

CHAPTER 354

TEACHERS RETIREMENT ACT

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354.05 DEFINITIONS.

[For text of subd 1, see M.S.1982]

Subd. 2. **Teacher.** "Teacher" includes any person who renders 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 as those cities were so classified on January 1, 1979, or 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 is 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 the 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 unless the employee is covered by the Minnesota state retirement system by virtue of prior employment by the association, and any nurse, counselor, social worker, therapist or psychologist who renders 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 the combined employment shall be covered by the teachers retirement association. The term does not mean any person who works for a school or institution as an independent contractor. The term shall not include any person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal comprehensive training and employment act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution. The term shall not include any person holding a part time adult supplementary vocational-technical school license who renders part time teaching service in a vocational-technical school if (1) the service is incidental to the regular nonteaching occupation of the person; and (2) the applicable vocational-technical school stipulates annually in advance that the part time teaching service will not exceed 300 hours in a fiscal year; and (3) the part time teaching service actually does not exceed 300 hours in a fiscal year. The term also shall not

include a person exempt from licensure pursuant to section 125.031 or any person who was excluded from membership prior to January 1, 1981 pursuant to Laws 1978, chapter 556, section 1 and Laws 1980, chapter 342, section 8, if the person annually certifies on a form prescribed by the executive director that the person has established and is contributing to an individual retirement account which is based on nonteaching employment.

[For text of subds 3 to 34, see M.S.1982]

Subd. 35. **Salary.** "Salary" means the compensation paid to a teacher excluding lump sum annual or sick leave payments and all forms of severance payments. Severance payments includes, but is not limited to:

- (a) payments to an employee to terminate employment;
- (b) payments, or that portion of payments, that are not clearly for performance of services to the employer; and
- (c) payments to an administrator or former administrator serving as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment within two years or less for compensation that is significantly different than the most recent contract salary.

[For text of subd 36, see M.S.1982]

History: 1983 c 148 s 1,2

354.06 BOARD OF TRUSTEES; MEMBERSHIP; DUTIES.

[For text of subd 1, see M.S.1982]

Subd. 2. The board shall annually elect one of its members as president. It shall elect an executive director, whose salary shall be as provided by section 15A.081, subdivision 1. The salary of the assistant executive director who shall be in the unclassified service, shall be set in accordance with section 43A.18, subdivision 3. The executive director shall serve during the pleasure of the board and be the executive officer of the board, with such duties as the board shall prescribe. The board shall employ all other clerks and employees necessary to properly administer the fund. The cost and expense of administering the provisions of this chapter shall be paid by the fund. The executive director shall be appointed by the board on the basis of fitness, experience in the retirement field and leadership ability. The executive director shall have had at least five years of experience on the administrative staff of a major retirement system.

[For text of subds 2a to 7, see M.S.1982]

History: 1983 c 299 s 29

354.094 EXTENDED LEAVES OF ABSENCE.

Subdivision 1. **Service credit contributions.** A member granted an extended leave of absence pursuant to section 125.60 or 136.88, except as provided in subdivision 1a or 1b, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave provided the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave which shall not exceed five years. Except as provided in subdivision 1a or 1b, the state shall not pay employer contributions into the fund for any year for which a member is on extended leave. The employee and employer contribu-

tions shall be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave shall be made on or before June 30 of each fiscal year for which service credit is received.

Subd. 1a. Exception for leaves since 1981-1982. Notwithstanding subdivision 1, the following provisions apply to elementary, secondary and area vocational-technical school teachers whose extended leaves begin in the 1981-1982, 1982-1983, or 1983-1984 school year:

(a) A member whose application states the intention to pay employee contributions into the fund, requests state payment of employer contributions, and is approved by the commissioner within the limits of section 125.60, subdivision 7, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which shall not exceed five years;

(b) The state shall pay employer contributions into the fund for a member described in clause (a) for no more than the first three years of the leave, provided the member who is on extended leave pays the employee contribution into the fund by the payment date specified in subdivision 1;

(c) A member whose application is approved as to the member's eligibility under section 125.60, subdivisions 1 and 2 but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and receive allowable service credit as provided in subdivision 1 if the member and the employing school board make the required employer contribution, in any proportion which they may agree upon, by the payment date specified in subdivision 1.

Subd. 1b. Pre-May 16, 1981 leave exception. Notwithstanding subdivision 1, the following provisions apply only to elementary, secondary, and area vocational technical school teachers whose extended leaves began in the 1978-1979, 1979-1980, or 1980-1981 school years:

(a) A member whose period of extended leave began on or before May 15, 1981, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which does not exceed five years;

(b) The state shall pay employer contributions into the fund for a member described in clause (a) of this subdivision for each year of the leave for which the member who is on extended leave pays the employee's contribution into the fund by the payment date specified in subdivision 1.

[For text of subs 2 to 6, see M.S.1982]

History: 1983 c 314 art 10 s 6-8

354.44 RETIREMENT BENEFITS.

[For text of subs 1 to 4, see M.S.1982]

Subd. 5. Resumption of teaching. Any person who retired under any provision of any retirement law applicable to schools and institutions covered by the provisions of this chapter and has thereafter resumed teaching in any school or institution to which this chapter applies shall continue to receive payments in accordance with the annuity except that during any year in which the person's

income from the teaching service is in an amount equal to or greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of 42 U.S.C., Section 403. In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable re-employment income maximum specified in this subdivision shall be deducted from the annuity payable for the year immediately following the year in which the excess amount was earned. After a person has reached the age of 70, the person shall receive the annuity in full regardless of the amount of income.

[For text of subs 6 to 8, see M.S.1982]

History: 1983 c 148 s 3

354.52 REPORTS.

[For text of subs 2 and 3, see M.S.1982]

Subd. 4. At least once each month, the chief administrative officer of each employing school district or managing body of schools and institutions to which the provisions of this chapter apply shall transmit all amounts due and furnish a signed statement indicating the amount due and transmitted, and shall transmit a statement containing such other information as the executive director shall require. Signing the statement shall have the force and effect of an oath as to the correctness of the amount due and transmitted. Any amount thus due and not transmitted shall accrue interest at the rate of six percent compounded annually commencing 15 days after the date first due until the amount is transmitted and shall be paid by the employing school district or other managing body. The state treasurer shall credit all money received or withheld pursuant to the provisions of this chapter to the fund and the reports and data received by the state treasurer from each reporting agency shall be available for the board. Any person wilfully failing to perform any of the duties imposed upon him by this section shall be guilty of a misdemeanor.

[For text of subd 5, see M.S.1982]

History: 1983 c 148 s 4

354.532 PAYMENT.

[For text of subs 1 to 3, see M.S.1982]

Subd. 4. **Time limitation on authority to make payment.** For the provisions of this section, the authority to make a lump sum payment or the agreement to make payments in installments over a period of not to exceed three years shall expire on July 1, 1987.

History: 1983 c 216 art 1 s 58

354.63 PARTICIPATION IN MINNESOTA POST-RETIREMENT INVESTMENT FUND.

[For text of subd 1, see M.S.1982]

Subd. 2. **Valuation of assets; adjustment of benefits.** (1) Effective July 1, 1973 for those members retiring pursuant to this chapter, the required reserves as determined in accordance with these sections shall be transferred to the Minnesota post-retirement investment fund as of the date of retirement. An appropriate annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1, will be used to determine the amount to be transferred.

(2) Annuity payments shall be adjusted in accordance with the provisions of section 11A.18. For the purpose of making these adjustments, members who retire effective July 1 shall be considered to have retired effective the preceding June 30. This section is applicable for persons who retired effective July 1, 1982 or later.

(3) Notwithstanding section 356.18, increases in annuity payments pursuant to this section will be made automatically unless written notice is filed by the annuitant with the teachers retirement association board requesting that the increase shall not be made.

History: 1983 c 148 s 5

354.66 QUALIFIED PART-TIME TEACHERS; PARTICIPATION IN FUND.

[For text of subds 1 to 3, see M.S.1982]

Subd. 4. **Retirement contributions.** Notwithstanding any provision to the contrary in this chapter relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher assigned to a part-time position pursuant to this section shall continue to make employee contributions to and to accrue allowable service credit in the retirement fund during the period of part-time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full-time basis provided that, except as provided in subdivision 4a, prior to June 30 each year the member and the employing board make that portion of the required employer contribution to the retirement fund, in any proportion which they may agree upon, that is based on the difference between the amount of compensation that would have been paid if the teacher had been employed on a full-time basis and the amount of compensation actually received by the teacher for the services rendered in the part-time assignment. The state shall make that portion of the required employer contributions to the retirement fund on behalf of the teacher that is based on the amount of compensation actually received by the teacher for the services rendered in the part-time assignment in the manner described in section 354.43, subdivisions 1 and 5. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354.42. Full accrual of allowable service credit and employee contributions for part-time teaching service pursuant to this section and section 354A.094 shall not continue for a period longer than ten years.

Subd. 4a. **Exception.** Notwithstanding the provisions of subdivision 4, a teacher whose assignment to a part-time position pursuant to this section is authorized by the commissioner within the limits of subdivision 9, shall continue to make employee contributions and to accrue allowable service credits in the retirement fund during the period of part-time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full-time basis. The state shall make the full required employer contributions to the retirement fund on behalf of the teacher in the manner described in section 354.43, subdivisions 1 and 5. The employee and employer contributions shall be based upon the rates of contribution prescribed by section

354.42. Full accrual of allowable service credit and employee contributions for part-time teaching service pursuant to this section and section 354A.094 shall not continue for a period longer than ten years.

[For text of subds 5 to 8, see M.S.1982]

Subd. 9. **Applications; limits.** For the 1983-1984 and 1984-1985 school years, a school district shall not assign a teacher to a part time teaching position qualifying for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section without applying for and receiving the authorization of the commissioner of education. In cooperation with the board of trustees of the teachers retirement association and the boards of trustees of the appropriate teachers retirement fund associations and within the limits of the amount appropriated for the purpose of this section, the commissioner of education shall approve or disapprove the applications from school districts for authorization to assign teachers to part time teaching positions qualifying for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section. The commissioner shall not approve more than 125 total applications pursuant to this section and section 354A.094 for participation in the fund in each of the 1983-1984 and 1984-1985 school years by teachers who intend to pay employee contributions and request full state payment of employer contributions. If more than 125 applications for any school year are received by the commissioner by March 15 of the preceding school year, the commissioner may decide which applications to approve according to the order of receipt, a method ensuring participation by teachers from the maximum possible number of districts, random allotment or any combination of these methods. Applications received by the commissioner after March 15 shall be considered for approval according to the order of receipt within the limits prescribed by this subdivision. The state board for community colleges and the state university board may within the limits appropriated to them for purposes of this section assign a teacher to a part time teaching position qualifying for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section without applying for and receiving the authorization of the commissioner of education.

[For text of subds 10 and 11, see M.S.1982]

History: 1983 c 314 art 10 s 9-11