

## CHAPTER 356

## RETIREMENT SYSTEMS, GENERALLY

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**356.001 PURPOSE OF PUBLIC PLANS.**

**Subdivision 1. Exclusive benefit of members and beneficiaries.** The public plans and funds specified in subdivision 4 are established to provide for the retirement of their members and to provide funds for the beneficiaries of members in the event of death of a member. The public plans and funds are established and shall be maintained for the exclusive benefit of the members and the beneficiaries of the members. Except as provided in subdivisions 2 and 3, no part of the moneys of the plans and funds shall revert to the plan or fund or be used for or diverted to purposes other than the exclusive benefit of the members or their beneficiaries.

**Subd. 2. Allowable expenses.** The necessary, reasonable, and direct expenses of maintaining, protecting, and administering the public plan or fund, as authorized in the laws governing the plan or fund, shall be considered as expenditures for the exclusive benefit of the members or their beneficiaries.

**Subd. 3. Effect of amendments or termination.** If a public plan or fund as defined in subdivision 4 is terminated or the plan or fund provisions are amended, no part of the moneys held in the plan or fund shall be used for or diverted to any purpose other than the exclusive benefit of the members or their beneficiaries, except as provided in this subdivision.

If a plan or fund is terminated, all affected members have a nonforfeitable interest in their benefits accrued and funded to date. The value of the accrued benefits to be credited to the account of each affected member shall be calculated as of the date of termination and the funding ratio of the plan or fund applied to the accrued benefit of each affected member.

The board of trustees of the plan or fund shall then, as soon as administratively feasible, pay each eligible member or beneficiary on behalf of a member the amount in the member's account in a lump sum. In the case of a member whose whereabouts is unknown, the board shall notify the member at the last known address by certified mail with return receipt requested advising the member of the member's right to a pending distribution. If the member cannot be located in this manner, the board shall establish a custodial account for the member's benefit in a federally insured bank, savings and loan association, or credit union in which the member's account balance shall be deposited. If the board receives proof of death of a member that is satisfactory to the board, the account balance shall be paid to the beneficiary of the member.

**Subd. 4. Covered plans and funds.** This section applies to all public pension and retirement plans and funds established pursuant to the laws of the state of Minnesota that receive contributions from moneys derived from taxation.

**Subd. 5. Construction.** Nothing contained in this section shall be construed to authorize, or otherwise imply, a legislative policy or intent favoring the termination of any plan or fund to which this section applies.

**History:** 1983 c 286 s 23

**356.216 CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.**

The provisions of section 356.215, governing the contents of actuarial valuations and experience studies shall apply to any local police or fire pension fund or relief association required to make an actuarial report under this section except as follows:

(1) in calculating normal cost and other requirements expressed as a level percentage of covered payroll, the salaries used in computing covered payroll shall be the maximum rate of salary from which retirement and survivorship credits and amounts of benefits are determined and from which member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 4, clause (7), the appropriate amortization target date specified in sections 69.77, subdivision 2, clause (2), or 69.773, subdivision 4, clause (b), shall be used in calculating the required amortization contribution;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 4, clause (10), the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members shall be reported; and

(4) actuarial valuations required pursuant to section 69.773, subdivision 2 shall be made at least every four years and actuarial valuations required pursuant to section 69.77 shall be made annually.

**History:** 1983 c 71 s 2

**356.30 COMBINED SERVICE ANNUITY.**

**Subdivision 1. Eligibility; computation of annuity.** (1) Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in subdivision 3, a person who has met the qualifications of clause (2) may elect to receive a retirement annuity from each fund in which the person has at least six months allowable service, based on the allowable service in each fund, subject to the provisions of clause (3).

(2) A person may receive upon retirement, in lieu of any augmentation of deferred annuities provided by laws governing the funds enumerated in subdivision 3, a retirement annuity from each fund in which the person has at least six months allowable service if

(a) the person has allowable service totaling ten or more years in any two or more of the enumerated funds;

(b) the person has at least six months of allowable service with the last such fund earned during the last period of employment; and

(c) the person has not begun to receive an annuity from any enumerated fund or the person has made application for benefits from all funds within a six-month period.

(3) The retirement annuity from each fund shall be based upon the allowable service in each fund, except that:

(a) The laws governing annuities shall be the law in effect on the date of final termination from the last public service under a covered fund.

(b) The "average salary" on which the annuity from each covered fund in which the employee has credit in a formula plan shall be based on the employee's highest five successive years of covered salary during the entire service in covered funds.

(c) The formula percentages to be used by each fund shall be those percentages prescribed by each fund's formula as continued for the respective years of allowable service from one fund to the next, recognizing all previous allowable service with the other covered funds.

(d) Allowable service in all the funds shall be combined in determining eligibility for and the application of each fund's provisions in respect to actuarial reduction in the benefit amount for retirement prior to normal retirement.

(e) The benefit amount payable for any allowable service under a nonformula plan of a covered fund shall not be affected but such service and covered salary shall be used in the above calculation.

(f) This section shall not apply to any person whose final termination from the last public service under a covered fund is prior to May 1, 1975.

(g) For the purpose of computing benefits under this section the formula percentages used by any covered fund shall in no event exceed two and one-half percent per year of service for any year of service or fraction thereof.

(h) Any period of time for which a person has credit in more than one of the covered funds shall be used only once for the purpose of determining total allowable service.

(i) If the period of duplicated service credit is more than six months, or the person has credit for more than six months with each of the funds, each fund shall apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all funds for the period.

(j) If the period of duplicated service credit is less than six months, or when added to other service credit with that fund is less than six months, the service credit shall be ignored and a refund of contributions made to the person in accord with that fund's refund provisions.

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

**History:** 1983 c 286 s 14

### **356.301 RECOGNITION OF MULTIPLE RETIREMENT FUND COVERAGE FOR DISABILITY BENEFIT ENTITLEMENT.**

Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in section 356.30, subdivision 3, in determining the length of service for the purpose of meeting the service requirement for entitlement for a disability benefit, but not for the purpose of establishing service credit for the calculation of the amount of a disability benefit, service covered by any retirement fund as defined in section 356.61, shall be recognized.

If the law governing any fund enumerated in section 356.30, subdivision 3 requires a specified length of allowable service under that fund since the last termination of covered employment to be eligible for a disability benefit, an employee transferring from a covered position under one fund to a covered position under another fund within a 30-day period shall be considered to have been employed continuously for the purpose of qualifying the employee for a disability benefit.

**History:** 1983 c 286 s 15

**356.61 LIMITATION ON PUBLIC EMPLOYEE RETIREMENT ANNUITIES.**

Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements or retirement plan contracts to the contrary, no person who has pension or retirement coverage by a public pension plan shall be entitled to receive a monthly retirement annuity or disability benefit which, at the time of commencement of the retirement annuity or disability benefit, exceeds the lesser of:

- (a) the amount of the final monthly salary of the person; or
- (b) one-twelfth of the amount of the annual benefit permitted by the terms of section 415 of the Internal Revenue Code with respect to a participant in a plan qualified under section 401(a) of the Internal Revenue Code, as amended through December 31, 1982.

A public pension plan is any Minnesota public pension plan or fund which provides pension or retirement coverage for public employees other than volunteer firefighters, including any plan or fund enumerated in sections 356.20, subdivision 2, or 356.30, subdivision 3, any local police or firefighter's relief association to which section 69.77 applies, or any retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained or supported by any governmental subdivision or public body whose revenues are derived from taxation, fees, assessments or from other public sources. Final monthly salary is the hourly rate of compensation received by the person on account of the most recent public employment for the final pay period occurring prior to retirement multiplied by 174.

The figure for the monthly retirement annuity or disability benefit to be used for the calculation of this limitation shall not include any reduction or adjustment required for retirement prior to the normal retirement age or required for the election of an optional annuity.

If the figure for the monthly retirement annuity or disability benefit exceeds the limit contained in this section, the annuity or benefit payable shall be reduced appropriately.

The managing board of each public pension plan from which a retirement annuity or disability benefit is payable shall, at the time that the retirement annuity or disability benefit commences, contact all other public pension plans to determine whether or not the recipient of the retirement annuity or disability benefit is also receiving or is entitled to receive a retirement annuity or disability benefit from any other public pension plan. If a person is entitled to receive or is receiving a retirement annuity or disability benefit from more than one public pension plan, all retirement annuities or disability benefits from all public pension plans shall be totalled in determining whether or not the limitation shall apply; provided however, that the limitation shall be based on the highest final monthly salary received by the individual from any plan. Any reduction in the amount of the retirement annuity or disability benefit required pursuant to this section shall be made by the public pension plan which provided retirement coverage for the most recent period of service.

**History:** 1983 c 286 s 16

**356.62 PAYMENT OF EMPLOYEE CONTRIBUTION.**

For purposes of any public pension plan, as defined in section 356.61, each employer shall pick up the employee contributions required pursuant to law or the pension plan for all salary payable after December 31, 1982. If the United States Treasury department rules that pursuant to section 414(h) of the Internal Revenue

Code of 1954, as amended, that these picked up contributions are not includable in the employee's adjusted gross income until they are distributed or made available, then these picked up contributions shall be treated as employer contributions in determining tax treatment pursuant to the Internal Revenue Code of 1954, as amended, and the employer shall discontinue withholding federal income taxes on the amount of these contributions. The employer shall pay these picked up contributions from the same source of funds as is used to pay the salary of the employee. The employer shall pick up these employee contributions by a reduction in the cash salary of the employee.

Employee contributions that are picked up shall be treated for all purposes of the public pension plan in the same manner and to the same extent as employee contributions that were made prior to the date on which the employee contributions pick up began. The amount of the employee contributions that are picked up shall be included in the salary upon which retirement coverage is credited and retirement and survivor's benefits are determined. For purposes of this section, "employee" means any person covered by a public pension plan. For purposes of this section, "employee contributions" include any sums deducted from the employee's salary or wages or otherwise paid in lieu thereof, regardless of whether they are denominated contributions by the public pension plan.

For any calendar year in which withholding has been reduced pursuant to this section, the employing unit shall supply each employee and the commissioner of revenue with an information return indicating the amount of the employer's picked-up contributions for the calendar year that were not subject to withholding. This return shall be provided to the employee not later than January 31 of the succeeding calendar year. The commissioner of revenue shall prescribe the form of the return and the provisions of sections 290.41 and 290.42 shall apply to the extent not inconsistent with the provisions of this section.

**History:** 3Sp1982 c 1 art 2 s 7; 1983 c 148 s 6; 1983 c 216 art 1 s 85

### **356.65 DISPOSITION OF ABANDONED PUBLIC PENSION FUND AMOUNTS.**

**Subdivision 1. Definitions.** For purposes of this section, unless the context clearly indicates otherwise, the following terms shall have the meanings given to them:

(a) "Public pension fund" means any public pension plan as defined in section 356.61 and any Minnesota volunteer firefighters relief association which is established pursuant to chapter 424A and governed pursuant to sections 69.771 to 69.776.

(b) "Unclaimed public pension fund amounts" means any amounts representing accumulated member contributions, any outstanding unpaid annuity, service pension or other retirement benefit payments, including those made on warrants issued by the commissioner of finance, which have been issued and delivered for more than six years prior to the date of the end of the fiscal year applicable to the public pension fund, and any applicable interest to the credit of:

(1) an inactive or former member of a public pension fund who is not entitled to a defined retirement annuity and who has not applied for a refund of those amounts within five years after the last member contribution was made;

(2) a deceased inactive or former member of a public pension fund if no survivor is entitled to a survivor benefit and no survivor, designated beneficiary or

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legal representative of the estate has applied for a refund of those amounts within five years after the date of death of the inactive or former member.

*[For text of subd 2, see M.S.1982]*

**History:** 1983 c 286 s 17

**356.71 REAL ESTATE INVESTMENTS.**

Notwithstanding any law to the contrary, any public pension plan whose assets are not invested by the state board of investment may invest its funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust.

**History:** 1983 c 291 s 1