. 27. Benefit.** "Benefit" means a monthly survivor benefit paid or payable by the fund to a surviving dependent spouse or a dependent child and also includes a monthly disability benefit paid or payable by the fund to a member who is totally and permanently disabled.

[1973 c 753 s 15]

[For text of subd. 28, see M.S.1971]

**Subd. 29. Designated beneficiary.** "Designated beneficiary" means the person designated by a member in writing, filed with the association, to receive a refund of the balance of his accumulated deductions after death.

[1973 c 753 s 16]

[For text of subd. 30, see M.S.1971]

**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, evidenced by appropriate record of the employer and promptly transmitted to the association.

[1973 c 753 s 17]

**Subd. 32. Coordinated member.** "Coordinated member" means any public employee, including any public hospital employee, covered by any agreement or modification made between the state and the secretary of health, education and welfare, making the provisions of the federal old age, survivors and disability insurance act applicable to such member.

**Subd. 33. Basic member.** "Basic member" means any public employee, including any public hospital employee, not covered by any agreement or modification made between the state and the secretary of health, education and welfare.

[1973 c 753 s 18]

353.015 [Repealed, 1973 c 753 s 85]

### 353.03 Board of trustees

**Subdivision 1. Management; composition; election.** The management of the public employees retirement fund is hereby vested in a board of trustees consisting of 13 members, who shall be known as the board of trustees. This board shall consist of three trustees, one of whom shall be designated by each of the following associations, Minnesota school boards association, League of Minnesota Municipalities, and Association of Minnesota Counties, and nine trustees, who shall be elected from the membership by the members of the retirement association, and one trustee who shall be a retired annuitant elected by other annuitants. Elected trustees shall hold office for a term of three years. On November 1 of each year, and for seven days thereafter, the association 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, and in the case of a retired annuitant, a nominating petition signed by 25 or more such annuitants. No nominee may withdraw his name from nomination after November 15. Candidates shall file at large for all seats vacant at the forthcoming election. By December 10 of each year the board shall distribute by mail to the members and annuitants ballots 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. The last day for mailing ballots to the fund shall be December 31. All terms expire on December 31 of the third year, 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 vote is secret. The election shall be supervised by the secretary of state. It shall be the duty of the board of trustees to faithfully administer the law without

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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.

[1973 c 753 s 19]

**Subd. 1a. Vacancy, how filled.** Any vacancy on the board caused by death, resignation, or removal of any member so elected shall be filled by the board for the unexpired portion of the term in which the vacancy occurs.

[1973 c 753 s 20]

[For text of subds. 2 to 4, see M.S.1971]

### 353.06 State board of investment to invest funds

The secretary of 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. Assets from the public employees retirement fund shall be transferred to the Minnesota adjustable fixed benefit fund as provided in section 11.25. The state board of investment shall thereupon invest and reinvest the sum so certified, or transferred, 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.

[1973 c 753 s 21]

### 353.07 [Repealed, 1973 c 753 s 85]

### 353.08 Legal adviser, attorney general

The attorney general shall be the legal adviser of the board of trustees. The board may sue or be sued in the name of the 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.

[1973 c 753 s 22]

### 353.13 [Repealed, 1973 c 753 s 85]

### 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 different service for which he is entitled to receive benefit or annuity from the public employees retirement association.

[1973 c 753 s 23]

### 353.15 Nonassignability and exemption of annuities and benefits from judicial process and taxation

No money, annuity, or benefit provided for in this chapter is assignable or subject to a power of attorney, 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. Provided, however, the association may pay an annuity, benefit or refund to a trust company, qualified under chapter 48, that is

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trustee for a person eligible to receive such annuity, benefit or refund. The association may prescribe the conditions under which such payment will be made.

[1973 c 753 s 24]

### 353.18 Rules and 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, and such determination shall not be disturbed unless found to be arbitrary and capricious.

[1973 c 753 s 25]

### 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, 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 gross misdemeanor.

[1973 c 753 s 26]

### 353.26 [Repealed, 1973 c 753 s 85]

### 353.27 Public employees retirement fund

**Subdivision 1. Income; disbursements.** There is a special fund known as the "Public Employees Retirement Fund", the "retirement fund", or the "fund", which shall include all the assets of the association. This 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, and including the proper share of the Minnesota adjustable fixed benefit fund.

[1973 c 753 s 27]

**Subd. 2. Employee contribution.** The employee contribution shall be an amount (a) for a "basic member" equal to eight percent of total salary; and (b) for a "coordinated member" equal to four percent of total salary. These contributions shall be made by deduction from salary in the manner provided in 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.

[1973 c 753 s 28]

**Subd. 3. Employer contribution.** The employer contribution shall be an amount equal to the employee contribution under subdivision 2. This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

[1973 c 753 s 29]

**Subd. 3a. Additional employer contribution.** An additional employer contribution shall be made equal to (a) two and one-half percent of the total salary of each "basic member"; and (b) one and one-half percent of the total salary of each "coordinated member." These contributions shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

[1973 c 753 s 30]

**Subd. 4. Employers reporting requirements; contributions; member status.** The head of each department 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 at the same

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time to issue or approve one voucher for the aggregate amount of the employer contributions and the additional employer contributions for the same period of employment as that covered by the employee contributions, and to cause the same to be remitted within 15 days thereafter to the secretary of the board of trustees. The head of each department shall, for each pay period in which employee contributions are deducted, submit to the association a salary deduction report, or in lieu thereof a carbon or duplicate copy of departmental payroll abstract, showing (a) the legal names of all members; (b) the legal names of all new public employees and the effective dates of appointment; (c) the amount of each salary deduction; (d) the amount of salary from which each deduction was made; (e) effective dates of all terminations of public service on account of members and if such terminations were caused by death or retirement, there shall be inserted after such date the applicable word, "death" or "retirement"; and (f) effective dates of all temporary layoffs and leaves of absence and if such leaves are sick leaves, there shall be inserted after such date the words, "sick leave." Additionally, reports of contributions shall be accompanied by a membership enrollment form for each new employee in the form prescribed by the board, and it shall be the responsibility of department heads to obtain such enrollment forms from new employees for prompt submission to the association.

[1973 c 35 s 55; 1973 c 753 s 31]

Subd. 5. [Repealed, 1973 c 753 s 85]

[Subd. 6 repealed in M.S.1971]

**Subd. 7. Adjustment for erroneous receipts or disbursements.** (1) **Erroneous deductions.** Any deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association 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, provided, however, the association and the state social security agency may make proper adjustments of moneys taken as employee and employer deductions.

(2) **Erroneous disbursement.** 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 refund 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.

[1973 c 753 s 32]

**Subd. 8. District court reporters; salary deductions.** 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. 9. Fee officers; contributions; obligations of employers.** 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 as provided in sections 353.27, subdivision 3a, and 353.36, subdivision 2a, with respect to such service 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 ev-

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ery such member in its employ. Delinquencies under this section shall be governed in all respects by section 353.28.

**Subd. 10. Employers; furnish copies of payroll abstracts.** The head of each department is required to furnish the secretary of the board of trustees with a carbon or duplicate copy of the departmental payroll abstracts for the last pay period during the months of January and July, respectively, in each year. It shall be the duty of said secretary to check the copies of all such payroll abstracts against the membership records of the association to ascertain whether or not any omissions have been made by any department head in the reporting of any new public employees for membership.

**Subd. 11. Employers; required to furnish requested information.** All governmental subdivisions shall furnish promptly 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.

**Subd. 12. Omitted salary deductions; obligations.** In the case of omission of required deductions from salary of an employee, past due for a period of 60 days or less, the head of the department shall deduct from the employee'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, from the date or dates each delinquent employee contribution was first payable, such interest to be paid 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. After July 1, 1973, any such omitted required deductions, past due for a period in excess of 60 days, shall become the sole obligation of the governmental subdivision from the time such deductions were first payable, together with interest thereon as hereinbefore specified. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a, with interest thereon at the rate of six percent compounded annually from the date they were first 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. Unless otherwise indicated, 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 employee and employer contributions together with interest thereon shall not be subject to any statutory provision which would otherwise limit the time within which such an action may be commenced.

**Subd. 13. Certain warrants canceled.** Any state auditor's warrant payable from the retirement fund remaining unpaid for a period of six years, shall be canceled into the retirement fund and not into the general fund.

[1973 c 753 s 33]

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### 353.271 Participation in Minnesota adjustable fixed benefit fund

**Subdivision 1. Authorization.** The public employees retirement association, including the police and fire fund, is hereby authorized to participate in the Minnesota adjustable fixed benefit fund. There shall be one general participation in the Minnesota adjustable fixed benefit fund for all purposes by the public employees retirement association.

[1973 c 753 s 34]

**Subd. 2. Valuation of assets; adjustment of benefits.** (1) Effective July 1, 1973, for members retiring, the required reserves determined on a five percent interest assumption shall be transferred to the Minnesota adjustable fixed benefit fund as of the date of retirement.

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

(3) Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

[1973 c 753 s 35]

### 353.272 Increase in annuities and benefits

The retirement annuities authorized and in effect on June 30, 1973, shall be increased in the same ratio that the actuarially computed reserve for such annuities determined by using an interest assumption of three and one-half percent bears to the actuarially computed reserve for such annuities determined by using an interest assumption of five percent. The reserves upon which such increase shall be based shall be the actuarially determined reserve for annuities in effect at June 30, 1972, in accordance with the mortality assumptions then in effect and at interest assumptions of three and one-half percent and five percent. Such ratio of increase computed to the last full  $\frac{1}{100}$  of one percent shall be applied to annuities in effect on June 30, 1973, and shall begin to accrue July 1, 1973. Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

[1973 c 753 s 36]

### 353.28 Financing of employer contributions

**Subdivision 1.** Each governmental subdivision shall secure its employer contributions and its additional employer contributions and 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.

[1973 c 753 s 37]

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

Subd. 4. [Repealed, 1973 c 753 s 85]

[For text of subd. 5, see M.S.1971]

Subd. 6. If the governmental subdivision fails to pay amounts due under chapter 353, the secretary shall certify such amounts to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due, the secretary may certify such amounts to the county auditor for collection. The county auditor shall collect such amounts out of the revenue of the governmental subdivision, or shall add them to the levy of the governmental subdivision and make payment directly to the asso-

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## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.29

ciation. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected and apportioned.

[1973 c 753 s 38]

Subd. 7. [Repealed, 1973 c 753 s 85]

[For text of subd. 8, see M.S.1971]

Subd. 9. [Repealed, 1973 c 753 s 85]

Subd. 10. [Repealed, 1973 c 753 s 85]

[For text of subd. 11, see M.S.1971]

### 353.29 Retirement annuity upon separation from public service

**Subdivision 1. Age and allowable service requirements.** 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. Such retirement annuity is known as the "normal" retirement annuity.

[1973 c 753 s 39]

**Subd. 2. Average salary.** In calculating the annuity under subdivision 3:

(a) "Average salary" means an amount equivalent to the average of his highest salary upon which employee contributions were paid for any five successive years of allowable service prior to the date of separation from public service;

(b) "Years" for the purpose of determining average salary means years of allowable service ending with the date of the last full pay period prior to the date of separation from public service.

[1973 c 753 s 40]

**Subd. 3. Retirement annuity formula.** The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and thereafter by 2.5 percent per year of allowable service and completed months less than a full year for the "basic member", and one percent for each year of allowable service for the first ten years and thereafter by 1.5 percent per year of allowable service and completed months less than a full year for the "coordinated member", shall determine the amount of the "normal" retirement annuity.

[1973 c 753 s 41]

[For text of subds. 4 and 5, see M.S.1971]

**Subd. 6. Retirement before eligibility for social security benefits.** Any "coordinated member" who retires before he is eligible for social security retirement benefits may elect to receive a retirement annuity from the association in an amount greater than the annuity computed on the basis of age at retirement, provided in subdivisions 2 and 3. This option shall be exercised by making application to the board of trustees. This greater amount shall be the actuarial equivalent of the "normal" retirement annuity computed on the basis of age at retirement. This greater amount shall be paid until the annuitant reaches the age of 62, at which time the payment from the association shall be reduced. The method of computing an annuity under this subdivision shall be determined by an approved actuary.

**Subd. 7. Annuities; accrual.** 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, but no payment shall be made for the month, or any portion thereof, in which entitlement to such annuity has terminated. Any annuity granted to an elective public official shall accrue on the day following expiration of his public office or right thereto, and his annuity for that month shall be prorated accordingly. No annuity, once

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## 353.29 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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.

**Subd. 8. Annuities; payment; evidence of receipt.** Payment of any annuity or benefit for a given month shall be mailed by the association to the annuitant, recipient of a disability benefit, or survivor, 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 a written declaration that the annuitant or recipient of a disability benefit has or has not returned to public service; that the surviving dependent spouse has or has not remarried; 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 otherwise may be entitled.

[1973 c 753 s 42]

## 353.30 Annuities upon retirement

[For text of subd. 1, see M.S.1971]

**Subd. 1a.** Any person who has attained the age of at least 62 years and who received credit for not less than 30 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, without any reduction in annuity by reason of such early retirement.

**Subd. 1b.** Any person with 30 years or more of allowable service credit who elects early retirement under subdivision 1, shall receive an annuity reduced by one-half of one percent for each month that such person is under age 62 at the time of retirement.

[1973 c 753 s 43]

[Subd. 2 repealed in M.S.1971]

**Subd. 3. Optional annuities.** The board of trustees shall establish optional annuities at retirement which shall take the form of 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. Upon retirement a member may select an optional form of annuity in lieu of accepting any other form of annuity which might otherwise be available.

[1973 c 753 s 44]

**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 association, 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, it may be increased prospectively to not more than the amount to which such person would have been entitled had he not waived any portion thereof.

[1973 c 753 s 45]

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## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.32

### 353.31 Survivor benefits

**Subdivision 1. Benefits for surviving spouse and dependent children; before retirement.** Upon the death of a "basic member" before retirement or upon the death of a "basic 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 in effect over the last full six months of allowable service preceding death
- (b) Each dependent child .....10 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding death

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 for any one family shall not exceed \$400, and the minimum benefit per family shall not be less than 30 percent of the "basic member's" said average salary, subject to the aforementioned maximum. 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 "basic member" whose average salary was less than \$75 per month shall not be entitled to the benefits provided in this subdivision.

Under the terms of this subdivision there are no survivor benefits, as such, payable to the surviving spouse or dependent children of any deceased "coordinated member."

[1973 c 753 s 46]

- Subd. 2. [Repealed, 1973 c 753 s 85]
- Subd. 3. [Repealed, 1973 c 753 s 85]
- Subd. 4. [Repealed, 1973 c 753 s 85]
- Subd. 5. [Repealed, 1973 c 753 s 85]
- Subd. 6. [Repealed, 1973 c 753 s 85]
- Subd. 7. [Repealed, 1973 c 753 s 85]

**Subd. 8. Accrual of benefits.** 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 "basic member" or annuitant, whichever is applicable. No payment may be made (a) retroactively for more than 12 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. This subdivision shall have retrospective effect to January 1, 1969.

[1973 c 753 s 47]

[For text of subd. 9, see M.S.1971]

Subd. 10. [Repealed, 1973 c 753 s 85]

[For text of subd. 11, see M.S.1971]

### 353.32 Refunds after death of member or former member

**Subdivision 1. Before retirement.** If a member or former member who terminated public service after June 30, 1973, dies before retirement or before he has received any retirement annuity 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. Such refund shall be in an amount equal

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## 353.32 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

to his accumulated deductions plus interest thereon at the rate of three and one-half 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.

[1973 c 753 s 48]

**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, without interest.

[1973 c 753 s 49]

[For text of subd. 3, see M.S.1971]

**Subd. 4. Lack, or death, of beneficiary.** If a member or former member dies without having designated a beneficiary or if the beneficiary should die before making application for refund, and if there is no surviving spouse, and if the legal representative of such member or former member does not apply for refund 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 353.34, subdivision 6.

[1973 c 35 s 56; 1973 c 753 s 50]

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

[1973 c 753 s 51]

[For text of subds. 6 to 8, see M.S.1971]

**Subd. 9. Payment to a 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 refund and the amount of the refund does not exceed \$500, exclusive of interest, 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 annuity or disability benefit payable at the time of death of an annuitant or recipient of a disability benefit, which is payable to a beneficiary who is a minor, may be paid in the same manner. Such payment shall be a bar to recovery by any other person or persons.

[1973 c 753 s 52]

## 353.33 Total and permanent disability benefits

**Subdivision 1. Age, service and salary requirements.** After June 30, 1973 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.

[1973 c 753 s 53]

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## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.34

**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 became totally and permanently disabled during his period of membership may file his application for total and permanent disability benefits within three years 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, whichever applies, the benefit shall accrue from the date salary ceased.

[1973 c 753 s 54]

**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, subdivisions 2 and 3. A "basic member" shall receive in addition 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 average salary as defined in section 353.29, subdivision 2, the disability benefits shall be reduced to an amount equal to said average salary.

[1973 c 753 s 55]

[For text of subds. 4 to 9, see M.S.1971]

Subd. 10. [Repealed, 1973 c 753 s 85]

**Subd. 11. Retirement status at age 65.** No person shall be entitled to receive disability benefits and a 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 normal retirement annuity as provided in section 353.29 or normal retirement annuity equal to the disability benefit paid to him before he reached age 65, whichever amount is greater. Any disabled person who becomes age 65 after June 30, 1973, shall have his annuity computed in accordance with the law in effect on July 1, 1973.

[1973 c 753 s 56]

### 353.34 Termination of public service

[For text of subd. 1, see M.S.1971]

**Subd. 2. Refund without interest.** Except as provided in subdivision 1, any person who ceases to be a public employee after June 30, 1973 shall re-

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## 353.34 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

ceive a refund in an amount equal to his accumulated deductions without interest for the first three years of membership and thereafter accumulated deductions with interest to the first day of the month in which the refund is processed at the rate of three and one-half percent per annum compounded annually after the third year of membership based on fiscal year balances.

[1973 c 753 s 57]

**Subd. 3. Deferred annuity; eligibility; computation.** Any person with at least ten years of allowable service when termination of public service occurs may at his option leave his accumulated deductions in the fund and thereby be entitled to a deferred annuity commencing at age 65, except that any person who terminates public service after June 30, 1973, may qualify for early retirement under section 353.30, subdivisions 1 and 1a. The deferred annuity shall be computed in the manner provided in section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public 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.

[1973 c 753 s 58]

[For text of subds. 4 and 5, see M.S.1971]

**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 member 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, 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 member should return to public service, the amount so credited to the retirement fund shall be restored to his individual account.

[1973 c 753 s 59]

## 353.35 Consequences of refund; repayment, rights restored

When any former 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 six percent per annum compounded annually. If more than one refund has been taken, all refunds must be repaid with interest at six percent per annum compounded annually.

[1973 c 753 s 60]

## 353.36 Purchases of prior service credit

[Subd. 1 repealed in M.S.1971]

**Subd. 2.** A person who has prior public service on which salary deductions were not taken for the retirement fund and who does not have the required minimum number of years of allowable service credit to qualify for an annuity, may apply for such annuity if otherwise qualified, and within 90 days

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## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.37

thereafter purchase whatever period of said public service is necessary to bring his total allowable service credit to said minimum, provided that last service shall be purchased first. Such person may gain such allowable service credit by paying six percent of the salary covered under the law in effect at the time that such public service was performed, with interest thereon at the rate of six percent per annum compounded annually from the date first payable to the date payment is made, plus a matching amount, unless the employer agrees to pay said matching amount pursuant to subdivision 2a. An annuity shall accrue as provided in section 353.29, subdivision 6, but no annuity shall be paid until the applicant's payment is made in full for the prior public service; if said payment is not made within such 90 days, the application for retirement shall be void.

[1973 c 753 s 61]

**Subd. 2a. Matching payment; employer may assume.** Any employer may certify to the association that it assumes the matching payment under subdivision 2 with respect to all persons who exercise the option provided in subdivision 2 and pay such amount pursuant to section 353.28.

**Subd. 2b. Purchases of prior service credit; limited.** After June 30, 1973, no person shall be allowed to purchase prior public service credit, except as provided in subdivision 2.

**Subd. 2c. Refund of additional payments made on total salary.** Any member who elected to pay additional contributions and interest based on total salary received in excess of prior salary limitations may make application to the board of trustees for return of the total amount so paid, but not less than the total amount of such contributions and interest; provided, however, said amount shall be so returned without interest thereon. Any member who accepts a refund hereunder shall thereby relinquish all contributory credit with respect to payments which were made on total salary. No matching amount paid by the employer, or assumed by the employer pursuant to certification, shall be repaid.

[1973 c 753 s 62]

[For text of subds. 3 and 4, see M.S.1971]

- Subd. 5. [Repealed, 1973 c 753 s 85]
- Subd. 6. [Repealed, 1973 c 753 s 85]
- Subd. 7. [Repealed, 1973 c 753 s 85]
- Subd. 8. [Repealed, 1973 c 753 s 85]
- Subd. 9. [Repealed, 1973 c 753 s 85]
- Subd. 10. [Repealed, 1973 c 753 s 85]

### 353.37 Public re-employment of annuitant; effect on annuities

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 monthly annuity payments shall be resumed. Public service performed by an annuitant subsequent to his retirement under this chapter does not increase or decrease any annuity when payments thereof are re-

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## 353.37 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

sumed. The annuitant is not required to make any further contributions to the retirement fund by reason of this subsequent public service.

[1973 c 753 s 63]

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

## 353.39 [Repealed, 1973 c 753 s 85]

## 353.40 Annual leave; overtime; after termination of service

When any person whose service with any governmental subdivision has terminated and who has been paid for any unused portion of his annual leave allowance, or overtime, such portion for which he was so paid shall be deemed allowable service; however, should compensation for such portion extend beyond the end of the calendar month in which the person withdrew from active public service, it shall be considered compensation for service rendered prior to the end of said month and shall have no effect on the date that annuity would otherwise commence pursuant to section 353.01, subdivision 28.

[1973 c 753 s 64]

353.44 [Repealed, 1973 c 753 s 85]

353.45 [Repealed, 1973 c 753 s 85]

## 353.46 Savings clauses

Subdivision 1. The rights of a person receiving an annuity or benefit under the law in effect on June 30, 1973, or prior thereto are herein preserved.

[1973 c 753 s 65]

Subd. 2. The right of a deferred annuitant or other former member to receive an annuity under the law in effect at the time such person terminated public service is herein preserved; provided, however, the provisions of section 353.71, subdivision 2, as amended by Laws 1973, chapter 753 shall apply to a deferred annuitant or other former member who first begins receiving an annuity after July 1, 1973.

[1973 c 753 s 66]

Subd. 3. The rights of a member who qualifies under Laws 1959, Chapter 650, Subdivision 29, are herein preserved.

[1973 c 753 s 67]

**Subd. 4. Certain deferred annuities, joint and survivor annuity entitlement.** Except as provided in section 353.84, the rights of a survivor of a former member, where such former member died prior to June 30, 1973, shall be determined by the law in effect when such former member died even though a benefit is not payable until after June 30, 1973.

[1973 c 753 s 68]

Subd. 5. [Repealed, 1973 c 753 s 85]

353.51 [Repealed, 1973 c 753 s 85]

353.52 [Repealed, 1973 c 753 s 85]

353.53 [Repealed, 1973 c 753 s 85]

353.54 [Repealed, 1973 c 753 s 85]

353.55 [Repealed, 1973 c 753 s 85]

353.56 [Repealed, 1973 c 753 s 85]

353.57 [Repealed, 1973 c 753 s 85]

353.58 [Repealed, 1973 c 753 s 85]

353.59 [Repealed, 1973 c 753 s 85]

353.591 [Repealed, 1973 c 753 s 85]

353.60 [Repealed, 1973 c 753 s 85]

353.61 [Repealed, 1973 c 753 s 85]

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### 353.65 Contributions

[For text of subd. 1, see M.S.1971]

Subd. 2. The employee contribution shall be an amount equal to eight percent of the total salary of every member. This contribution shall be made by deduction from salary in the manner provided in 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.

[1973 c 753 s 69]

Subd. 3. The employer contribution shall be an amount equal to 12 percent of the total salary of every member. This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

[1973 c 753 s 70]

[For text of subd. 4, see M.S.1971]

Subd. 5. [Repealed, 1973 c 753 s 85]

[For text of subd. 6, see M.S.1971]

### 353.651 Retirement annuity upon separation from public service

**Subdivision 1. Age and allowable service requirements.** Upon separation from public service, any police officer or fire fighter member who has attained the age of at least 55 years and who received credit for not less than ten years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

**Subd. 2. Average salary.** In calculating the annuity under subdivision 3:

(a) "Average salary" means an amount equivalent to the average of the highest salary earned as a police officer or fire fighter upon which employee contributions were paid for any five successive years of allowable service prior to the date of separation from public service;

(b) "Years" for the purpose of determining average salary means years of allowable service ending with the date of the last full pay period prior to the date of separation from public service.

**Subd. 3. Retirement annuity formula.** The average salary as defined in subdivision 2, multiplied by two and one-half percent per year of allowable service for the first 20 years and two percent per year of allowable service thereafter, shall determine the amount of the "normal" retirement annuity; provided, however, if the annuity calculated hereunder is less than the annuity calculated under the law in effect on June 30, 1973, this latter amount shall be the "normal" annuity. If the member has earned allowable service for 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.

[1973 c 753 s 71]

353.654 [Repealed, 1973 c 753 s 85]

353.655 [Repealed, 1973 c 753 s 85]

### 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, 1973, 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 in an amount equal to 50 percent of the "average salary" pursuant to section 353.656, subdivi-

# MINNESOTA STATUTES 1973 SUPPLEMENT

## 353.656 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

vision 3 plus an additional two percent of said "average salary" for each year of service in excess of 20. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit shall be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

[1973 c 753 s 72]

*[For text of subd. 2, see M.S.1971]*

Subd. 3. After June 30, 1973, any member who becomes disabled after not less than five years of allowable service, before reaching the age of 55, because of sickness or injury occurring while not on duty as a police officer or fire fighter, and by reason thereof the member is unable to perform his duties, shall be entitled to receive a disability benefit. The benefit shall be in the same amount and paid in the same manner as if the member were 55 years of age at the date of his disability and the benefit were paid pursuant to section 353.651. Should disability under this clause occur after five but in less than ten years allowable service, the disability benefit shall be the same as though the member had at least ten years service.

[1973 c 753 s 73]

*[For text of subds. 4 and 5, see M.S.1971]*

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. Any disabled person who becomes age 55 after June 30, 1973, shall have his annuity computed in accordance with the law in effect on July 1, 1973.

[1973 c 753 s 74]

### 353.657 Survivor benefits

Subdivision 1. In the event any member of the police and fire fund shall die from any cause, the association shall grant survivor benefits 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, and to a dependent child or children, unmarried and under the age of 18 years. The spouse and child or children shall be entitled to monthly benefits as provided in the following subdivisions.

[1973 c 753 s 75]

Subd. 2. The spouse, for life or until remarriage, shall receive a monthly benefit equal to 30 percent of the member's average monthly salary earned as a police officer or fire fighter on which employee contributions were paid over the last full six months of allowable service preceding death.

[1973 c 753 s 76]

Subd. 3. Each dependent child, until the child reaches the age of 18 years, shall receive a monthly benefit equal to ten percent of the member's average monthly salary earned as a police officer or fire fighter on which employee contributions were paid over the last full six months of allowable service preceding death. 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 for any one family shall not exceed \$400, and the minimum benefit per family shall not be less than 30 percent of the member's said average salary, subject to the aforementioned maximum.

[1973 c 753 s 77]

*[For text of subd. 4, see M.S.1971]*

### 353.66 [Repealed, 1973 c 753 s 85]

# MINNESOTA STATUTES 1973 SUPPLEMENT

## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.71

### 353.68 Scope and application

[For text of subd. 1, see M.S.1971]

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

Subd. 4. The deferred annuity of section 353.34, subdivision 3, as it applies to members of the police and fire fund shall commence at age 55 and shall be computed in the manner provided in section 353.651 on the basis of the law in effect on the date of termination of public service and shall be augmented as provided in section 353.71, subdivision 2.

[1973 c 753 s 78]

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. [Repealed, 1973 c 753 s 85]

Subd. 9. [Repealed, 1973 c 753 s 85]

### 353.69 Officers or employees of noncovered 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. Except for the repayment of refunds pursuant to section 353.35, this option applies to future service only. Any person desiring to exercise this option shall file application with the association. No such person shall be entitled to allowable service credit under this chapter, if for the same period of service he receives credit with any other public retirement or pension plan maintained by the municipality.

[1973 c 753 s 79]

### 353.71 Coverage by more than one retirement system; deferred annuity; augmentation

**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 sections 69.71 and 69.771, 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 refund 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.

[1973 c 753 s 80]

**Subd. 2. Deferred annuity computation; augmentation.** 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 an annuity for which a former member was eligible but had not applied, or to any deferred segment of an annuity shall be determined as of the date the annuity begins to accrue and shall be augmented by interest at the rate of three and one-half percent per annum compounded an-

# MINNESOTA STATUTES 1973 SUPPLEMENT

## 353.71 PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

nually from the first day of the month following the month in which the former member 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. 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. This section shall not reduce the annuity otherwise payable under this chapter. This subdivision shall apply to deferred annuitants of record on July 1, 1971 and to employees who thereafter become deferred annuitants; it shall also apply from July 1, 1971 to former members who make application for an annuity after July 1, 1973.

[1973 c 35 s 58; 1973 c 753 s 82]

**Subd. 3. Deferred annuity; postponed payment.** 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 any public retirement system referred to in subdivision 1.

[1973 c 753 s 82]

**Subd. 4. Repayment of refund.** Any person who has received a refund from the public employees retirement fund and who is a member of any public retirement system referred to in subdivision 1, may repay such refund to the public employees retirement fund as provided in section 353.35.

[1973 c 753 s 83]

## 353.84 Increase in benefits

All survivors and disabilitants who were receiving benefits on June 30, 1973, shall receive from the appropriate special fund, a 25 percent increase in such benefits accruing from January 1, 1974; provided, that survivors of members who died prior to July 1, 1973 and will not become eligible to receive benefits until after June 30, 1973, shall receive the 25 percent increase in such benefits when the benefits begin to accrue. Such increases shall not be affected by any maximum limitations otherwise provided in this chapter.

Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

[1973 c 753 s 84]