

## CHAPTER 422A

## RETIREMENT ALLOWANCES, MINNEAPOLIS

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**422A.01 DEFINITIONS.** Subdivision 1. For purposes of sections 422A.01 to 422A.25 the terms defined in this section shall have the following meanings.

Subd. 2. "City" means the city of Minneapolis.

Subd. 3. "Retirement allowance" means either a service allowance to which an employee may be entitled who retires from the city service after having attained the minimum established age for retirement or a "disability allowance" to which an employee may be entitled who retires from the city service as a result of disability before having attained the minimum age for retirement.

Subd. 4. "Annuity" means payments for life derived from contributions made by an employee, as provided in sections 422A.01 to 422A.25.

Subd. 5. "Pension" means payments for life derived from credits allowed and appropriations made by the city, as provided in sections 422A.01 to 422A.25.

Subd. 6. "Present worth" or "present value" means that the present amount of money if increased at an assumed rate of interest and mortality will at the time of retirement equal the cost of the annuity already earned.

Subd. 7. "Actuarial equivalent" means two or more settlements, annuities, or benefits that have the same present worth.

Subd. 8. "Established age" means the minimum age for retirement on a service allowance as specified by or pursuant to sections 422A.01 to 422A.25.

Subd. 9. "Public corporation" includes metropolitan airports commission, metropolitan waste control commission and municipal employees retirement fund.

Subd. 10. "Actuarial deficit" or "actuarial surplus" of an allowance or of allowances means the difference between the accrued liabilities to date of the allowance or allowances and the corresponding assets.

Subd. 11. "Employee" means any person not exempted from the contributing class, who is employed by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of city government or independently if financed in whole or in part by city funds, including any person employed by a public corporation as herein defined, and including any person employed by the Minneapolis school district, each of whom are not a member of any other retirement system, and also including any person employed by the county of Hennepin who has previously elected to retain his membership in the municipal employees retirement fund and is a contributing member of the fund.

Subd. 12. "Dependent" means a spouse, child, or any person actually dependent upon and receiving over 50 percent of his support from such employee.

Subd. 13. "Adjustable fixed-benefit annuity" means all retirement and disability payments made by the fund under the terms of sections 422A.01 to 422A.25 as adjusted from time to time. This does not include payments, if any, from sources other than participation in the Minnesota adjustable fixed-benefit fund.

[ 1973 c 133 s 1; 1974 c 422 art 2 s 7 ]

**422A.02 RETIREMENT BOARD; MEMBERS.** A retirement board of five members is hereby constituted which shall consist of the following:

- (1) Mayor;
- (2) The city comptroller or corresponding official;
- (3) The chairman of the ways and means committee of the city council or corresponding member of the chief governing body of the city; and
- (4) Two legally qualified voters of the city, residents thereof for the preceding five years, to be chosen by the employees as defined in sections 422A.01 to 422A.25 who are contributors to the retirement fund created by sections 422A.01 to 422A.25. The employees may form an association for that purpose and the employing authorities are authorized to make payroll deductions for the payment of dues to said association. The persons selected shall serve for staggered terms of two years from the first of the next succeeding January after their election, and until their successors are duly elected. Such selection shall be made by the employees during the first week of December of each year. Vacancies occurring by death, resignation, or removal of such representatives shall be filled by representatives chosen by the employees.

[ 1973 c 133 s 2 ]

**422A.03 MEETINGS; EMPLOYEES; RULES AND REGULATIONS.** Subdivision 1. The retirement board shall meet on the second Tuesday of each calendar month of each year and may adjourn from time to time. Special meetings may be held upon the call of the president. The board shall, by a four-fifths vote of all members of the board, appoint an executive secretary, who shall have charge of the performance of the duties required by the provisions of sections 422A.01 to 422A.25, and shall appoint other necessary clerical help. If at the time of his appointment as executive secretary the appointee holds a position subject to the civil service rules and regulations of the city he shall be deemed to be on leave of absence from such civil service position during his tenure as executive secretary, and upon termination of such service shall be returned to his permanent civil service classification. If no vacancy is available in his permanent civil service classified position, seniority shall prevail, and the person most recently certified to such position shall be returned to the permanent civil service classification held by him prior to such certification.

Subd. 2. The executive secretary may be removed by a four-fifths vote of all members of the board at a meeting called for such purpose. Before exercising the power of removal 15 days written notice shall be given to the executive secretary setting forth the cause for removal and stating the time and place where such charges will be heard. The hearing shall be open to the public. Other employees under the supervision of the board and employees appointed hereafter shall be subject to applicable civil service laws and rules of the city. The compensation of the executive secretary and the other employees under the supervision of the board shall be fixed by such board.

Subd. 3. At the regular meeting in January each year, the board shall elect one of its members as president, one member as vice president, and one member as recording secretary, who shall hold office for one year or until successors have been elected and qualified. The president shall preside at all meetings at which he is present. In the absence of the president the vice president shall preside and have all the powers of the president while acting as such. The recording secretary shall keep a record of all proceedings of the board, which shall be open to public inspection. At least one of the officers of the board shall be one of the representatives elected by the employees of the city to the board.

Subd. 4. Subject to the limitations of law, the board shall from time to time establish rules and regulations for the administration of the fund or funds created by sections 422A.01 to 422A.25 and for the transaction of its business. Roberts rules of order shall be the rules of order of the board except as otherwise specifically adopted.

Subd. 5. For the purpose of administration, except as otherwise herein provided, the executive secretary, under the direction of the board, shall perform any and all acts and make such regulations as may be necessary and proper for the purpose of carrying out the provisions of sections 422A.01 to 422A.25.

[ 1973 c 133 s 3 ]

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**422A.04 EXPENSES; REPORTS; RECORDS; POWERS.** Subdivision 1. The members of the retirement board shall serve without compensation but shall be reimbursed for any necessary expenditures and no employee shall suffer loss of salary or wages through serving on the board. Every member of the board shall take a similar oath of office as taken by employees of the city and such oath shall be subscribed to by each member and filed with the clerk of the city.

Subd. 2. The board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds and accounts created by sections 422A.01 to 422A.25. The board shall be governed by the provisions of chapter 356.

Subd. 3. The board shall prepare and keep all needful tables, records and accounts required for carrying out the provisions of sections 422A.01 to 422A.25, including data showing the mortality and disability experience of the officers and employees of the service and the date of withdrawal from such service, and any other information that may serve as a guide for future valuations and adjustments of the plan for the retirement of officers and employees. Mortality tables shall be adopted as a basis of calculation for retirement allowances, which tables may be modified from time to time.

Subd. 4. The board shall perform such other functions as are required for the execution of the provisions of sections 422A.01 to 422A.25. For the purposes of sections 422A.01 to 422A.25, the board shall possess the powers and privileges of a corporation, and as such may sue and be sued, and shall have the right to issue subpoenas and to compel the attendance of witnesses.

[ 1973 c 133 s 4 ]

**422A.05 TRUSTEE OF FUNDS.** Subdivision 1. Except as otherwise provided by law the members of the retirement board shall be the trustees of the several funds created by sections 422A.01 to 422A.25 and shall have exclusive control and management of these funds, and power to invest the same, subject to all the terms, conditions, limitations, and restrictions imposed by law upon savings banks in the making and disposing of their investments, except convertible bonds which may be purchased as to rating but subject to the eligibility limits imposed below for common or preferred stock. Subject to like terms, conditions, limitations, and restrictions, these trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which any of the funds created by sections 422A.01 to 422A.25 shall have been invested as well as the proceeds of the investments, and of the money belonging to these funds.

Subd. 2. In addition to other investments authorized by law, the board may invest in any one or all of the following:

(1) The preferred stocks of any domestic corporation, provided the net earnings of such corporation available for its fixed charges for five fiscal years next preceding the date of investment shall have averaged per year not less than one and one-half times the sum of its annual fixed interest charges, if any, its annual maximum contingent interest, if any, and its annual preferred dividend requirements; and during either of the last two years of such period, such net earnings shall have been not less than one and one-half times the sum of its fixed interest charges, if any, contingent interest, if any, and preferred dividend requirements for such year.

(2) The common stocks of any domestic corporation, provided that no more than three percent of the sum of the assets in the deposit accumulation fund plus the survivors benefit fund may be invested in common stocks that are not registered on a United States national stock exchange, and in addition, investments in common stock of banks, bank holding companies, trust companies and insurance companies shall not be subject to such three percent limitation, that such corporation shall have earned and paid cash dividends on its common stocks in each year for a period of five fiscal years next preceding the date of investment and provided that the aggregate earnings of such corporation available for payment of dividends on the common stock during the last five years must have been at least equal to the aggregate of such cash dividends. No investment shall be made in the common or preferred stock of any corporation with assets of less than ten million dollars.

No investment shall be made by the board in the common or preferred stock of any corporation for the deposit accumulation fund if the total amount so invested by the board exceeds an amount equal to 50 percent of the assets valued at cost. Convertible bonds valued at cost shall be considered common or preferred stock for pur-

poses of this limitation.

No investment shall be made by the board in the common or preferred stock of any corporation for any of the funds if the total common and preferred stock investment in that corporation exceeds (1) in amount, one and one-half percent of the assets of the fund, or (2) in number of shares, one percent of the total issued and outstanding shares of stock of such corporation.

Subd. 3. The board shall have authority:

(1) To make such loans and advances of credits and purchases of obligations, representing loans and advances of credit, as are insured by the federal housing administration, and to obtain such insurance;

(2) To make such loans secured by mortgages on real property, which the federal housing administrator has insured or made a commitment to insure, and to obtain such insurance;

(3) To enter into any and all agency agreements necessary to enable it to invest its funds in loans, advances of credit, and obligations insured by the federal housing administrator, or which he has made a commitment to insure and to enter into any agreement or arrangement with any other of the pension and retirement systems of the city for the joint handling of these securities;

(4) To provide for the prorating of part or all of the cost of making, handling or foreclosing of such mortgages against the earnings of such mortgages and to establish reserve accounts from such earnings to liquidate losses or future losses on such mortgages;

(5) To employ and dismiss agents, attorneys, appraisers, and others necessary for the proper handling or servicing of such mortgages and to fix their compensation or fee on such basis as it may see fit for such services rendered in connection with such mortgages; and

(6) To do any and all things necessary to carry out the provisions of sections 422A.01 to 422A.25 in the best interest of the funds.

Subd. 4. Upon request of the board on behalf of any contributing employee who has borrowed from the retirement fund under the federal housing administration insured mortgage system, the city shall provide for the repayment of such loan by deducting from such employee's monthly compensation.

Subd. 5. All payments from the funds created by sections 422A.01 to 422A.25 shall be made by the treasurer of the city only upon warrant signed by the executive secretary, or employee or other person appointed by the retirement board, and no warrant shall be drawn except by order of the board duly entered in the record of its proceedings, except that the board may create a revolving fund in such amount as may be necessary to be used for the purpose of withdrawals from the fund of excess contributions; refunds to employees upon their separation from the service and for such other purposes as may be determined by the board. The revolving fund herein provided for shall be periodically reimbursed by warrant drawn and signed as set forth herein. It shall be kept in the same bank or trust company as the city treasurer keeps other retirement funds. It shall be subject to withdrawal upon check signed by the executive secretary, or employee or other person appointed by the board. The revolving fund shall be considered funds of the city insofar as it is necessary to bring them within any bond or security furnished by such bank or trust company to protect the city against loss.

Subd. 6. The board may, in carrying out the provisions of sections 422A.01 to 422A.25, establish special funds supplementing individual contributions by the employees and to receive, invest, and disburse for such purpose all moneys in the form of donations, gifts, legacies, bequests, or otherwise which may be contributed by private individuals or corporations or organizations for the benefit of the city employees generally, or any special employee or class of employees of the city.

[ 1973 c 133 s 5 ]

**422A.06 RETIREMENT FUND.** Subdivision 1. **Creation; divisions of fund.** For the purposes of sections 422A.01 to 422A.25 there shall be a city municipal employees retirement fund, hereafter referred to as the retirement fund. The retirement fund shall be subdivided into (1) a deposit accumulation fund, (2) a participating share in the Minnesota adjustable fixed-benefit fund, (3) a survivor benefit fund, and (4) a disability benefit fund. Expense of administration of the retirement fund shall be paid

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from the deposit accumulation fund, less such amount as the retirement board may charge against income from investments as the cost of handling the investments of the retirement fund.

**Subd. 2. Actuarial valuations required.** At the end of each class year an actuarial valuation of the retirement fund shall be prepared and filed in conformance with the provisions and requirements of sections 356.21 to 356.23. Actuarial valuations shall be included in actuarial surveys at such times as an actuarial survey is required by statute or is ordered by the board.

**Subd. 3. Deposit accumulation fund.** The deposit accumulation fund shall consist of the assets held in such fund, increased by amounts contributed by or for employees, amounts contributed by the city, amounts contributed by municipal activities supported in whole or in part by revenues other than taxes and amounts contributed by any public corporation, and by income from investments. There shall be paid from such fund the amounts required to be transferred to the Minnesota adjustable fixed-benefit fund or the disability benefit fund, refunds of contributions, death benefits payable on death before retirement not payable from the survivors' benefit fund, retirement allowances granted pursuant to Laws 1965, Chapter 688, Laws 1969, Chapter 859, and expenses of administration.

**Subd. 4. Participation in the Minnesota adjustable fixed-benefit fund.** The municipal employees retirement fund shall participate in the Minnesota adjustable fixed-benefit fund. In that fund there shall be deposited the amounts provided in subdivision 5.

**Subd. 5. Valuation of assets; adjustments of benefits.** (a) For those members retiring pursuant to sections 422A.01 to 422A.25, assets equal to the required reserves as determined in accordance with a mortality table appropriate to the fund with an interest assumption of five percent, shall be transferred to the Minnesota adjustable fixed-benefit fund or the disability benefit funds as provided in subdivision 7, except for any amounts payable from the survivor benefit fund, as of date of retirement.

(b) Annuity payments shall be adjusted in accordance with the provisions of sections 422A.09 and 422A.15, except that no minimum retirement payments therein described shall include any amounts payable from the survivors' benefit fund or disability benefit fund and supplemented benefits specifically financed by statute.

(c) Notwithstanding the provisions of section 356.18 increases in annuity payments pursuant to this section will be made automatically unless written notice on a form prescribed by the board is filed with the retirement board requesting that the increase shall not be made.

(d) All annuities payable from the Minnesota adjustable fixed-benefit fund which are 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 3 1/2 percent bears to the actuarially computed reserve for such annuities determined by using an interest assumption of five percent. The reserves upon which such increases shall be based shall be the actuarially determined reserves for all Minnesota adjustable fixed-benefit fund annuities which were in effect on December 31, 1972, in accordance with the mortality assumptions then in effect and at interest assumptions of 3 1/2 percent and five percent. Such ratio of increase computed to the last full 1/100 of one percent shall be applied to all annuities payable from the Minnesota adjustable fixed-benefit fund which are in effect on June 30, 1973. Any additional annuity shall begin to accrue on July 1, 1973 and shall be considered as part of the base amount to be used in determining any increase which may become effective on January 1, 1974 under the provisions of section 11.25, subdivisions 12 and 13.

(e) All assets in the annuity stabilization reserve and suspense account shall be credited proportionately to the individual retirement funds' participation in the Minnesota adjustable fixed-benefit fund. Effective January 1, 1974 each participating fund in the Minnesota adjustable fixed-benefit fund, except the municipal employees retirement fund, shall increase the benefits in effect on June 30, 1973 by an amount that when added to the increase granted to such benefits effective July 1, 1973, equals 20 percent. The increase shall apply to accrual of benefits commencing January 1, 1974 and shall be in lieu of the adjustment provided by section 11.25, subdivisions 12 and 13 scheduled to take effect January 1, 1974. The municipal employees retirement fund of Minneapolis shall determine the increase if any in accrual of benefits commencing January 1, 1974, determined on the basis of its entire participation in the manner provided in section 11.25, subdivisions 12 and 13 as amended by Laws 1973, Chapter 7.

(f) The actuary for each participating fund shall calculate the reserve required to support the benefits in effect on June 30, 1973 as increase July 1, 1973 and herein. As of December 31, 1973, each participating fund shall transfer to or from the Minnesota adjustable fixed-benefit fund assets so that its participation equals the total of such required reserves and the reserve for benefits authorized on or after July 1, 1973. The increased benefits accruing as of January 1, 1974 shall be considered the "originally determined benefits" for the purpose of future adjustments.

Subd. 6. **Survivor's benefit fund.** The survivor's benefit fund shall consist of the amount held for survivor benefits, increased by contributions for survivor benefits made by and for employees, including contributions made by the employer, by any municipal activity supported in whole or in part by revenue other than taxes or by any public corporation, and by income on investments of such fund at the greatest multiple of one-tenth of one percent up to and including a maximum of the interest assumption rate provided for in subdivision 5. There shall be paid from such fund the survivor benefits specified in section 422A.23 except that the refund of net accumulated deductions from the salary of a contributing member shall upon his death in service be paid from the deposit accumulation fund.

Subd. 7. **Disability benefit fund.** (a) The disability benefit fund shall consist of amounts held for payment of disability allowances which become effective after December 31, 1973. For all disability allowances which become effective after such date assets equal to the present value of such allowances shall be transferred from the deposit accumulation fund to the disability benefit fund. A proportionate share of income from investments shall be allocated to this fund. There shall be paid from this fund the disability allowances which become effective after December 31, 1973.

(b) In the event of termination of any such allowance for any reason other than the death of the recipient, the present value of such allowance as of the date of termination shall be transferred from the disability benefit fund to the deposit accumulation fund.

(c) At the end of each year an actuarial valuation shall be made of allowances being paid from the disability benefit fund. Any excess of assets over actuarial reserves in the disability benefit fund shall be transferred to the deposit accumulation fund. Any excess of actuarial reserves over assets in the disability benefit fund shall be funded by a transfer of such excess from the deposit accumulation fund.

[ 1973 c 133 s 6; 1973 c 770 s 1; 1974 c 76 s 1-5 ]

**422A.07 CITY TREASURER CUSTODIAN OF FUNDS; DEPOSITORIES.** The city treasurer shall be the custodian of the funds created by sections 422A.01 to 422A.25. For the purpose of meeting disbursements for retirement allowances and other payments in excess of the receipts, there may be kept an available fund, not exceeding ten percent of the total amount in the several funds created by sections 422A.01 to 422A.25 on deposit in any bank in the city, organized under the laws of the state of Minnesota or under the laws of the United States, or with any trust company incorporated under any law of the state of Minnesota; provided the bank or trust company shall furnish adequate security for the funds and that the sum so deposited in any one bank or trust company shall not exceed 25 percent of the paid-up capital and surplus of the bank or trust company.

Except as herein provided, no trustee or any person connected with the retirement board shall have any interest direct or indirect in the gains or profits of any investment made by the board, nor, as such directly or indirectly receive any pay or emoluments for his services. No trustee or person connected with the board directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same, except to make such current and necessary payments as are authorized by the board; nor shall any trustee or person connected with the board become an endorser or surety or become in any manner an obligor, for moneys loaned or borrowed of the board.

[ 1973 c 133 s 7 ]

**422A.08 FINANCING OF CITY'S CONTRIBUTION.** Subdivision 1. Interest as provided in sections 422A.01 to 422A.25 and the payment of all pensions, annuities, retirement allowances, refunds and death benefits granted by the retirement board under the provisions of sections 422A.01 to 422A.25 are hereby made obligations of the city. All income, interest and dividends derived from deposits and investments authorized by sections 422A.01 to 422A.25 shall be placed to the credit of the retirement

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fund.

Subd. 2. Prior to August 31 of each year the retirement board shall prepare an itemized statement of its financial requirements from tax revenue for the succeeding fiscal year. A copy of the statement shall be submitted to the board of estimate and taxation and to the city council prior to September 15 of each year. This statement shall include:

(1) An estimate of the administrative expense of the board less:

(a) Such amount as the board may charge against the interest income account of the fund as cost of handling the investment securities of the fund.

(b) The cost of handling the retirement benefits of any city-owned public utility, improvement project, or other municipal activities supported in whole or in part by revenues other than taxes.

(c) The cost of handling the retirement benefits of any public corporation and its employees who have availed themselves of the provisions of sections 422A.01 to 422A.25.

(2) An estimated amount not to exceed 7 1/4 percent of the salaries and wages of all employees covered by the retirement fund less any amounts contributed for current cost of future retirement benefits by any city-owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than taxes, or any public corporation.

(3) The estimated amount to meet the requirements of section 422A.06, subdivision 3, less any amounts contributed for this purpose by any city-owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than taxes, or any public corporation.

(4) The cost of all monthly survivor's benefits provided in section 422A.23 as an obligation of the city and any of its boards, departments, commission or public corporations as therein provided, less any amounts contributed for this purpose by any city-owned public utility, improvement project, other municipal activities supported in whole or in part by revenues other than taxes, or any public corporation.

(5) Such other levies and financing as are required by law.

(6) The total of items 1, 2, and 3 above shall be increased or decreased as the case may be by any deficiency or excess of the amount of tax revenue actually collected within the preceding fiscal year under or over the amount actually determined to meet the financial requirements of the fund for such year. In no event shall the amount requested for levy exceed the total of entry age normal cost, less the amounts contributed by the employees, plus administrative expense, interest on the actuarial deficit at the rate of five percent per annum, an amount necessary to reduce the principal amount of the actuarial deficit in equal installments by the year 1997, plus interest upon any deficiency from the previous year's levy at the rate of four percent per annum. This limit does not apply to the requirements for survivors benefits provided in section 422A.23 nor to any levy which is administered by the retirement board pursuant to special act.

Subd. 3. The city council or any board or commission may by proper action provide for the inclusion in the cost of operating any city-owned public utility and may include in the cost of any improvement project and other municipal activities supported in whole or in part by revenues other than taxes, the cost of the retirement benefits accruing under sections 422A.01 to 422A.25 for employees of such utility or employed on such improvement projects or other activities. Such costs shall be determined by the retirement board and the respective governing bodies having jurisdiction over financing such costs. The amounts so transferred to the retirement fund shall be deducted from the tax request hereinbefore outlined insofar as such amount shall be applicable to current and accrued requirements. The council may transfer to the retirement fund all or part of any sums now on hand which have been previously reserved for this purpose.

Subd. 4. Except as provided in this subdivision, no appropriation shall be made to pay the cost of retirement allowances or other benefits granted to employees of a public corporation who have elected to avail themselves of the benefits of this section. The cost of retirement allowances and other benefits inuring to such employees shall be an obligation of and paid by such public corporation. At such time as the retirement board shall fix and determine, such public corporation shall pay to the retire-

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ment fund the amount certified to such corporation by the retirement board as the cost of the retirement allowances and other benefits accrued and owing for the employees of such corporation. Any employee of a public corporation who was an employee of the city prior to his employment by the public corporation, and who was a member of or had accrued benefits in an organized retirement fund of the city, shall be allowed credit in the retirement fund for such employment with the city in the same manner as though he had continued in the service of the city. The cost of that portion of the retirement allowance or other benefits accrued while the employee was in the service of the city shall be an obligation of the city, and a tax shall be levied and collected to discharge such obligation as herein provided.

Subd. 5. Any contributor or retired employee who prior to entering the service of the city was an employee of a public corporation, shall be allowed credit in the retirement fund for employment by such public corporation in the same manner as though the service had been rendered to the city. Before receiving credit for service rendered to a public corporation as herein set forth, the contributing or retired employee shall make application therefor in writing to the retirement board, and shall contribute to the retirement fund the amount which would have been contributed had the employee been a contributing member of the fund during the time such service was rendered to the public corporation, plus four percent compound interest to date of payment or date of retirement, such amount to be determined by the retirement board.

Subd. 6. It shall be the duty of the city council, in addition to all other taxes levied by such city, to annually levy a tax for the purposes set forth in sections 422A.01 to 422A.25, and such tax when levied shall be extended upon the county lists and collected and enforced in the same manner as other taxes levied by the city are extended, collected and enforced. In the event the city council does not levy the tax in accordance with this section, the retirement board shall submit such statement directly to the county auditor who shall levy the tax, and such tax when levied shall be extended upon the county lists and collected and paid into the city treasury to the credit of the retirement fund, which shall constitute and remain a special fund and shall be used only for the payment of obligations created pursuant to the provisions of sections 422A.01 to 422A.25.

[ 1973 c 133 s 8; 1973 c 770 s 2; 1974 c 73 s 2 ]

**422A.081 FINANCING RETIREMENT BENEFITS.** Notwithstanding any law to the contrary, for taxes levied in 1976 and payable in 1977 and thereafter, levies for the cost of the financial requirements of the municipal employees' retirement fund under sections 422A.01 to 422A.25 for employees of the Minneapolis school district are disallowed except as provided in this section and the school district shall assume these costs. Beginning January 1, 1977, the school district shall pay to the retirement fund the amount of these costs for each year on the basis of an itemized statement of the employer's share of the financial requirements of the retirement board which are attributable to school district employees. The retirement board shall submit this statement to the school board prior to September 15, 1976 and September 15 of each year thereafter and the school district shall pay the retirement fund pursuant to this section at times designated by the retirement board. The school district may levy for its contribution pursuant to this section only to the extent allowed under section 275.125, subdivision 6a.

[ 1976 c 271 s 92 ]

**422A.09 CLASSIFICATION OF EMPLOYEES.** Subdivision 1. Employees of the city shall be divided into a contributing class and an exempt class.

Subd. 2. The contributing class shall consist of all employees not included in the exempt class, who become prospective beneficiaries of the fund created by sections 422A.01 to 422A.25.

A member of the contributing class who is granted a leave of absence without pay by his employer to serve as an employee or agent of a labor union primarily representing members of the contributing class may continue as a member of the contributing class during the period of such leave of absence by depositing each month with the fund the amount of the contribution of the employee as required by sections 422A.01 to 422A.25 which amount shall be the normal employee contribution.

The contributions referred to in this subdivision shall be based on the salary for the position or its equivalent held by the member immediately prior to such leave of absence subject to any adjustment thereof during the period of such leave.

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Subd. 3. The exempt class shall consist of:

(1) Employees who are members of any other organization or association of the city on behalf of which a tax is levied by the city for the purpose of paying retirement allowances to disabled or superannuated employees.

(2) Persons filling elective position. Provided that any elective officer holding an elective city office, excepting judges of a municipal court, shall, upon written application to the retirement board, be entitled to become a member of the contributing class of the fund, and after becoming a contributor to the fund be entitled to all benefits conferred upon employees of the contributing class except retirement on a service allowance, which shall be granted only upon completion of ten or more years of service.

All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, or member of an executive board or commission or any combination thereof. Persons who have served in elective positions which qualified them for membership in the fund prior to July 1, 1967, and who immediately thereafter hold elective office, first being appointed to that elective office in Hennepin county in which they served as an elected official, may retain or resume membership in the fund as an elective officer of the county. The county shall collect and pay to the retirement fund the employee contribution. The employer cost of allowances and benefits credited to an elected officer as set forth above shall be paid from the county revenue fund by the proper county officials upon certification of such costs by the retirement board in the same manner as prescribed in section 422A.08 for the payment of costs by public corporations. A tax shall be levied by Hennepin county to defray the cost of such retirement allowances which may be in addition to all other taxes levied by the county. Before receiving a retirement allowance, or any other benefit, any person who claims credit for service under this section shall contribute to the fund an amount equal to the amount of contributions to the fund which such person would have made had he been a contributor to the fund since the date he first became eligible for membership in the fund, in accordance with the method of contribution herein provided for, plus four percent compound interest.

(3) Persons serving without pay.

(4) Persons employed on a temporary basis, as laborers, doorkeepers, ticket takers, and attendants at the municipal auditorium, park recreation facilities, or like activities, employed less than 1000 hours, or its equivalent if employed on any other basis than an hourly basis, in any calendar year from January 1 to December 31, inclusive, provided that employees who are contributing members of the fund on July 1, 1959 shall not be affected by the exclusions contained in this section.

(5) A person who is exempted from the contributing class by Minnesota Statutes 1974, Section 422A.09, Subdivision 3, Clauses (4) and (5), but who is employed by and paid, in whole or in part, by the city or any of its boards, departments, or commissions, operated as a department of the city government or independently, if financed in whole or in part by city funds, including any person employed by a public corporation as herein defined, and including any person employed by the Minneapolis school district, each of whom are not a member of any other retirement system, who later becomes a contributing member of the fund may elect to qualify such time for credit by paying into the fund an amount equal to the amount of contributions to the fund which such person would have made had he been a contributor to the fund since the date he first qualified as an exempt member of the contributing class, in accordance with the method of contribution herein provided, plus four percent compound interest.

(6) Any person who is employed by the city or any of its boards, departments, commissions or a public corporation, as herein outlined, and is excluded from participation in the fund by paragraph (4) shall be separated from the service upon reaching the age of 65 regardless of the provisions of the veterans preference act.

[ 1973 c 133 s 9; 1973 c 770 s 3; 1974 c 76 s 6,7; 1976 c 130 s 2 ]

**422A.10 SALARY DEDUCTIONS.** Subdivision 1. There shall be deducted and withheld from the basic salary, pay or compensation of each employee in the contributing class, 7 1/4 percent of such salary, pay or compensation, except as hereinafter provided. The retirement board may increase the percentage rate of contribution to the retirement fund of any employee or employees for the purpose of establishing and maintaining on an actuarial basis a plan of insurance, survivors' benefits, or other type of benefit or benefits, the cost of which shall be paid out of such extra percent-

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age so authorized and deducted from the employee's compensation, except as herein-after provided. Any plan or plans so established and placed in operation may be amended from time to time, or may be abandoned, but if abandoned, any surplus remaining from the operation of a plan shall be the property of the fund, and shall be credited to the reserve for loss in investment account.

Subd. 2. Every employee to whom sections 422A.01 to 422A.25 applies who shall continue in the service after the passage of Laws 1919, Chapter 522, as well as every person to whom sections 422A.01 to 422A.25 applies who may hereafter be appointed to a position or place, shall be deemed to consent and agree to the deductions made and provided for herein, and payment with such reductions, for service, shall be a full and complete discharge and acquittance of all claims and demands for all services rendered by such person during the period covered by such payment; except his claim to the benefits to which he may be entitled under the provisions of sections 422A.01 to 422A.25.

Subd. 3. Subject to such terms and conditions and to such rules and regulations as the retirement board may adopt, any contributor from time to time may increase or decrease his rate of contribution to the retirement fund, but in no event shall the contribution be less than the minimum contribution specified in the provisions of sections 422A.01 to 422A.25.

[ 1973 c 133 s 10; 1974 c 73 s 2 ]

**422A.11 MILITARY SERVICE.** Subdivision 1. Any employee who engages in or has engaged in active service in time of war or other emergency declared by proper authority, in any of the military or naval forces of the state or of the United States, and returns to the employment of the city within 90 days following release from military or naval service, shall receive credit for such period of military service as herein-after provided as though actually employed by the city, provided such employee was a member of the contributing class of the retirement fund at the time of entrance into military service, or was a member of the exempt class at the time of his entrance into military service prior to December 31, 1945, or qualifies as a member of the exempt class as specified in section 422A.09, subdivision 3, clause (7), notwithstanding the provisions of the veterans preference act or any other law, rule or bylaw providing for credit for military service for pension purposes. Employees on leave of absence or lay-off at time of entrance into military service as herein provided shall be considered employees for the purpose of sections 422A.01 to 422A.25. Credit shall be granted for military service rendered, provided such credit shall not exceed six calendar years.

Subd. 2. Any employee who was a member of the contributing class of the fund at the time of his entrance into military service and who resigned from the service of the city and received a refund of his personal contribution to the fund and who is reemployed by the city and again becomes a contributing member of the fund shall receive credit for military service as provided by this section upon repaying to the fund the amount of the refund plus interest thereon at four percent compounded annually until fully paid and the further payment to the fund without interest of the amount his contribution would have totaled had he continued as a contributing member of the fund during the period of military service. No contribution shall be made by the city to the credit of an employee's account for the period of such military service.

Subd. 3. The retirement board shall determine and compute the amount of the contributions which said employee would have made to such fund if his employment had not been interrupted by military service. The amount so determined and computed shall constitute an obligation of and be paid by the city or public corporation, and shall be credited to the contribution account of such employee. In determining the amount of contributions that the employee would have made if he had not entered military service, consideration shall be given to the employment service of employees who did not enter military service with like classification, seniority rights, length of service, and other factors determining probable time of employment.

Subd. 4. In the event that such employee becomes separated from the service, except by retirement or death, prior to the expiration of five years subsequent to the date on which he was reinstated as an employee, such contribution may not be withdrawn by said employee, but shall be canceled and credited to the reserve for annuities account of this fund. If an employee returns to the service after being separated as provided herein, credit shall be granted upon payment of the separation refund re-

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quired by section 422A.22. In determining the five year period, there shall be included only time of actual employment.

[ 1973 c 133 s 11; 1974 c 76 s 8 ]

**422A.12 CREDITS; INDIVIDUAL RECORD.** Subdivision 1. The city comptroller or other person having supervision of the payment of salaries to employees shall cause the deductions to be withheld from all specific appropriations for the particular salaries or compensation from which the deductions are made and from all allotments out of lump sum appropriations for payments of such salaries or compensation for each fiscal year; and a record of these sums shall be entered to the credit of the various employees from whose salaries deductions have been made.

Subd. 2. At the close of each fiscal year there shall be credited within the deposit accumulation fund to accounts representing contributions by the municipality and to accounts representing the accumulated amount of each contributing employee in proportion to the average balance in each such account during said fiscal year, and computed on the balance at the end of each quarter, the amount of income from investments earned on the accumulated funds in possession of the board, after having deducted from the total of such income (1) the amounts otherwise required as interest for various allowances or purposes specified in sections 422A.01 to 422A.25 and (2) an amount to be set aside to liquidate actual or to amortize prospective losses on investments in the accumulation account. The net balance of the investment earnings to be so distributed shall be distributed at the greatest multiple of one-tenth of one percent up to and including a maximum of the interest assumption rate provided for in section 422A.06, subdivision 5 of all such accounts. Any excess then remaining from such investment earnings shall be credited to a reserve fund and be added to and distributed with the investment earnings of the next succeeding year. The amount that shall be set aside annually to liquidate past losses on investments or to create a reserve from which to liquidate future losses shall be such amount as the board may deem necessary for such purpose but not in excess of one mill on the dollar of the gross amount received as income on the cash and investments in the fund.

[ 1973 c 133 s 12; 1974 c 76 s 9 ]

**422A.13 RETIREMENT ALLOWANCES; WHEN PAID.** Subdivision 1. Any person who shall have been employed by the city and who shall have fulfilled the conditions in sections 422A.01 to 422A.25 specified shall be entitled to receive a retirement allowance, as set forth in sections 422A.01 to 422A.25.

Subd. 2. Subject to the limitations stated in sections 422A.01 to 422A.25, any employee in the contributing class who shall have been employed by the city for ten or more years and shall have attained the established age for retirement, or shall have been employed by the city for 30 or more years all as determined by the retirement board, shall be entitled to retire. Any employee in the contributing class shall be retired upon reaching the age of 65 regardless of the provisions of the veterans preference act and receive a service allowance as specified in sections 356.30, 356.32, or 422A.01 to 422A.25.

[ 1973 c 133 s 13; 1976 c 130 s 3 ]

**422A.14 APPLICATION; APPROVAL.** Subdivision 1. No disability benefit or retirement allowance shall be granted to any employee who may become eligible for retirement as provided in sections 422A.01 to 422A.25 until the employee, or one authorized to act in his behalf, shall have filed with the retirement board, in such form as may be prescribed by the board, an application for such allowance. No installment of any such allowance shall be paid for any period prior to the effective date of retirement.

Subd. 2. The board shall be allowed a period of 60 days from and after the filing of the application within which to approve the same and compute the amount of service or disability allowance to which the applicant is entitled. In the event a service or disability allowance is granted the same shall commence with the effective date of the retirement of the person entitled thereto.

[ 1973 c 133 s 14 ]

**422A.15 SERVICE ALLOWANCE; CONTRIBUTING EMPLOYEES.** Subdivision 1. Except as otherwise provided in subdivision 3, all contributing members subsequent to the effective date of this act who, at the time of retirement, shall have fulfilled the

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conditions necessary to enable them to retire, shall receive what shall be known as a "formula pension and annuity" equal to two percent for each year of allowable service for the first ten years and thereafter 2.5 percent per year of allowable service of his arithmetic average annual salary, wages or compensation from the city for any five calendar years out of the last ten calendar years of service except as provided for in section 422A.16, which may include the year in which the employee retires, as selected by the employee, multiplied by his years of service with the city. The formula pension and annuity shall be computed on the single life plan but subject to the option selections provided for in section 422A.17.

In order to be entitled to the formula pension and annuity herein provided for, the retiring employee at the time of cessation of employment and of actual retirement must have attained the age of 60 years or have been employed by the city not less than 30 years, or meet the qualifications provided for in section 422A.16, in addition thereto have contributed to the retirement fund at the percentage rate prescribed by the retirement law prior to the passage of this act on all salaries, wages, or compensation received from the city, and at the percentage rate of 7 1/4 percent on all salaries, wages or compensation received from the city subsequent to the effective date of this act. The years of service to be applied in the formula pension and annuity shall be found and determined by the retirement board, except that no credit shall be allowed for the year or years in which a back charge is owing at time of retirement and the earnings from such year or years shall not be used in determining the average annual salary.

Subd. 2. Voluntary additions to the employee's deposits made by the employee under the provisions of section 422A.10 may be withdrawn by the retiring employee or, with the approval of the retirement board, applied to the purchase of an additional annuity computed and determined by the actuary in accordance with the same assumptions used by the fund.

Subd. 3. In lieu of the formula pension and annuity, each contributing member on the effective date of this act who is eligible and who ceases to be employed and who qualifies for retirement shall have the option of electing to receive what shall be known as "the \$2 bill and annuity".

If a member of the contributing class makes the election herein provided for, he shall receive a minimum pension of \$2 per month for each year of service. The pension shall be the actuarial equivalent of the accumulated amounts of such annual installments as may be now or hereafter fixed and designated by law throughout the period of service of the retiring employee, not to exceed 25 years, accumulated to the date of retirement at four percent compound interest, and such extra credit to be furnished by the city as will produce such minimum pension of \$2 per month for each year of service. The pension shall be in addition to the annuity. The annuity shall be in the actuarial equivalent of the net accumulated contributions for the retiring employee, calculated at the date of retirement. For the purposes of sections 422A.01 to 422A.25 the "service allowance" for members of the contributing class shall consist of an "annuity" and a "pension".

The pension provided for herein shall be the actuarial equivalent of the accumulated annual installments of \$2 per month for each year of service. The sum of \$2 shall be computed under the single life plan, and subject to the same option selections provided for in section 422A.17. The pension and annuity provided for herein shall be first paid from the contributing member's own contributions and normal earned credits, plus interest, until such credits are exhausted.

Subd. 4. Except as otherwise provided in sections 422A.01 to 422A.25, the service of each contributing member shall be calculated from the date of original appointment. Said service shall include periods of service at different times and service for one or more departments, branches or independent boards of the city. In computing length of service of contributing employees for the purpose of sections 422A.01 to 422A.25, periods of separations from the service shall not be included, provided, that any contributing employee who heretofore or hereafter shall serve as a duly elected member of the Minnesota state legislature and who at the time of entrance into the service herein outlined was a contributing member of the retirement fund, shall receive credit for the time spent in such service as though actually employed by such city. In order to receive credit as herein outlined, such employee shall contribute to the retirement fund the amount that would have been contributed by him if actually employed by the city. The amount of salary, wages or compensation received by the

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employee immediately prior to entering the service herein set forth, shall be the dollar amount used in determining the contributions to be made to the retirement fund, and also the amount to be used in determining the arithmetical average annual compensation otherwise provided for in sections 422A.01 to 422A.25.

Subd. 5. All retirement allowances as herein provided shall be paid in monthly installments and checks shall be issued and mailed to the last known address of each beneficiary by the first business day of the month succeeding the month in which his or her allowance is authorized. Where a beneficiary is under legal guardianship, monthly installments may be paid to the guardian.

[ 1973 c 133 s 15; 1973 c 770 s 4-6; 1974 c 73 s 3 ]

**422A.16 RETIREMENT ALLOWANCE; DEFERRED COMPENSATION.** Subdivision 1. Any member of the contributing class who becomes permanently separated from the service of the city after 20 or more years of service to the city may, by an instrument in writing filed with the retirement board within 30 days after such separation becomes permanent, elect to allow his contributions to the fund to the date of separation to remain on deposit in the fund.

Subd. 2. A member of the contributing class on the effective date of this act who makes the election herein and in subdivision 1 provided for, may, upon attaining the age of 55 years, but before attaining the age of 65 years, or someone acting in his behalf may make application to receive such retirement allowance as is provided for in section 422A.15, subdivision 3, in the manner provided for by section 422A.17. Such retirement allowance shall be the actuarial equivalent of the city's contribution and the member's deposit, as they were on the date the separation becomes permanent, plus interest, as provided for in section 422A.12.

Subd. 3. If such contributing member dies before reaching the age of 65 years, or having attained the age of 65 years without having made the election provided for herein, the net accumulated amount of deductions from his or her salary, pay or compensation plus interest to his or her credit on date of death shall be paid to such person, or persons, as he or she shall have nominated by written designation filed with the retirement board, in such form as the retirement board shall require. If the employee fails to make a designation, or if the person or persons designated by the employee is not living to receive payment, the net accumulated amount of deductions from his or her salary, pay, or compensation, plus interest to the credit of such employee on date of death shall be paid to the employee's estate. The net accumulated city deposits shall be paid to a beneficiary designated by such contributing member in such form as the retirement board shall require, who shall be the surviving spouse, or surviving child, or children of such member. If there be no surviving spouse, or surviving child or children, deposits shall be paid to a person actually dependent on and receiving principal support from such member or surviving mother or father, or surviving brother or sister, or surviving children of the deceased brother or sister of such member.

If the beneficiary designated by the member is not one of the class of persons named in the preceding paragraph, such benefit from the accumulations of city deposits shall be paid in the following order: (1) to the surviving spouse, the whole thereof; (2) if there be no surviving spouse, to the surviving children, share and share alike; (3) if there be no surviving spouse or child, or children, to the dependent or dependents of the member, share and share alike; (4) if there be no surviving spouse, child, or children, or dependents, to the surviving mother and father, share and share alike; (5) if there be no surviving mother and father, to the surviving brothers and sisters of the member, in equal shares; (6) and if there be no surviving brothers and sisters, to the surviving children of the deceased brothers and sisters of the member, in equal shares; (7) and if there be no person named in this paragraph who survives the member, the accumulation of city deposits shall be canceled.

Subd. 4. A contributing member may, after electing to receive a retirement allowance as provided herein, make application to withdraw his deposit before reaching the age of 60 years, at which time that portion contributed by the city shall be canceled.

Subd. 5. If such deposit is withdrawn before retirement, the retirement rights shall be forfeited unless such employee returns to the service of the city and again becomes a contributing member to the fund and redeposits the amount withdrawn, plus four percent compound interest from date of withdrawal to date of reinstatement to

the service of the city.

Subd. 6. If a contributing member, after becoming permanently separated from the service of the city and after electing to receive a retirement allowance as provided herein, becomes totally and permanently disabled for any cause before reaching the age of 60 years, he shall be entitled to receive such disability allowance upon application to the retirement board and certified by the medical board provided in sections 422A.01 to 422A.25. Such disability allowance shall be the actuarial equivalent of the total credit to his account on the date application for such retirement allowance is made.

Subd. 7. Any member of the contributing class who becomes permanently separated from the service of the city after ten or more years of service for such city, and who is under the age of 60 years, may, by an instrument in writing, filed with the retirement board within 30 days after such separation becomes permanent, elect to allow his contributions to such fund to the date of separation to remain on deposit in such fund, and in such event he shall be entitled to receive a retirement allowance at age 60 or later, but before age 65, provided he, or someone acting in his behalf if he be incompetent, make written application for the retirement allowance provided for in section 422A.15, subdivision 1, in the same manner provided for in section 422A.17. The provisions of subdivisions 3, 4, 5 and 6 shall also apply to any member qualifying for benefits under this subdivision.

Subd. 8. Any person who was a member of the city municipal employees retirement fund and also a member of a plan administered by the director of the Minnesota state retirement system having a like provision or a member of the public employees retirement association or the teachers retirement association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for policemen or firemen shall be entitled when qualified to an annuity from each fund if his total allowable service in any two or more 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 any refundment received from the city municipal employees retirement fund has been repaid to that fund. The annuity from each fund shall be determined by the appropriate provisions of that fund except the provision requiring at least ten years allowable service in the respective system or association shall not apply for the purposes of this section provided the combined service in two or more of these funds equal ten or more years.

Subd. 9. Any member of the contributing class who becomes permanently separated from the service of the city under subdivision 8, may, by an instrument in writing, filed with the municipal employees retirement board within 30 days after such separation becomes permanent, elect to allow his contributions to such fund to the date of separation to remain on deposit in such fund, and in such event he shall be entitled to receive a retirement allowance at age 65, provided he, or someone acting in his behalf if he be incompetent, shall make written application for such retirement allowance in the same manner provided for in section 422A.17 and in accordance with the provisions of section 422A.15, subdivision 1 except for determining average annual salary. A member with more than five calendar years of service but less than ten calendar years may select any five calendar years of service to determine the average annual salary. A member with less than five years of service with the city shall use all earnings to determine the average annual salary.

If the contributing member dies before reaching the age of 65 years, or having attained the age of 65 years without having made the election provided for herein, the net accumulated amount of deductions from his or her salary, pay or compensation, plus interest, to his or her credit on date of death shall be paid to such person or persons as have been nominated by written designation filed with the retirement board, in such form as the retirement board shall require.

If the employee fails to make a designation, or if the person or persons designated by such employee pre-deceases such employee, the net accumulated credit to such employee's account on date of death shall be paid to such employee's estate.

The provisions of subdivisions 4, 5 and 6 shall also apply to any member qualifying for benefits under this subdivision, except for purposes of this subdivision the age referred to in subdivision 4 shall be 65 years.

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Subd. 10. All deferred allowances granted under this section shall be calculated as of the date of separation and shall be increased by the interest assumption rate provided for in chapter 356.

[ 1973 c 133 s 16; 1973 c 770 s 7-11; 1974 c 76 s 10,11; 1975 c 152 s 1 ]

**422A.17 RETIREMENT ALLOWANCE; OPTIONS.** At the time of his retirement any employee who is eligible to receive a service allowance may elect to receive his benefits in a retirement allowance payable throughout life or may on retirement elect to receive the actuarial equivalent at that time of his annuity, pension, or retirement allowance in a lesser annuity, or a lesser pension, or a lesser retirement allowance, payable throughout life, with the provisions that:

Option I. If the beneficiary dies before receiving in payments the present value of his annuity, pension, or retirement allowance, as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person, having an insurable interest in his life, as the beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

Option II. Upon the death of the beneficiary, his annuity, pension, or retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as the beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

Option III. Upon death of the beneficiary one-half of his annuity, pension, or retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as the beneficiary shall nominate by written designation duly acknowledged and filed with the retirement board at the time of retirement, or

Option IV. Other benefits shall be paid the beneficiary or such other persons as the beneficiary shall nominate, provided such other benefits shall be certified by the executive secretary of the retirement board to be of equivalent actuarial value and approved by the retirement board.

[ 1973 c 133 s 17 ]

**422A.18 DISABILITY ALLOWANCES.** Subdivision 1. Upon the application of the head of the department in which a contributing employee is employed, or upon the application of the contributing employee or of one acting in his behalf, the retirement board shall place the contributor on disability, provided the medical board, after a medical examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the retirement board that the contributor is physically or mentally incapacitated for the performance of further service to the city and recommend that the contributor be placed on disability.

The medical board shall consist of the city physician, a physician to be selected by the retirement board, and a physician to be selected by the employee. Disability of an employee resulting from injury or illness received in the performance of the duties of the city service shall be defined as duty disability. Disability incurred as a result of injury or illness not connected with the performance of such service shall be defined as non-duty disability. In order to be entitled to a retirement allowance for a non-duty disability an employee shall have rendered five or more years of service to the city.

Subd. 2. The amount of disability allowance under this section shall be the amount of service allowance to which the employee would be entitled under section 422A.15, notwithstanding the age requirements expressed therein; or the lesser of the following amounts: 50 percent of the final average compensation, or an amount equal to two percent of final average compensation for each year of allowable service for the first ten years, and thereafter 2.5 percent of final average compensation per year of allowable service, including in the latter assumed service between the date the disability occurred and the 60th birthday of the employee.

If, at the end of any fiscal year, interest is allocated to the disability benefit fund, at a rate greater than the rate specified in section 422A.06, subdivision 5, clause (a), the amount of any benefits payable from such fund that were in effect at the end of the previous fiscal year, shall be increased by the difference between the two rates of interest.

Subd. 3. Payment of any disability allowance authorized by sections 422A.01 to 422A.25, shall commence five months after date of application provided that the applicant has not been restored to duty. Such payment shall be retroactive to date of appli-

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cation and shall continue throughout the full period of the disability subject to the same optional selections as are provided for service allowances; provided that when a disability beneficiary shall have attained the minimum age for retirement on a service allowance the disability allowance shall be discontinued only as provided by the terms of the option selected. Any employee eligible for a disability allowance who is also entitled to an allowance under a worker's compensation act and/or resumes a gainful occupation shall be entitled to receive during the period of such compensation only that portion of the retirement allowance provided by this act which when added to such additional compensation does not exceed the salary of the employee at the time of disability.

Subd. 4. Once each year the retirement board may require any disability beneficiary while still under the established age for retirement to undergo medical examination by a physician or physicians designated by the retirement board, the examination to be made at the place of residence of the beneficiary or other place mutually agreed upon. Should the medical board report and certify to the retirement board that such disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, his allowance shall be discontinued and the head of the department in which the beneficiary was employed at the time of his retirement shall, upon notification by the retirement board of the report of the medical board, reemploy the beneficiary at a rate of salary not less than the amount of his disability allowance, but after the expiration of five years subsequent to the retirement of such beneficiary his restoration to duty, notwithstanding the recommendation of the medical board, shall be optional with the head of the department. Should any disability beneficiary while under the established age for retirement refuse to submit to at least one medical examination in any year by a physician or physicians designated by the medical board, his allowance shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all his rights in and to any retirement or disability allowance shall be forfeited.

Subd. 5. Upon application of any beneficiary under the established age for retirement drawing a pension or a disability allowance under the provisions of sections 422A.01 to 422A.25, approved by the retirement board, the beneficiary may be restored to active service by the head of the department in which the beneficiary was employed at the time of his disability. Upon the restoration of a beneficiary to active service his disability allowance shall cease.

Subd. 6. [ Repealed, 1975 c 152 s 4 ]

Subd. 7. The board shall establish rules and regulations for the determination of earnings for purposes of this section.

[ 1973 c 133 s 18; 1973 c 770 s 12; 1974 c 74 s 1,2; 1974 c 76 s 12; 1975 c 152 s 2; 1975 c 359 s 23 ]

**422A.19 RETIREMENT; CREDIT FOR SERVICE UNDER DISABILITY.** Where the city pays a disability allowance to any employee under any provisions of sections 422A.01 to 422A.25 and which provisions require the performance of services for any specified period immediately preceding the time of retirement to entitle an employee to a retirement allowance, the time during which any such person has heretofore received a disability allowance within such specified period immediately preceding retirement, by reason of any disability arising from an accident occurring in the course of his employment, shall be credited as service with the same force and effect as if he had actually performed service during such time.

[ 1973 c 133 s 19 ]

**422A.20 DEATH BENEFITS; DISTRIBUTION.** Subdivision 1. In all cases where the retirement board of the city pursuant to sections 422A.01 to 422A.25 is required to refund the net accumulated credits of any contributing employee standing to his credit on date of death, or to refund the balance remaining to the credit of a retired employee on the date of his death, who has retired under the Option I plan of retirement, the retirement board shall, at the written request of such employee filed with the retirement board prior to his death, or at the written request of a beneficiary filed with the retirement board after the employee's death, provide for the payment of such credits or balances or any portion thereof in monthly installments until such credits or balances are exhausted; provided that such beneficiary shall be of the class of persons permitted to receive a sum or sums standing to the credit of the employee at the time of his death.

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Subd. 2. The retirement board shall provide for the payment of annual interest on the credits or balances remaining on deposit at the same rate that is paid to contributing employees on accumulated salary deductions.

Subd. 3. Nothing in this section shall be construed to alter the method of determining the persons entitled to receive such refunds or the amount to be paid.

[ 1973 c 133 s 20 ]

**422A.21 RETIREMENT ALLOWANCES INCREASED.** Subdivision 1. The retirement board shall increase the retirement allowances hereafter paid of those employees who have retired or shall retire under the "\$2 bill and annuity" after January 1, 1973 by three 25 percent increases computed separately, each increase not to exceed \$300 per annum.

Subd. 2. Nothing in this section shall be construed to alter the method of computing and determining the amount of the retirement allowance as provided in sections 422A.01 to 422A.25, except the amount provided in subdivision 1 shall be paid in addition to any allowance authorized in sections 422A.01 to 422A.25.

[ 1973 c 133 s 21; 1973 c 770 s 13 ]

**422A.22 REFUNDS.** Subdivision 1. If an employee to whom sections 422A.01 to 422A.25 applies becomes absolutely separated from the service prior to attaining the minimum retirement age established in section 422A.13, the net accumulated amount of deduction from his or her salary, pay, or compensation, made for the purpose of accumulating a fund from which to pay retirement allowances, shall be returned to such employee, with interest. Any contributing employee who separates from a department, board or commission of the city whose employees are covered by a fund organized under sections 422A.01 to 422A.25, and becomes an employee of a department or board of the same city, whose employees are covered by a retirement fund or relief association by whatever name known, organized under any other law and supported in whole or in part by taxes on the same city, shall have the option of: (1) Retaining their membership in the fund organized under sections 422A.01 to 422A.25, regardless of the provisions of any law, rule, bylaw or other action requiring membership in any other retirement fund or relief association however organized.

(2) Transferring to the fund or association covering the employees of the department or board to which they are transferring, providing they are eligible for membership therein.

Any contributing employee who elects to transfer to another fund or association as herein provided, shall make such election within one year from the date of separation from the city service covered by this fund. If the contributing employee elects to transfer to another fund as herein provided, a refund of the net accumulated contributions made by such employee to the fund organized under sections 422A.01 to 422A.25, shall be returned to the employee with interest.

Subd. 2. Any person who has had 15 years or more of service as a member of the contributing class prior to July 1, 1967, and who separates from his then employment and becomes an employee or an elected or appointed official of Hennepin county, shall have the option of resuming or retaining his membership in this fund regardless of the provisions of any law which would otherwise require membership in some other retirement fund, or of taking any retirement allowance or refund to which he would otherwise be entitled upon separation. The election of such contributing member to so resume or retain his membership in this fund shall be made within three years from the date of separation by giving a written notice of such election to the retirement board and a copy thereof to the employing county, and provided further that such person who has separated from his employment with the city must have commenced his employment with Hennepin county within 30 days after such separation from employment with the city. The employer cost of the retirement allowances and all other benefits inuring to such member subsequent to his entering the service of said county shall be an obligation of and paid by the said county to the retirement fund upon certification of such costs by the retirement board in the same manner as provided in section 422A.08 for the payment of such costs by public corporations referred to therein. Any person who so elects to remain in this fund shall be entitled to all the benefits and subject to all the restrictions of sections 422A.01 to 422A.25.

Subd. 3. No employee of the city shall be eligible to be a member of or receive benefits from more than one fund of the city for the same service.

Subd. 4. Upon the death of a contributing member while still in the service of the city, and before reaching the compulsory age of retirement there shall be paid to such person or persons as he or she shall have nominated by written designation filed with the retirement board, in such form as the retirement board shall require, the net accumulated amount of deductions from his or her salary, pay or compensation including interest, to his or her credit on date of death. If the employee fails to make a designation, or if the person or persons designated by such employee pre-deceases such employee, the net accumulated amount of deductions from his or her salary, pay, or compensation including interest, to the credit of such employee on date of death shall be paid to such employee's estate.

Subd. 5. Upon reinstatement of a former employee to the service, credit for such past service or for any part thereof shall be granted only upon repayment of the amount of the separation refund, with interest, from the time of separation.

Subd. 6. Any person who has received a refund from the municipal employees retirement fund, and who is a member of a public retirement system included in section 422A.16, subdivision 8, may repay such refund with interest to the municipal employees retirement fund. If a refund is repaid to the fund and more than one refund has been received from the fund, all refunds must be repaid. Repayment shall be made as provided in sections 422A.01 to 422A.25.

[ 1973 c 133 s 22; 1973 c 770 s 14 ]

**422A.23 SURVIVOR BENEFITS.** Subdivision 1. If a contributing member dies after having been in the service ten or more years, and before actual retirement, as determined by the retirement board, the present worth of the city's annual installments of \$60 then to the credit of the contributing member, shall be paid to a beneficiary designated by such contributing member in such form as the retirement board shall require, who shall be the surviving spouse, or surviving child, or children of such member or, if there be no surviving spouse or surviving child or children, then to a person actually dependent on and receiving principal support from such member or surviving mother or father, or grandchildren, or surviving brother or sister, or surviving children of the deceased brother or sister of such member. If the beneficiary designated by the member is not one of the class of persons named in the preceding sentence, such benefit from the accumulation of city deposits shall be paid in the following order: (1) to the surviving spouse, the whole thereof; (2) if there be no surviving spouse, to the surviving children, share and share alike; (3) if there be no surviving spouse or child or children, to the dependent or dependents as those terms are herein defined, of the member, share and share alike; (4) if there be no surviving spouse, child or children, or dependents, to the surviving mother and father, share and share alike; (5) if there be no surviving mother and father, to the grandchildren, in equal shares; if there be no grandchildren, to the surviving brothers and sisters of the member, in equal shares; (6) if there be no surviving brothers and sisters, to the surviving children of the deceased brothers and sisters of the member, in equal shares; or (7) if there is none of the foregoing persons who survives the member, the accumulation of the city deposits shall be applied to the funeral expenses of the member.

Subd. 2. Upon the death of a contributing member after having been in the city service not less than 18 months but before the effective date of retirement, the board shall in lieu of the settlement hereinbefore provided pay to the surviving dependent spouse and/or dependent children of the member under the age of 18, or under the age of 22 if a full time student at an accredited school, college or university, and single, the following monthly benefit:

(a) Surviving spouse \$150 per month.

(b) Each dependent child \$100 per month. Payments for the benefit of any 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 a total of \$450.

Subd. 3. The spouse of a deceased member not legally separated or divorced, and who has not remarried, shall be entitled to the monthly benefit herein provided in any event for one year and each year thereafter unless such spouse has an income in excess of \$2400 for a 12-month period commencing with the first day of the month following the month in which the employee died, in which case all income in excess of

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\$2400 for the previous 12-month period shall be deducted on a monthly pro rata basis over the succeeding 12-month period at the rate of \$1 for each \$2 earned in excess of \$2,400. This process shall be continued for each succeeding 12-month period.

Subd. 4. [ Repealed, 1976 c 279 s 4 ]

Subd. 5. Benefits herein provided shall commence with the first day of the month following the month in which the employee dies and shall end with the last day of the month preceding the month in which eligibility ceases. Eligibility for the benefits herein provided shall be determined by the retirement board and its determination shall be final. Each beneficiary or parent or guardian of a dependent child or legal representative shall furnish such information as the board may deem necessary to determine eligibility for the benefits provided by this section, and failure to furnish such information shall be sufficient grounds for the discontinuance of such benefits. If the widow or widower of the deceased member becomes entitled to a retirement allowance by reason of his or her membership in this fund, such widow or widower shall receive such retirement allowance in addition to the widow's or widower's benefit to which he or she is entitled. The cost of all monthly survivor's benefits provided in this section shall be an obligation of the members and of the city and any of its boards, departments, commissions or public corporations as hereinafter provided.

Subd. 6. The retirement board shall create a reserve account for survivor's benefits from which shall be paid on an actuarial basis all such survivor benefits due and payable. The board shall cause an annual actuarial valuation of the survivor's benefit account to be made by the board's actuary, and shall reduce or increase the contribution rate of one fourth of one percent if and when it is actuarially determined that such rate is in excess of or less than the amount necessary to pay for 50 percent of the cost of the survivor benefits herein provided.

Subd. 7. If the contributing member dies after having been in the service of the city 20 or more years, and before the effective date of retirement, as determined by the retirement board, such board shall pay a monthly allowance for life to the designated beneficiary of such employee, providing such employee prior to the date of his death filed a written request therefor with the board on forms provided by such board. The monthly allowance herein provided for shall be the actuarial equivalent of a single life service allowance specified in section 422A.15, which would have been payable to the employee on the date of his death, notwithstanding the age requirement stated therein. For purposes of this section, the amount of excess contributions by the member shall not be included in the calculations in determining the monthly allowance. Persons receiving survivor benefits pursuant to the provisions of this subdivision on the effective date of this act, shall receive an increase of 35 percent of the monthly benefits they are then receiving.

Subd. 8. The beneficiary designated by the employee shall be the surviving spouse of such employee. If there is no surviving spouse, the designated beneficiary may be a dependent surviving child or dependent parent of such employee as dependency is defined in sections 422A.01 to 422A.25. If the beneficiary designated by the employee is not of the class of persons provided for in this subdivision, or if the designated beneficiary pre-deceases the employee, a refund shall be made as provided for in section 422A.22, in lieu of a life income. If the employee does not elect to designate a beneficiary to receive a life income as herein provided, the designated beneficiary, if of the class of persons set forth in this subdivision, may elect within 60 days after the date of death of the employee to receive a life income computed and determined as though the employee had retired on the date of his death under the option 2 plan of retirement, as provided for in sections 422A.01 to 422A.25, and had designated such person as his beneficiary.

Subd. 9. If any employee who has contributed to the survivor's benefit account as herein provided dies before the effective date of retirement on a service or disability pension and is not survived by a beneficiary eligible to receive a monthly allowance as herein provided, there shall be paid from the survivor's benefit account to a beneficiary designated by the employee a death benefit of \$750 if death occurs prior to the end of the employee's tenth year of service or of \$1500 if the employee had prior to his death completed ten or more calendar years of service. Upon reinstatement of a former employee to the service, credit for such past service or for any part thereof shall be granted only upon repayment of the amount of the separation refund, with in-

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terest, from the time of separation.

[ 1973 c 133 s 23; 1973 c 770 s 15; 1974 c 75 s 1-3; 1974 c 76 s 13; 1974 c 232 s 1; 1976 c 279 s 1,2 ]

NOTE: Laws 1976, Chapter 279, Section 5, reads:

"Sec. 5. Nothing in this act shall decrease or increase benefits paid as of the effective date of this act."

### 422A.24 ALLOWANCES NOT ASSIGNABLE OR SUBJECT TO EXECUTION.

None of the moneys mentioned in sections 422A.01 to 422A.25 shall be assignable either in law or equity or be subject to execution, levy, attachment, garnishment, or other legal process, nor shall any of the proceeds of payments due under sections 422A.01 to 422A.25 be subject to the inheritance tax provisions of this state upon transfer to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

[ 1973 c 133 s 24 ]

### 422A.25 CONTINUING APPROPRIATION, RIGHTS NOT IMPAIRED. All

money necessary to meet all transfers from account to account, from fund to fund, and from fund to beneficiaries and annuitants provided in sections 422A.01 to 422A.25, are hereby annually and from time to time appropriated. Nothing contained in sections 422A.01 to 422A.25 shall be construed as diminishing, limiting or modifying any vested right of an employee, annuitant or beneficiary to a retirement allowance, annuity or pension acquired under the law existing prior to May 1, 1975.

[ 1973 c 133 s 26; 1975 c 152 s 3 ]