

CHAPTER 352C

ELECTIVE STATE OFFICERS RETIREMENT

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352C.01 LEGISLATIVE FINDING AND INTENT. The legislature finds that service to Minnesota in the capacity of a constitutional officer or commissioner as defined in sections 352C.01 to 352C.09 constitutes a unique contribution to the state and that such service is dissimilar to any other public employment. The legislature further finds that service as a constitutional officer or commissioner for a period of ten years or longer deprives the individual so serving of normal opportunities to establish retirement benefits in his usual vocational pursuit and justifies adoption of special retirement provisions. The provisions of sections 352C.01 to 352C.09 are intended by the legislature to reflect the unique nature of service as a constitutional officer or commissioner and to have due regard for the unusual disruption of normal retirement planning that such service entails.

[1967 c 700 s 1]

352C.02 DEFINITIONS. Subdivision 1. The following terms for the purposes of sections 352C.01 to 352C.09 shall be given the meanings herein ascribed to them.

Subd. 2. "Commissioner" means a person who was duly elected and qualified and is serving as an elected member of the department of public service of Minnesota. "Constitutional officer" means a person who was duly elected and qualified and is serving as a governor, a lieutenant governor, an attorney general, a secretary of state, a state auditor, or a state treasurer of the state of Minnesota. "Former constitutional officer or commissioner" means a person who has ceased to be a constitutional officer or commissioner subsequent to April 21, 1976 for any reason, including but not limited to expiration of the term of office for which elected, retirement, or death.

Subd. 3. "Surviving spouse" means the surviving wife or husband of a constitutional officer or commissioner or former constitutional officer or commissioner.

Subd. 4. "Dependent child" means any natural or adopted child of a deceased constitutional officer or commissioner or former constitutional officer or commissioner who is under the age of 18, or who is under the age of 22 and is a full time student, and who in either case is unmarried and was actually dependent for more than one-half of his support upon such constitutional officer or commissioner for a period of at least 90 days immediately prior to the death of the constitutional officer or commissioner. It also includes a posthumous child of such constitutional officer or commissioner.

[1967 c 700 s 2; 1971 c 25 s 67; 1976 c 329 s 3-5]

352C.03 RETIREMENT ALLOWANCE. Subdivision 1. A constitutional officer or commissioner, upon attaining age 65, whether in office or not, with at least eight years of service as a constitutional officer or commissioner or member of the legislature, or combination of such offices, which service need not be continuous, shall be entitled to receive a retirement allowance to be computed on the basis of a percentage of the average monthly compensation received since January 1, 1965, as a constitutional officer or commissioner or member of the legislature, or from a combination of such offices, up to the time of retirement

(a) After eight years of such service as a constitutional officer or commissioner or member of the legislature or a combination of such offices his retirement allowance shall be 40 percent of the average salary received for such services since January 1, 1965, until the time he retires from all such offices.

(b) For service as a constitutional officer or commissioner or member of the legislature or combination of such offices in excess of the required eight years specified in clause (a) his retirement allowance shall be increased for each such year by an

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amount equivalent to two percent of the average salary received while serving in such offices or combination of such offices after January 1, 1965, until the time he retires from all such offices; provided that in no event shall his retirement allowance exceed such average salary.

Subd. 2. The amounts required for payment of retirement allowances provided by this section are appropriated annually to the executive director of the Minnesota state retirement system from the general fund in the state treasury and shall be paid by him monthly to the recipients entitled thereto. Application for retirement benefits shall be made in writing to the governor who shall furnish the director with a copy thereof.

[1967 c 700 s 3; 1969 c 399 s 1; 1969 c 1115 s 4; 1974 c 445 s 12]

352C.04 SPOUSE'S AND DEPENDENT CHILDREN'S SURVIVOR BENEFITS.

Subdivision 1. Upon the death of a constitutional officer or commissioner while serving in such office, or a former constitutional officer or commissioner with at least eight years of allowable service, the surviving spouse is entitled to a survivor benefit in the amount of one-half of the retirement allowance of such constitutional officer or commissioner computed as though such constitutional officer or commissioner were at least age 65 on the date of death and based upon the attained allowable service or eight years whichever is greater. Such benefit shall be paid to a surviving spouse eligible therefor during the remainder of the spouse's natural life or until remarriage. Upon remarriage such spouse shall no longer be eligible for such benefit except as provided in Minnesota Statutes, 1975 Supplement, Section 356.31.

Subd. 2. [Repealed, 1976 c 329 s 36]

Subd. 2a. Upon the death of a constitutional officer or commissioner while serving in such office, or a former constitutional officer or commissioner with at least eight years of allowable service, each dependent child of such deceased constitutional officer or commissioner shall be paid a survivor benefit in the following amount: First dependent child a monthly benefit which equals 25 percent of the monthly retirement allowance of the constitutional officer or commissioner computed as though the constitutional officer or commissioner were at least age 65 on the date of his death and based upon the attained allowable service for eight years whichever is greater; for each additional dependent child a monthly benefit which equals 12 1/2 percent of the monthly retirement allowance of the constitutional officer or commissioner computed as in the case of the first child; but the total amount paid to the surviving spouse and dependent children shall not exceed in any one month 100 percent of the monthly allowance of the constitutional officer or commissioner computed as in the case of the first child. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent child, if there is one. A posthumous child qualifies as a dependent child for benefits provided herein from the date of its birth.

Subd. 2b. [Repealed, 1976 c 329 s 36]

Subd. 3. Spouse's and dependent children's survivor benefits, payable under this section, are appropriated annually to the executive director of the Minnesota state retirement system from the general fund of the state treasury, and shall be paid by him monthly.

[1967 c 700 s 4; 1969 c 399 s 1; 1969 c 1115 s 5; 1971 c 928 s 8-10; 1974 c 445 s 13; 1976 c 329 s 6,7]

352C.05 APPLICATION FOR SURVIVOR BENEFITS. Surviving spouses or guardians of the estate of the dependent children entitled to payment of benefits under section 352C.04 shall file their applications therefor with the executive director of the Minnesota state retirement system, and payments shall commence as of the first of the month next following the filing of the application, but shall be retroactive to the first of the month following the death of the constitutional officer or commissioner, but no payment shall be retroactive for more than 12 months prior to the month the application is filed with the director.

[1967 c 700 s 5; 1974 c 445 s 14; 1976 c 329 s 8]

352C.06 OTHER RETIREMENT BENEFITS. If a constitutional officer or commissioner or his surviving widow is entitled to a retirement allowance or survivor's benefit from any pension or retirement fund created by another law of this state and financed in whole or in part with state funds, the amount of such retirement allow-

ance or survivor's benefit shall be deducted monthly from any payment made to such retired constitutional officer or commissioner or his surviving widow under the terms and provisions of this act, but this provision shall not apply to any retirement benefit or survivor's allowance payable pursuant to a law of the United States.

[1967 c 700 s 6]

352C.07 TAX EXEMPTION. Any moneys paid to a retired constitutional officer or commissioner or his surviving widow are exempted from taxation under the provisions of chapter 290.

[1967 c 700 s 7]

352C.08 COMPUTATION OF TIME AND APPLICATION. Subdivision 1. For purposes of computing the years of service required by section 352C.03, subdivision 1, all service as any of the constitutional officers listed in section 352C.02, subdivision 2, and as a commissioner, and as a member of the legislature of this state shall be included.

Subd. 2. Sections 352C.01 to 352C.09 apply to all service as a constitutional officer or commissioner before and after July 1, 1967, but in no event shall entitlement to benefits commence until July 1, 1967.

[1967 c 700 s 8; 1969 c 1115 s 6]

352C.09 CONTRIBUTIONS. Subdivision 1. Every constitutional officer or commissioner shall contribute eight percent of his or her total salary beginning the first full pay period after July 1, 1976, by payroll deduction, to be paid into the state treasury and deposited in the general fund. In case of retirement any unpaid deductions shall be deducted from any retirement allowance that becomes payable. All deductions and payments, if any, in lieu of deductions are to be paid into the state treasury and deposited in the general fund. It shall be the duty of the executive director of the Minnesota state retirement system to record the contributions of each constitutional officer or commissioner and credit such contribution to such officer's or commissioner's account.

Subd. 2. (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a constitutional officer or commissioner and is not receiving, has not received, or is not entitled to receive any allowance or benefit under the provisions of sections 352C.01 to 352C.09 is entitled to receive upon application to the executive director of the Minnesota state retirement system a refundment of all contributions credited to his account without interest thereon. The moneys required for such refundments are appropriated annually to the director from the general fund in the state treasury.

(2) The refundment of contributions as provided in clause (1) above terminates all rights of a former constitutional officer or commissioner or his survivors under the provisions of sections 352C.01 to 352C.09. Should the former constitutional officer or commissioner again hold such office after having taken a refundment as provided above, he shall be considered a new member for all purposes and such refundment may not be repaid for any credit or benefit whatever.

(3) No person shall be required to apply for or accept a refundment.

[1967 c 700 s 9; 1969 c 399 s 1; 1974 c 445 s 15; 1976 c 329 s 9]

352C.091 ADMINISTRATION. Subdivision 1. The provisions of this chapter shall be administered by the Minnesota state retirement system.

Subd. 2. Laws 1976, Chapter 329, Sections 4 to 11 shall apply to constitutional officers in office on and after April 21, 1976.

[1976 c 329 s 10]