

# MINNESOTA STATUTES 1977 SUPPLEMENT

## PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 353.01

### CHAPTER 353. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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#### 353.01 Definitions.

[For text of subds 1 and 2, see M.S.1976]

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

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

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

- (a) Persons employed for professional services where such service is incidental to regular professional duties.
- (b) Election officers.
- (c) Independent contractors and their employees.
- (d) Patient and inmate help in governmental subdivision charitable, penal and correctional institutions.
- (e) Members of boards, commissions, bands and others who serve the governmental subdivision intermittently.

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(f) Employees who hold positions of an essentially temporary or seasonal character, provided such employment does not continue for a period in excess of 120 working days in any calendar year. Immediately following the expiration of such 120 working days if such employees continue in public service and earn in excess of \$250 in any one calendar month, the department heads must then report all such employees for membership and must cause employee contributions to be made on behalf of such employees in accordance with section 353.27, subdivision 4, and they shall remain members until termination of public service.

(g) Part time employees who receive monthly compensation not exceeding \$250, and part time employees and elected officials whose annual compensation is stipulated in advance to be not more than \$3,000 per year, except that members shall continue their membership until termination of public service.

(h) Persons who first occupy an elected office after February 1, 1969, the compensation for which does not exceed \$150 per month.

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

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

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

(l) Chaplains and nuns who have taken a vow of poverty as members of a religious order.

(m) Full time students who are enrolled and are regularly attending classes at an accredited school, college or university; provided, no full time public employees shall be exempt under this paragraph and any such employees presently exempt hereunder shall become members as of July 1, 1976.

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

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

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

*[For text of subds 3 and 4, see M.S.1976]*

**Subd. 6. Governmental subdivision.** "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources, but does not mean any municipal housing and redevelopment authority organized under the provisions of sections 462.415 to

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462.711; or any port authority organized pursuant to chapter 458; or any soil conservation district organized pursuant to chapter 40; or any hospital district organized or reorganized prior to July 1, 1975 pursuant to legislation enacted by the 1959 legislature.

[For text of subds 7 to 14, see M.S.1976]

**Subd. 15. Dependent child.** "Dependent child" means any natural or adopted child of a deceased member, provided such child is (a) under the age of 18, (b) age 18 through 21 and a full time student, and in either case unmarried and dependent for more than one-half of his support upon such member at the time of death and for not less than 90 days prior thereto; provided, that the child of a deceased member, who at the time of his death was receiving total and permanent disability benefits pursuant to section 353.33, shall be deemed dependent if he was dependent upon the decedent for more than one-half of his support during the 90 days prior to the decedent's becoming totally and permanently disabled. It also includes any child of the member conceived during his lifetime and born after his death. It also means any dependent child who is the subject of adoption proceedings filed by a member, and who within two years after death of the member, by judgment and decree duly entered, is adjudged to be the adopted child of the deceased member; subject, however, to the qualifying conditions of age and dependency aforesaid and the dependency of the child hereunder shall date from the decree of adoption.

[For text of subds 16 to 33, see M.S.1976]

[ 1977 c 347 s 52,53; 1977 c 429 s 19-22 ]

**353.016** [ Repealed, 1977 c 429 s 65 ]

**353.018** [ Repealed, 1977 c 429 s 65 ]

**353.019** [ Repealed, 1977 c 429 s 65 ]

**353.022 Hennepin and Scott counties; soil and water conservation district employees.**

From and after July 1, 1977, employees of the Hennepin and the Scott soil and water conservation districts shall become coordinated members of the public employees retirement association, unless specifically excluded under section 353.01, subdivision 2b, and, notwithstanding section 353.01, subdivision 6, the districts shall be deemed governmental subdivisions for purposes of this chapter.

[ 1977 c 429 s 23 ]

**353.03 Board of trustees.**

**Subdivision 1. Management; composition; election.** The management of the public employees retirement fund is hereby vested in a board of trustees consisting of 15 members, who shall be known as the board of trustees. This board shall consist of three trustees, one of whom shall be designated by each of the following associations, Minnesota school boards association, League of Minnesota Cities, and Association of Minnesota Counties; nine area trustees, who shall be elected from the membership employed in one of the areas described below by the members employed in such area except members of the police and fire fund; one trustee who shall be a retired annuitant elected at large by other annuitants; and one trustee who is a member of the police and fire fund elected at large by the membership of the police and fire fund. The remaining trustee shall be elected prior to January 1 by the governing bodies of employee organizations, as defined in section 179.63, subdivision 5, representing association employees; provided that in making the election each employee organization shall have one vote for each association employee it represents. The respective governing bodies shall implement and administer a system for the election of this member and the filling of vacancies, and any dispute in the election process shall be resolved by the secretary of state. Elected trustees shall hold office for a term of four years. For seven days beginning December 1 of each year, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. An area candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund from the

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area of the candidate, a retired annuitant candidate, a nominating petition signed by 25 or more such annuitants, and a police and fire fund candidate, a nominating petition signed by 25 or more members of such fund. No nominee may withdraw his name from nomination after December 15. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members and annuitants ballots listing the candidates. No member may vote for more than one candidate but a blank line shall be provided for a write in vote. A ballot indicating a vote for more than one person shall be void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund shall be January 31. Except as provided in this section, all terms expire on January 31 of the fourth year, and the position shall remain vacant until the newly elected member is qualified. The ballot envelopes shall be so designed and the ballots shall be counted in such a manner as to insure that each vote is secret. For the purpose of electing the nine area trustees, the state shall be divided into three areas as follows: Area one shall include Anoka, Hennepin, Ramsey and Washington counties. Area two shall include Big Stone, Swift, Kandiyohi, Meeker and Wright counties and all counties south thereof, except counties in area one. Area three shall include all the remaining counties of the state. If any governmental unit is located in more than one area, place of employment shall be deemed to be in the area in which the main office of the governmental unit is located. Each year for three years one area trustee shall be elected to a four-year term from each area by the members employed in the respective areas. In the fourth year one trustee shall be elected at large by the police and fire fund membership and one trustee elected at large by the annuitants.

Notwithstanding the foregoing, however, in order to provide for a transition to regional elections, in the year 1978 only, a retired trustee shall be elected by the annuitants, and three trustees shall be elected from each of the three areas by the members of the area who may vote for only one candidate. The annuitant candidate receiving the most votes shall serve a three-year term, the candidate in each area receiving the largest number of votes shall serve a four-year term, the candidate in each area receiving the second largest number of votes shall serve a two-year term and the candidate in each area receiving the third largest number of votes shall serve a one-year term. The elections shall be supervised by the secretary of state. It shall be the duty of the board of trustees to faithfully administer the law without prejudice and consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers of the governmental subdivisions which aid in financing it and the public employees who are its beneficiaries.

*[For text of subds 1a and 2, see M.S.1976]*

Subd. 2a. [ Repealed, 1977 c 429 s 65 ]

*[For text of subds 3 to 5, see M.S.1976]*

[ 1977 c 429 s 18 ]

## 353.27 Public employees retirement fund.

*[For text of subds 1 to 3a, see M.S.1976]*

Subd. 4. **Employers reporting requirements; contributions; member status.** The head of each department is hereby directed to cause employee contributions to be deducted at least once each month from the salary of each member and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries, and at the same time to issue or approve one voucher for the aggregate amount of the employer contributions and the additional employer contributions for the same period of employment as that covered by the employee contributions, and to cause the same to be remitted within 15 days thereafter to the executive director. The head of each department shall, for each pay

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period in which employee contributions are deducted, submit to the association a salary deduction report, in the form prescribed by the board of trustees, showing (a) the legal names and the association membership numbers, listed in alphabetical or association membership number sequence, of all members; (b) the legal names of all new public employees and the effective dates of appointment; (c) the amount of each salary deduction; (d) the amount of salary from which each deduction was made; (e) effective dates of all terminations of public service on account of members and if such terminations were caused by death or retirement, there shall be inserted after such date the applicable word, "death" or "retirement"; and (f) effective dates of all temporary layoffs and leaves of absence and if such leaves are sick leaves, there shall be inserted after such date the words, "sick leave". Additionally, reports of contributions shall be accompanied by a membership enrollment form for each new employee in the form prescribed by the board, and it shall be the responsibility of department heads to obtain such enrollment forms from new employees for prompt submission to the association. The employers shall furnish such additional reports or punch cards as may be requested by the association executive director.

[For text of subds 7 to 13, see M.S.1976]

[ 1977 c 429 s 24 ]

### 353.29 Retirement annuity upon separation from public service.

[For text of subds 1 to 3, see M.S.1976]

Subd. 4. Application for annuity. Application for retirement annuity may be made by a member or by someone authorized to act in his behalf. Every application for retirement, in the form prescribed by the board of trustees, shall be substantiated in writing by proof of age of the employee.

[For text of subds 6 and 7, see M.S.1976]

Subd. 8. Annuities; payment; evidence of receipt. Payment of any annuity or benefit for a given month shall be mailed by the association to the annuitant, recipient of a disability benefit, or survivor, during the first week of the next ensuing month. Evidence of receipt of every warrant issued by the association in payment of an annuity or benefit shall be submitted by the payee thereof to the association quarterly, together with a written declaration that the annuitant or recipient of a disability benefit has or has not returned to public service; that the surviving dependent spouse has or has not remarried; and shall be furnished on forms provided by the executive director thereof, before the association shall pay to the annuitant, disability recipient, or survivor for the next ensuing month, the annuity or benefit to which he otherwise may be entitled.

[ 1977 c 429 s 25,26 ]

### 353.31 Survivor benefits.

[For text of subd 1, see M.S.1976]

Subd. 8. Accrual of benefits. All benefits under this section and survivor benefits otherwise provided in this chapter when payable to persons qualifying therefor shall accrue on the first day following the death of a "basic member" or annuitant, whichever is applicable. No payment may be made retroactively for more than 12 months prior to that month in which the application is filed, and no benefit shall accrue beyond the end of the month in which entitlement to such benefits has terminated.

[For text of subd 9, see M.S.1976]

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Subd. 11. [ Repealed, 1977 c 429 s 65 ]

[ 1977 c 429 s 27 ]

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

[For text of subds 1 to 5, see M.S.1976]

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

[For text of subd 9, see M.S.1976]

[ 1977 c 429 s 28 ]

### 353.33 Total and permanent disability benefits.

Subdivision 1. **Age, service and salary requirements.** After June 30, 1973 any member who becomes totally and permanently disabled before age 65 and after ten years of allowable service or after age 50 but before age 65 with five years of allowable service, whichever is sooner, shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's public service has terminated at any time, at least five of the required ten years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to a disability benefit.

[For text of subds 2 to 8, see M.S.1976]

Subd. 9. **Return to public service.** Any person receiving a disability benefit who is restored to active public service except persons receiving benefits as provided in subdivision 7, shall have deductions taken for the retirement fund and upon subsequent retirement have his retirement annuity based upon all allowable service including that upon which the disability benefits were based.

[For text of subd 11, see M.S.1976]

[ 1977 c 429 s 29,30 ]

### 353.36 Purchases of prior service credit.

Subd. 2. **Employee contributions; interest; matching payment.** A person who has at least one year of allowable service with the association and who has prior public service on which salary deductions were not taken for the retirement fund and who does not have the required minimum number of years of allowable service credit to qualify for an annuity, may apply for such annuity if otherwise qualified, and within 90 days thereafter purchase whatever period of said public service is necessary to bring his total allowable service credit to said minimum, provided that last service shall be purchased first. Such person may gain such allowable service credit by paying six percent of the salary covered under the law in effect at the time that such public service was performed, with interest thereon at the rate of six percent per annum compounded annually from the date first payable to the date payment is made, plus a matching amount, unless the employer agrees to pay said matching amount pursuant to subdivision 2a. An annuity shall accrue as provided in section 353.29, subdivision 7, but no annuity shall be paid until the applicant's payment is made in full for the prior public service; if said payment is not made within such

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90 days, the application for retirement shall be void.

[For text of subds 2a to 2c, see M.S.1976]

Subd. 2d. [ Repealed, 1977 c 429 s 65 ]

[ 1977 c 429 s 31 ]

### 353.37 Public re-employment of annuitant.

Subdivision 1. **Effect on annuity.** The annuity of a person otherwise eligible therefor under this chapter shall be suspended if he re-enters and as long as he remains in public service as a non-elective employee of a governmental subdivision, if his earned compensation for such service exceeds \$3,000 in any calendar year. The suspension of the annuity shall commence as of the first of the month in which the maximum permitted compensation is exceeded as herein provided, but shall not apply to any months in which the annuitant is not actually employed in non-elective service in a position covered by this chapter. Any annuitant of the association, who is elected to public office after his retirement shall be entitled to hold such office and receive his annuity otherwise payable from the public employees retirement association. Upon proper showing by an annuitant that this ineligibility no longer exists, the monthly annuity payments shall be resumed. Public service performed by an annuitant subsequent to his retirement under this chapter does not increase or decrease any annuity when payments thereof are resumed. The annuitant is not required to make any further contributions to the retirement fund by reason of this subsequent public service.

Subd. 1a. **Effect on proportionate annuity.** Notwithstanding section 356.32 or any other provision of law, persons employed by a governmental subdivision that requires termination of employment pursuant to a uniformly applied mandatory retirement policy or law in accord with said section may receive a proportionate annuity under said section, if qualified, even if they or others are employed as substitute employees after age 65. For the purpose of this section a substitute employee is one who earns less than \$3,000 in any calendar year.

[ 1977 c 429 s 32 ]

### 353.46 Savings clauses.

[For text of subd 1, see M.S.1976]

Subd. 1a. **Purchase of allowable service; annuity.** A person who purchased allowable service in the public employees retirement association for a period of time including June 30, 1957, but was not in fact a member of such association on June 30, 1957, shall not be entitled to receive retirement annuity computed under Minnesota Statutes 1957, Section 353.46, Subdivision 1, and laws amendatory thereto. This section shall have retroactive application to any such person receiving or found eligible by the district court to receive benefits calculated under section 353.46, subdivision 1, and laws amendatory thereto.

[For text of subd 2, see M.S.1976]

Subd. 3. [ Repealed, 1977 c 429 s 65 ]

[For text of subd 4, see M.S.1976]

[ 1977 c 29 s 33 ]

### 353.64 Membership; qualifications; police officer, fire fighter.

[For text of subds 1 to 4, see M.S.1976]

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Subd. 5. [ Repealed, 1977 c 429 s 65 ]

### 353.651 Retirement annuity upon separation from public service.

[For text of subds 1 and 2, see M.S.1976]

Subd. 3. **Retirement annuity formula.** The average salary as defined in subdivision 2, multiplied by two and one-half percent per year of allowable service for the first 20 years and two percent per year of allowable service thereafter, shall determine the amount of the "normal" retirement annuity. If the member has earned allowable service for performing services other than those of a police officer or fire fighter, the annuity representing such service shall be computed in accordance with sections 353.29 and 353.30.

[ 1977 c 429 s 34 ]

## CHAPTER 354. TEACHERS RETIREMENT ACT

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354.094	Extended leaves of absence. [New]	354.53	Military service credit.
354.10	Fund not subject to assignment or process; beneficiaries.	354.55	Options to certain members.
354.41	Teachers retirement association, eligibility for membership.	354.58	Supplemental retirement annuity.
354.42	Contributions by employer and employee.	354.66	Qualified part time teachers; participation in fund. [New]
354.43	Employer contributions, financing.	354.69	Information supplied by district. [New]
354.44	Retirement benefits.		

### 354.05 Definitions.

[For text of subd 1, see M.S.1976]

Subd. 2. **Teacher.** The word "teacher" includes any person who has rendered, is rendering, or shall hereafter render, service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state, located outside of the corporate limits of the cities of the first class, in the state universities, or in any charitable or state institution including penal and corrective institutions supported, in whole or in part, by public funds, or who has been engaged, is engaged, or shall hereafter be engaged, in educational administration in connection with the state public school system, including the state university system and state community college system, but excluding the university of Minnesota, whether the position be a public office or an employment, not including members of any general governing or managing board or body connected with such systems, or the officers of common, independent, special, or associated school districts, or unorganized territory. The term shall also include an employee of the teachers retirement association employed subsequent to July 1, 1969, and any nurse, counselor, social worker or psychologist who has rendered, is rendering or shall hereafter render service in the public schools as defined above or in state universities. The term shall also include any person who renders teaching service on a part time basis and who also renders other services for a school district. In such cases, the teachers retirement association shall have the authority to determine whether all or none of such combined employment will be covered by the teachers retirement association. The term does not mean any person who works for such school or institution as an independent contractor.

[For text of subds 3 to 24, see M.S.1976]

Subd. 25. **Formula service credit.** "Formula service credit" means any allowable service credit as defined in subdivision 13 except as provided in this subdivision: