

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

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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

356.01-356.14 [Obsolete]

356.15 [Renumbered 9.28]

356.16 [Obsolete]

356.17 [Renumbered 3.30]

356.18 REQUESTS FOR RELIEF AND RETIREMENT INCREASES.

Subdivision 1. No increase authorized by any law hereafter enacted, in any pension, annuity, or retirement paid by the public employees retirement association, the Minnesota state retirement system, the state teachers retirement fund, any police or firefighter's retirement fund or relief association, or from any relief association or retirement fund to which contributions are made from moneys derived from taxation, shall be paid to any pensioner, annuitant, or recipient unless that person first requests in writing that payment of the increase be made.

Subd. 2. [Repealed, 1981 c 224 s 276]

History: 1963 c 521 s 1; 1977 c 429 s 63; 1981 c 224 s 167

356.20 PUBLIC PENSION FUND FINANCIAL REPORTING REQUIREMENT.

Subdivision 1. **Report required.** The governing or managing board or administrative officials of the public pension and retirement funds enumerated in subdivision 2 shall annually prepare and file a financial report following the close of each fiscal year. This requirement shall also apply to any fund which may be a successor to any organization so enumerated or to any newly formed retirement fund or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations. The report shall be prepared under the supervision and at the direction of the management of each fund and shall be signed by the presiding officer of the managing board of the fund and the chief administrative official of the fund.

- Subd. 2. Covered public pension funds.**
- (1) State employees retirement fund.
 - (2) Public employees retirement fund.
 - (3) Teachers retirement fund.
 - (4) State patrol retirement fund.
 - (5) Minneapolis teachers retirement fund association.
 - (6) St. Paul teachers retirement fund association.

- (7) Duluth teachers retirement fund association.
- (8) Minneapolis employees retirement fund.
- (9) University of Minnesota faculty retirement plan.
- (10) University of Minnesota faculty supplemental retirement plan.
- (11) Judges retirement fund.
- (12) Any police or firefighter's relief association enumerated in sections 69.77, subdivision 1a or 69.771, subdivision 1.
- (13) Public employees police and fire fund.
- (14) Minnesota state retirement system correctional officers retirement plan.

Subd. 3. Filing requirement. Each financial report is a public record. A copy thereof or a synopsis containing the information required by this section shall be distributed annually to each member of the fund and to the governing body of each governmental subdivision of the state which makes employers contributions thereto or in whose behalf taxes are levied for the employers' contribution. A signed copy of each report shall be delivered not later than six months after the close of each fiscal year to the executive secretary of the legislative commission on pensions and retirement and to the legislative reference library.

Subd. 4. Contents of financial report. Each financial report required by this section shall include:

(1) An exhibit prepared according to applicable actuarial standards enumerated in section 356.215, and specified in rules adopted by the legislative commission on pensions and retirement by an approved actuary as defined in section 356.215, subdivision 6 showing the accrued assets of the fund, the accrued liabilities, including accrued reserves, and the accrued unfunded liability of the fund. The exhibit shall contain the certificate of an approved actuary certifying that the required reserves for any benefits provided under a benefit formula are computed in accordance with the Entry Age Normal Cost (Level Normal Cost) actuarial method and rules adopted by the legislative commission on pensions and retirement.

(a) Assets shown in the exhibit shall include the following items of actual assets:

- Cash in office
- Deposits in banks
- Accounts receivable:
- Accrued members' contributions
- Accrued employer contributions
- Other
- Accrued interest on investments
- Dividends on stocks, declared but not yet received
- Investment in bonds at amortized cost
- Investment in stocks at cost
- Investment in real estate
- Equipment at cost, less depreciation
- Other
- Total assets

(b) The exhibit shall include a statement of the unfunded accrued liability of the fund. If the assets of the fund exceed the liabilities, the excess shall be listed as surplus and indicated in the exhibit following the item of reserves.

(c) The exhibit shall include a footnote showing accumulated member contributions without interest.

(d) Current liabilities shown in the exhibit shall include the following items:

Current:

Accounts payable

Annuity payments

Survivor benefit payments

Refund to members

Accrued expenses

Suspense items

Total current liabilities

(e) The exhibit shall include an item for accrued necessary reserves which shall be listed as "total reserves required as per attached schedule." The attached schedule shall contain the owing information on the reserves required:

1. For active members
 - a. Retirement benefits
 - b. Disability benefits
 - c. Refund liability due to death or withdrawal
 - d. Survivors' benefits
2. For deferred annuitants
3. For former members without vested rights
4. For annuitants
 - a. Retirement
 - b. Disability annuities
 - c. Surviving spouses' annuities
 - d. Surviving children's annuities

5. In addition to the foregoing, if there are additional benefits not appropriately covered by the foregoing four items of reserves required, they shall be listed separately.

(2) An income statement on an accrual basis showing all income and all deductions from income for the fiscal year. The statement shall show separate items for employee contributions, employer regular contributions, employer additional contributions if provided by law, investment income, profit on the sale of investments, and other income, if any.

(3) A statement of deductions from income, which shall include separate items for benefit payments, retirement benefits, disability benefits, surviving spouse benefits, surviving children's benefits, refunds to members terminating employment, refunds due to death of members and due to death of annuitants, the increase in total reserves required, general administrative expense incurred, loss on sale of investments, and any other deductions.

(4) A statement showing appropriate statistics as to membership and beneficiaries of the fund, with indications of changes in the statistical data which may result from the current year's operation.

(5) Any additional statements or exhibits which will enable the management of the fund to portray a true interpretation of the fund's financial condition, except that the term "surplus" or the term "excess of assets" shall not be used except as otherwise specifically provided for in this section, nor shall any representation of assets and liabilities other than as provided for in this section be included in the additional statements or exhibits.

(6) A more detailed or subdivided itemization of any of the items required by this section, if the management of the fund so desires.

Subd. 4a. For any police or firefighter's relief association referred to in subdivision 2, clause (12), a financial report duly filed pursuant to and meeting the requirements of section 69.051 shall be deemed to have met the requirements of subdivision 4.

Subd. 5. [Repealed, 1984 c 383 s 5]

History: 1965 c 359 s 1; 1969 c 249 s 1; 1971 c 7 s 1-3; 1971 c 197 s 4; 1971 c 281 s 1,2; 1975 c 192 s 1,2; 1978 c 563 s 6-8; 1979 c 50 s 49; 1981 c 37 s 2; 1981 c 224 s 168; 1981 c 298 s 11; 1984 c 564 s 42

356.21 [Repealed, 1975 c 192 s 7]

356.211 [Repealed, 1975 c 192 s 7]

356.212 [Repealed, 1975 c 192 s 7]

356.215 ACTUARIAL VALUATIONS AND EXPERIENCE STUDIES.

Subdivision 1. **Definitions.** For the purposes of sections 356.20 to 356.23 the terms hereinafter defined have the meanings given:

(1) "Actuarial valuation" means a calculation to determine the normal cost and accrued liabilities of a benefit plan, according to a stated actuarial cost method and based upon stated assumptions as to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and a determination of the payment necessary to amortize over a stated period any unfunded accrued liability disclosed as a result of the actuarial valuation and resulting actuarial balance sheet of the benefit plan, and a determination of the payment necessary to prevent any increase in any disclosed unfunded accrued liability.

(2) "Experience study" means a report which furnishes experience data and an actuarial analysis which substantiate the actuarial assumptions on which valuations are based.

Subd. 2. **Requirements.** It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. In order to achieve this goal, the governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, shall cause to be made annual actuarial valuations and quadrennial experience studies of their respective funds as herein provided. This requirement shall also apply to any fund which may be a successor to any organization enumerated in section 356.20, subdivision 2, or to any newly formed retirement fund or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund coming within the provisions of section 356.216.

Subd. 3. **Reports.** The actuarial valuations required annually shall be made as of the beginning of each fiscal year. Two copies of each valuation shall be delivered to the executive secretary of the legislative commission on pensions and retirement and to the legislative reference library, not later than the first day of the sixth month occurring after the end of the previous fiscal year. Every fourth year occurring after 1975, two copies of an experience study covering four fiscal years shall be filed with the executive secretary of the legislative commission on pensions and retirement and to the legislative reference library, not later than the first day of the sixth month occurring after the end of the last fiscal year of the period which the experience study covers.

Subd. 4. **Actuarial valuations; contents.** Actuarial valuations shall be made in conformity with the requirements of the definition contained in subdivision 1 and rules adopted by the legislative commission on pensions and retirement. Each

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actuarial valuation shall measure all aspects of the fund in accordance with changes in benefit plans, if any, and salaries as will be in force during the ensuing fiscal year. Each actuarial valuation shall be in accordance with the entry age normal cost (level normal cost) method.

Each actuarial valuation required under this section shall include:

(1) For each fund providing any benefits under a benefit formula, the level normal cost of the benefits provided by the laws governing the fund as of the date of the valuation, computed in accordance with the entry age normal cost (level normal cost) method. The normal cost shall be expressed as a level percentage of the future payroll of the active participants of the fund as of the date of the valuation.

(2) The accrued liabilities of the fund which shall be equal to the present value of all benefits minus the present value of future normal costs calculated in accordance with the entry age normal cost method.

(3) For each fund providing benefits under the money purchase or defined contribution method, the member contributions accumulated at interest, as apportioned to members accounts, to the date of the valuation. These accumulations shall be separately tabulated in such manner as to reflect properly any differences in money purchase or defined contribution annuity rates which may apply.

(4) For funds governed by chapters 3A, 352, 352B, 352C, 353, 354, 354A, and 490, a preretirement interest assumption of eight percent, a post-retirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year. For all other funds, a preretirement interest assumption of five percent, a post-retirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.035 multiplied by the salary for the preceding year.

(5) Other assumptions as to mortality, disability, retirement, withdrawal, entry age and retirement age set at levels consistent with those determined in the most recent experience study completed pursuant to section 356.215, subdivision 5, and set forth in the valuation report.

(6) An actuarial balance sheet showing current and expected future benefit obligations, current and expected future assets, and the current and expected future unfunded liabilities. Specifically, the balance sheet shall be organized in the following manner:

Current and expected future assets			
Current assets			
Cash and equivalents		\$...	
Fixed income investments		...	
Equity investments		...	
Total current assets			\$...
Expected future assets			
Present value of expected			
future supplemental contributions		...	
Present value of future normal costs		...	
Total expected future assets			\$...
Total current and expected future assets			\$...
Current and expected future benefit obligations			
Current benefit obligations			
Actuarial value of benefit obligations on			
account of service rendered to date:			
For annuitants			
Retirement annuities		\$...	
Disability annuities		...	

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Surviving spouses' annuities	...	
Surviving children's annuities	...	
For former members without vested rights	...	
For deferred annuitants' benefits	...	
For active employees		
Retirement benefits	...	
Disability benefits	...	
Refund liability due to death or withdrawal	...	
Survivors' benefits	...	
Total current benefit obligations		\$...
Expected future benefit obligations		
Actuarial value of benefit obligations on account of future service for active employees	...	
Total current and expected future benefit obligations		\$...
Current unfunded liability		
(Total current benefit obligations less total current assets):		\$...
Current and future unfunded liability		
(Total current and expected future benefit obligations less total current and expected future assets):		\$...

For the purpose of this subdivision, the terms

(a) "expected future statutory supplemental contributions" means the sum of future employee and employer contributions at the rates specified in statute at the time the valuation is completed reduced by the present value of future normal costs; and

(b) "current assets" means the value of all assets at cost, plus one-third of any unrealized capital gains or losses, plus realized income, including realized capital gains or losses.

In addition to the above itemization of benefit obligations, separate items shall be shown for additional benefits, if any, which may not be appropriately included in the list shown above.

(7) In addition to the level normal cost, the additional annual contribution which would be required to retire the current unfunded accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 354, 354A, and 490, the additional contribution shall be calculated on a level percent basis by the established date for full funding which is in effect at the time of the valuation. The level percent additional contribution shall be calculated assuming annual payroll growth of 6.5 percent. For all other funds, the additional annual contribution shall be calculated on a level dollar basis.

If, after the first actuarial valuation date occurring after June 1, 1979, there has not been a change in any or all of the actuarial assumptions used for calculating the accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded accrued liability

of the fund, the established date for full funding for the first actuarial valuation made after June 1, 1979 and each successive actuarial valuation shall be the first actuarial valuation date which occurs after June 1, 2009.

If after the first actuarial valuation date occurring after June 1, 1979, there has been a change in any or all of the actuarial assumptions used for calculating the accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded accrued liability in the fund, the established date for full funding shall be determined using the following procedure:

(i) The unfunded accrued liability of the fund shall be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect prior to an applicable change;

(ii) The level annual dollar contribution or level percentage, whichever is applicable, which is needed to amortize the unfunded accrued liability amount determined pursuant to subclause (i) by the established date for full funding in effect prior to the change shall be calculated using the interest assumption specified in clause (4) in effect prior to the change;

(iii) The unfunded accrued liability of the fund shall be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect prior to the change;

(iv) The level annual dollar contribution or level percentage, whichever is applicable, which is needed to amortize the difference between the unfunded accrued liability amount calculated pursuant to subclause (i) and the unfunded accrued liability amount calculated pursuant to subclause (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective shall be calculated using the interest assumption specified in clause (4) in effect subsequent to any applicable change;

(v) The level annual dollar or level percentage amortization contribution pursuant to subclause (iv) shall be added to the level annual dollar amortization contribution or level percentage calculated pursuant to subclause (ii);

(vi) The period in which the unfunded accrued liability amount determined in subclause (iii) will be amortized by the total level annual dollar or level percentage amortization contribution computed pursuant to subclause (v) shall be calculated using the interest assumption specified in clause (4) in effect subsequent to any applicable change, rounded to the nearest integral number of years, but which shall not exceed a period of 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and which shall not be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect prior to the change; and

(vii) The period determined pursuant to subclause (vi) shall be added to the date as of which the actuarial valuation was prepared and the date obtained shall be the new established date for full funding.

(8) An analysis by the actuary explaining the increase or decrease in the unfunded accrued liability since the last valuation. The explanation shall subdivide

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the increase or decrease in unfunded accrued liability into at least the following parts:

(a) Increases or decreases in unfunded accrued liability because of changes in benefits;

(b) Increases and decreases in unfunded accrued liability because of each change, if any, in actuarial assumptions;

(c) Actuarial gains or losses resulting from any deviations of actual investment earnings, actual mortality rates, actual salary increase rates, actual disability rates, actual withdrawal rates and actual retirement rates from the assumptions on which the valuations are based;

(d) Increases or decreases in unfunded accrued liability because of other reasons, including the effect of the amortization contribution required under clause (7); and

(e) Increases or decreases in unfunded accrued liability because of changes in eligibility requirements or groups included in the membership of the fund.

(9) A tabulation of active membership and annuitants in the fund. If the membership of a fund is under more than one general benefit program, a separate tabulation shall be made for each general benefit program. The tabulations shall be submitted in the following form:

Annual

(a) Active members	Number	Payroll
As of last valuation date		
new entrants		
Total		
Separations from active service		
Refund of contributions		
Separation with deferred annuity		
Separation with neither refund nor deferred annuity		
Disability		
Death		
Retirement with service annuity		
Total separations		
As of current valuation date		
(b) Annuitants	Number	Annual Annuity Benefit
As of last valuation date		
New entrants		
Total		
Terminations		
Deaths		
Other		
Total terminations		
As of current valuation date		

The tabulation required under subclause (b) shall be made separately for each of the following classes of annuitants:

- (a) Service retirement annuitants
- (b) Disabled annuitants
- (c) Surviving spouse annuitants
- (d) Surviving children annuitants
- (e) Deferred annuitants

(10) A statement of the administrative expenses in dollars and also as a percentage of covered payroll.

(11) A summary of the principal provisions of the plan upon which the valuation is based.

Subd. 5. Experience study; contents. Each experience study shall contain an actuarial analysis which substantiates the actuarial assumptions on which the most recent actuarial valuation of the retirement fund or relief association was based, and shall also contain:

- (1) A statement of the average entry ages at which employment commences;
- (a) For all those currently active members at the date of the experience study.
- (b) Separately as to new entrants for each of the last five fiscal years.

(2) A statement of the average ages at which service retirements have taken place;

(a) For all service retirement annuitants living at the date of the experience study.

- (b) Separately as to new retirements for each of the last five fiscal years.

Subd. 6. Approved actuaries. Each actuarial valuation or experience study shall be made by an approved actuary. An approved actuary is an actuary who has not less than 15 years of service to major public employee pension or retirement funds, or who is a fellow in the society of actuaries, or any firm retaining such an actuary on its staff. Each valuation or experience study shall state that it has been completed in accordance with the provisions of sections 356.20 to 356.23.

History: 1975 c 192 s 3; 1978 c 563 s 9,10; 1979 c 184 s 1; 1981 c 224 s 169; 1984 c 564 s 43

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: 1978 c 563 s 11; 1981 c 224 s 170; 1983 c 71 s 2

356.22 INTERPRETATION.

Subdivision 1. No provision in sections 356.20 to 356.23 shall be construed to in any way limit any of the enumerated pension and retirement funds from

furnishing additional actuarial valuations or experience studies, or data and calculations, as may be requested by the legislature or any standing committee or the legislative commission on pensions and retirement.

Subd. 2. No provision in sections 356.20 to 356.23 shall be construed to preclude any public pension and retirement fund herein enumerated from requesting, or the legislature from providing for, the amortization of any deficit in a shorter time than by the established date for full funding as determined pursuant to section 356.215, subdivision 4, clause (7).

Subd. 3. The legislature or any committee or commission thereof now in existence or hereafter created which has assigned to it the subject of public pensions or public retirement plans may require actuarial valuations and experience studies in conformity with the provisions of sections 356.20 to 356.23 from any public pension and retirement fund, whether enumerated in sections 356.20 to 356.23 or otherwise.

History: 1965 c 359 s 3; 1975 c 192 s 4,5; 1979 c 184 s 2; 1981 c 224 s 171

356.23 OPTIONAL BASIS OR ASSUMPTIONS; SPECIFICATION.

In addition to the financial reports and actuarial valuations required by sections 356.20 to 356.23, the governing or managing board of the funds concerned may submit reports and valuations for distribution to the legislature or any of its commissions or committees on a different basis or on different assumptions than are specified in sections 356.20 to 356.23; provided the assumptions and basis of such reports and valuations are clearly set forth therein.

History: 1965 c 359 s 4; 1971 c 7 s 7; 1975 c 192 s 6; 1984 c 655 art 1 s 59

356.24 SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.

It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan which is established, maintained and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than to a supplemental pension plan which was established, maintained and operated prior to May 6, 1971, to any plan which provides solely for group health, hospital, disability or death benefits or to any plan which provides solely for severance pay as authorized pursuant to section 465.72 to a retiring or terminating employee. No change in benefits or employer contributions in any plan to which this section applies after May 6, 1971 shall be effective without prior legislative authorization.

History: 1971 c 222 s 1; 1980 c 600 s 7; 1981 c 224 s 172

356.25 LOCAL GOVERNMENTAL PENSION FUND PROHIBITIONS; EXCLUSIONS.

Notwithstanding any other provision of law or charter, no city, county, public agency or instrumentality, or other political subdivision shall, after August 1, 1975, establish for any of its employees any local pension plan or fund financed in whole or in part from public funds, other than a volunteer firefighter's relief association established pursuant to chapter 424A and governed by sections 69.771 to 69.776.

History: 1975 c 405 s 1; 1977 c 429 s 63; 1981 c 224 s 173; 1984 c 655 art 1 s 60

356.26 MS 75Supp [Repealed, 1976 c 129 s 1]

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.

Subd. 2. **Repayment of refunds.** Any person who is employed in a position covered by one of the funds enumerated in subdivision 3 who has received a refund from any other of such funds may repay such refund to the respective fund under such terms and conditions as are consistent with the laws governing such other fund, except that he need not be a currently contributing member of the fund to which the refund is repaid at the time the repayment is made.

Subd. 3. **Covered funds.** The provisions of this section shall apply to the following retirement funds:

- (1) state employees retirement fund established pursuant to chapter 352;
- (2) correctional employees retirement program, established pursuant to chapter 352;
- (3) unclassified employees retirement plan, established pursuant to chapter 352D;
- (4) state patrol retirement fund, established pursuant to chapter 352B;
- (5) legislators' retirement plan, established pursuant to chapter 3A;
- (6) elective state officers' retirement plan, established pursuant to chapter 352C;
- (7) public employees retirement association, established pursuant to chapter 353;
- (8) public employees police and fire fund, established pursuant to chapter 353;
- (9) teachers retirement fund, established pursuant to chapter 354;
- (10) Minneapolis employees retirement fund, established pursuant to chapter 422A;
- (11) Minneapolis teachers retirement fund association, established pursuant to chapter 354A;
- (12) St. Paul teachers retirement fund association, established pursuant to chapter 354A;
- (13) Duluth teachers retirement fund association, established pursuant to chapter 354A.

History: 1975 c 232 s 1; 1981 c 37 s 2; 1981 c 298 s 11; 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: 1982 c 449 s 1; 1983 c 286 s 15

356.31 RESTORATION OF SURVIVOR BENEFITS.

Subdivision 1. **Restoration upon termination of remarriage.** Notwithstanding any provision to the contrary of the laws governing any of the retirement funds enumerated in subdivision 2, any person who was receiving a surviving spouse's benefit from any of such funds and whose benefit terminated solely because of remarriage shall, if the remarriage terminates for any reason, again be entitled upon reapplication to a surviving spouse's benefit; provided, however, that such person shall not be entitled to retroactive payments for the period of remarriage. The benefit shall resume at the level which such person would have been receiving if there had been no remarriage. This section shall apply prospectively to any person who first becomes entitled to receive a surviving spouse's benefit on or after May 18, 1975, and shall also apply retroactively to any person who first became entitled to receive a surviving spouse's benefit before May 18, 1975; provided, however, that no such person shall be entitled to retroactive payments for any period of time prior to May 18, 1975.

Subd. 2. **Covered funds.** The provisions of this section shall apply to the following retirement funds:

- (1) Public employees retirement fund, established pursuant to chapter 353;
- (2) Public employees police and fire fund, established pursuant to chapter 353;
- (3) State patrol retirement fund, established pursuant to chapter 352B;
- (4) Legislators' retirement plan, established pursuant to chapter 3A;
- (5) Elective state officers retirement plan, established pursuant to chapter 352C;
- (6) Teachers retirement fund, established pursuant to chapter 354;
- (7) Minneapolis employees retirement fund, established pursuant to chapter 422A.

History: 1975 c 183 s 1; 1981 c 37 s 2; 1981 c 298 s 11

356.32 PROPORTIONATE ANNUITY AT AGE 65.

Subdivision 1. **Proportionate retirement annuity.** Notwithstanding any provision to the contrary of the laws governing any of the retirement funds referred to in subdivision 2, any person who is an active member of any applicable fund, who has credit for at least one year but less than ten years of allowable service in one or more of the applicable funds, and who terminates active service pursuant to a mandatory retirement law or policy or at age 65 or older for any reason shall be entitled upon making written application on the form prescribed by executive director or executive secretary of the fund to a proportionate retirement annuity from each applicable fund in which the person has allowable service credit. The proportionate annuity shall be calculated under the applicable laws governing annuities based upon allowable service credit at the time of retirement and the person's average salary for the highest five successive years of allowable service or the average salary for the entire period of allowable service if less than five years. Nothing in this section shall prevent the imposition of the appropriate early retirement reduction of an annuity which commences prior to normal retirement age.

Subd. 2. **Covered funds.** The provisions of this section shall apply to the following retirement funds:

- (1) State employees retirement fund, established pursuant to chapter 352;
- (2) Correctional employees retirement program, established pursuant to chapter 352;
- (3) State patrol retirement fund, established pursuant to chapter 352B;
- (4) Public employees retirement fund, established pursuant to chapter 353;

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- (5) Public employees police and fire fund, established pursuant to chapter 353;
- (6) Teachers retirement fund, established pursuant to chapter 354;
- (7) Minneapolis employees retirement fund, established pursuant to chapter 422A;
- (8) Duluth teachers retirement fund association, established pursuant to chapter 354A;
- (9) Minneapolis teachers retirement fund association, established pursuant to chapter 354A;
- (10) St. Paul teachers retirement fund association, established pursuant to chapter 354A.

History: 1975 c 183 s 2; 1976 c 130 s 1; 1978 c 649 s 3; 1978 c 796 s 44; 1979 c 40 s 10; 1979 c 217 s 27; 1980 c 342 s 15; 1981 c 37 s 2; 1981 c 224 s 174; 1981 c 298 s 11

356.325 HENNEPIN COUNTY; CERTAIN EMPLOYEES; PROPORTIONATE ANNUITIES.

Employees and former employees of Hennepin county who were members of the public employees retirement association on May 1, 1975 and have at least three years but less than ten years of allowable service in such fund, or a combination of such fund and funds listed in Minnesota Statutes, 1975 Supplement, Section 356.32, Subdivision 2, shall be entitled to proportionate annuities under Minnesota Statutes, 1975 Supplement, Section 356.32, even if they are over 65 years of age. With respect to such persons who are over 65 years of age and whose public service terminated between May 1, 1975 and April 21, 1976, proportionate annuity payments may be made retroactive to January 1, 1976 or the date of termination of public service, whichever is later.

History: 1976 c 329 s 35

356.34 . [Repealed, 1978 c 781 s 13]

356.35 DEFINITIONS.

Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purpose of Laws 1976, Chapter 326, shall have the meanings subjoined to them.

Subd. 2. "Determinant date" means June 1, 1973, with respect to the state patrol retirement fund; June 27, 1973, with respect to permanent disability benefits, retirement annuities, and retirement allowance options II, III and IV paid to surviving spouses pursuant to Minnesota Statutes 1971, Section 422.08 provided by the Minneapolis employees retirement fund; April 25, 1959, with respect to survivor benefits paid to surviving spouses of contributing members provided by the Minneapolis employees retirement fund; January 1, 1970, with respect to the St. Paul teachers retirement fund; July 1, 1971, with respect to the Duluth teachers retirement fund; and July 1, 1973, with respect to all other covered retirement funds.

Subd. 3. "Plan participant" means the person receiving the permanent disability benefit or retirement annuity with respect to disabilitants and retired members of a covered fund; and the deceased member or deceased retired member on behalf of whom the survivor benefit or annuity is being paid with respect to surviving beneficiaries of a covered fund.

Subd. 4. "Years of retirement" means the number of years which have elapsed between:

(1) June 30 of the calendar year in which the earliest applicable event among the following occurred;

- (a) the commencement of the plan participant's permanent disability benefit,
- (b) the commencement of the plan participant's retirement annuity, or
- (c) the death of the plan participant, and

(2) July 1, 1976.

Subd. 5. "Covered retirement fund" means:

- (1) the state patrol retirement fund;
- (2) the public employees police and fire fund;
- (3) the public employees retirement fund;
- (4) the state employees retirement fund;
- (5) the teachers retirement fund;
- (6) the Minneapolis employees retirement fund;
- (7) the legislators' retirement plan;
- (8) the St. Paul teachers retirement fund; or
- (9) the Duluth teachers retirement fund.

History: 1976 c 326 s 1; 1981 c 37 s 2; 1981 c 298 s 11

356.36 PERMANENT DISABILITY BENEFITS AND RETIREMENT ANNUITIES; INCREASE; EXCEPTIONS.

Subdivision 1. Except as provided in section 356.38, any plan participant who began receiving a permanent disability benefit or a retirement annuity prior to the determinate date and is receiving a permanent disability benefit or a retirement annuity based on laws in effect prior to such date from a covered retirement fund or any combination of such funds shall receive, beginning with the first monthly benefit or annuity accruing after June 30, 1976, an increase in the benefit or annuity from each such fund as provided in subdivisions 2 and 3. Provided however, that no plan participant who is receiving a permanent disability benefit or a retirement annuity from the Minneapolis employees retirement fund in excess of \$300 per month shall be entitled to an increase in such benefit or annuity pursuant to Laws 1976, Chapter 326. Provided further, that no plan participant who is less than 70 years of age and is receiving a permanent disability benefit or a retirement annuity from the St. Paul teachers retirement fund shall be entitled to an increase in the benefit or annuity pursuant to Laws 1976, Chapter 326 until the plan participant attains the age of 70 years.

Subd. 2. In the case of permanent disability benefits and retirement annuities computed under the provisions of a "basic" retirement program, there shall be:

- (1) a \$4.50 increase in annual payments for each full year of allowable service earned by the plan participant in the respective covered retirement fund; and
- (2) a \$9 increase in annual payments for each year of retirement.

Subd. 3. In the case of permanent disability benefits and retirement annuities computed under the provisions of a "coordinated" retirement program, there shall be:

- (1) a \$1.20 increase in annual payments for each full year of allowable service earned by the plan participant in the respective retirement fund; and
- (2) a \$2.40 increase in annual payments for each year of retirement.

Subd. 4. In the case of a retirement annuity which is increased pursuant to this section and which may become payable to a surviving beneficiary after the death of the plan participant, the survivor annuity ultimately payable in such event shall

include only one-half the increase paid to the plan participant pursuant to this section.

History: 1976 c 326 s 2; 1981 c 298 s 11

356.37 SURVIVOR BENEFITS; INCREASE; EXCEPTIONS.

Subdivision 1. Except as provided in section 356.38, any person who is receiving a survivor benefit or survivor annuity based on laws in effect prior to the determinant date and is the surviving spouse of a plan participant who died or retired prior to such date; and any person who is receiving a survivor annuity based on laws in effect prior to the determinant date and is the named beneficiary of a plan participant who died or retired prior to such date; and any person who is receiving any combination of such benefits and annuities from a covered retirement fund or any combination of such funds shall receive, beginning with the first monthly benefit or annuity accruing after June 30, 1976, an increase in each such benefit or annuity as provided in subdivisions 2 and 3. Provided however, that no surviving spouse who is receiving an option II, III or IV survivor retirement allowance pursuant to Minnesota Statutes 1971, Section 422.08 provided by the Minneapolis employees retirement fund shall be entitled to an increase in such annuity pursuant to Laws 1976, Chapter 326 if the retirement annuity which was paid or payable to the plan participant was in excess of \$300 per month.

Subd. 2. In the case of survivor benefits and annuities computed under the provisions of a "basic" retirement program, there shall be:

- (1) a \$2.25 increase in annual payments for each full year of allowable service earned by the plan participant in the respective covered retirement fund; and
- (2) a \$4.50 increase in annual payments for each year of retirement.

Subd. 3. In the case of survivor benefits and annuities computed under the provisions of a "coordinated" retirement program, there shall be:

- (1) a \$.60 increase in annual payments for each full year of allowable service earned by the plan participant in the respective retirement fund; and
- (2) a \$1.20 increase in annual payments for each year of retirement.

History: 1976 c 326 s 3; 1981 c 298 s 11

356.371 APPLICATION FOR RETIREMENT ANNUITY; PROCEDURE FOR ELECTING ANNUITY FORM.

Subdivision 1. **Definitions.** As used in this section, the following terms shall have the meanings given.

(1) "Annuity form" means the payment procedure and duration of a retirement annuity or disability benefit available to a member of a public pension fund, based on the period over which a retirement annuity or disability benefit is payable, determined by the number of persons to whom the retirement annuity or disability benefit is payable, and the amount of the retirement annuity or disability benefit which is payable to each person.

(2) "Joint and survivor optional annuity" means an optional annuity form which provides a retirement annuity or disability benefit to a retired member and the spouse of the member on a joint basis during the lifetime of the retired member and all or a portion of the original retirement annuity or disability benefit amount to the surviving spouse in the event of the death of the retired member.

(3) "Optional annuity form" means an annuity form which is elected by a member and is not provided automatically as the standard annuity form of the public pension fund.

(4) "Public pension fund" means a public pension plan as defined pursuant to section 356.60, subdivision 1, clause (a).

(5) "Retirement annuity" means a series of monthly payments to which a former or retired member of a public pension fund is entitled on account of attaining a specified age and acquiring credit for a specified period of service, which shall include a retirement annuity, retirement allowance or service pension.

(6) "Disability benefit" means a series of monthly payments to which a former or disabled member of a public pension fund is entitled on account of a physical or mental inability to engage in specified employment.

Subd. 2. Provision of information on annuity forms. Every public pension fund which provides for an annuity form other than a single life retirement annuity as an option which can be elected by an active, disabled or retiring member shall provide as a part of, or accompanying the annuity application form, a written statement summarizing the optional annuity forms which are available, a general indication of the consequences of selecting one annuity form over another, a calculation of the actuarial reduction in the amount of the retirement annuity which would be required for each optional annuity form and the procedure to be followed to obtain more information from the public pension fund concerning the optional annuity forms provided by the fund.

Subd. 3. Requirement of notice to member's spouse. If a public pension fund provides optional annuity forms which include a joint and survivor optional annuity form potentially applicable to the surviving spouse of a member, the public pension fund shall send a copy of the written statement required by subdivision 2 to the spouse of the member prior to the member's election of an optional annuity.

Following the election of an annuity form by the member, a copy of the completed annuity application shall be sent by certified mail to the spouse of the retiring member.

History: 1981 c 68 s 29; 1981 c 156 s 6; 1982 c 578 art 3 s 9,10

356.38 MULTIPLE BENEFITS AND ANNUITIES; LIMITATION ON INCREASES.

Any person who is receiving more than one benefit or annuity to which the increases in sections 356.36 and 356.37 apply shall not receive an increase based on years of retirement for each benefit or annuity but shall receive the increase based on years of retirement only for the benefit or annuity which will result in the largest such increase.

History: 1976 c 326 s 4

356.39 BASIS FOR SUBSEQUENT POST RETIREMENT ADJUSTMENTS.

The increased benefit amounts pursuant to sections 356.35 to 356.39 shall be considered the base annuity or benefit amount for the purpose of further adjustments pursuant to section 11A.18.

History: 1976 c 326 s 6; 1980 c 607 art 14 s 45 subd 2; s 46; 1981 c 224 s 175

356.40 DATE FOR PAYMENT OF ANNUITIES AND BENEFITS.

Notwithstanding any law to the contrary, all annuities and benefits payable on and after December 1, 1977 by a covered retirement fund, as defined in section 356.30, subdivision 3, shall be paid in advance for each month during the first week of that month. Bylaws of municipal retirement funds shall be amended accordingly. In no event, however, shall this section authorize more than one payment in any one month where the law governing the applicable retirement fund as of June 30, 1977

already provides for the full payment or accrual of annuities and benefits in advance for each month or as of the first day of the month, nor shall it authorize the payment of both a retirement annuity and a surviving spouse's benefit in one month where the law governing the applicable retirement fund provides for the payment of the retired member's retirement annuity to the surviving spouse for the month in which the retired member dies.

History: 1977 c 388 s 3

356.41 BENEFIT ADJUSTMENTS.

Disability benefits and survivor benefits payable to a disabled person or a survivor now or hereafter receiving benefits from any public pension fund which participates in the Minnesota post-retirement investment fund shall be adjusted in the same manner, at the same times and in the same amounts as are benefits payable from the Minnesota post-retirement investment fund to retirees of that public pension fund. If a disability benefit is recomputed as a retirement annuity and the recipient would have been eligible for an adjustment pursuant to this section if the disability benefit was not recomputed, the recipient will continue to be eligible for the adjustment after the recomputation. For the survivor of a deceased annuitant who receives a survivor benefit calculated pursuant to a prior law rather than the second portion of a joint and survivor annuity, any period of receipt of a retirement annuity by the annuitant shall be utilized in determining the period of receipt for eligibility to receive an adjustment. No recipient shall, however, be entitled to more than one adjustment at one time by reason of this section.

History: 1978 c 665 s 1; 1980 c 607 art 14 s 45 subd 2; 1982 c 578 art 3 s 11

356.45 MEMBERSHIP OF CERTAIN PERSONS IN VARIOUS RETIREMENT FUNDS OR PLANS.

Subdivision 1. Exclusion of certain employees in certain federal programs. No 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 shall be included as a member of a public retirement fund, unless the person is employed by an employer where public retirement coverage is to be provided by a covered fund enumerated in section 356.451, subdivision 2, and the city council of the city of Minneapolis specifies that the person is to be considered as a provisional member of the relief association pursuant to section 356.451, or unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit under the provisions of the plan to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing to make the total required employer contributions, including any employer additional contribution, 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 to make the required employer contributions in addition to any required employee contribution.

Subd. 2. Covered funds. The provisions of this section shall apply to the following retirement funds or plans:

- (1) University of Minnesota faculty retirement plan;
- (2) University of Minnesota faculty supplemental retirement plan;
- (3) any municipal retirement fund or plan providing pension or retirement coverage for police officers or paid firefighters which was established and is governed in whole or in part by special legislation;

(4) any retirement fund or plan established, maintained, or supported by any governmental subdivision or public body whose revenues are derived from taxation, fees, assessments or from other public sources which provides pension or retirement coverage for public employees, other than police officers or paid firefighters, who are not covered by a retirement fund enumerated in section 356.30, subdivision 3; or

(5) any supplemental retirement plan established, maintained, or supported by any government subdivision or public body whose revenues are derived from taxation, fees, assessments or other public sources.

History: 1978 c 720 s 10; 1981 c 224 s 176

356.451 PROVISIONAL MEMBERSHIP FOR CERTAIN PERSONS IN VARIOUS RETIREMENT FUNDS OR PLANS.

Subdivision 1. Reserve account for provisional members; authorization. Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in subdivision 2, any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act, who does not have 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 annuity, who otherwise meets all of the applicable eligibility requirements of the fund and who is designated as such by the city council of the city of Minneapolis or the board of education of special school district number 1, whichever is applicable, shall be considered a provisional member of the fund. There shall be established a subsidiary reserve account for provisional members which shall be managed by the board of trustees of the fund as a separate account and which shall not be considered as an asset or a liability of the fund. To this account shall be credited all employee and required employer contributions made by or on account of provisional members. A separate record for each provisional member shall be maintained showing the length of service completed, the accrued employee and required employer contributions made by or on account of each provisional member, and the actual rate of interest earned on the assets of the account. The assets of the separate account shall be invested in the same manner as and subject to the same limitations which are applicable to the general assets of the retirement fund. The board of trustees shall remit back to the prime sponsor of the federal comprehensive employment and training act program periodically as required by the applicable federal regulation an amount equal to the total required employer contributions made on account of provisional members who terminate or who are terminated from subsidized on-the-job training, work experience or public service employment without obtaining unsubsidized employment with an employer who employs members who regularly have retirement coverage provided by that retirement fund or by a retirement fund enumerated in section 356.30, subdivision 3, or without obtaining sufficient service credit to become entitled to a deferred retirement annuity had they been regular members of that retirement fund during the period of their provisional membership, plus interest at the rate or rates actually earned and in addition any amounts which exceed the funds required to cover current provisional members as projected by the board of trustees. Any provisional member who terminates or is terminated from subsidized on-the-job training, work experience or public service employment without obtaining unsubsidized employment with an employer who employs members who regularly have retirement coverage provided by that retirement fund or by a retirement fund enumerated in section 356.30, subdivision 3, or without obtaining sufficient service to become entitled to a deferred retirement annuity had he been a regular member of the retirement fund during the period of his provisional membership shall be entitled upon making valid written application to a refund of all

employee contributions credited to the member in the subsidiary reserve account for provisional members, plus interest at the average actual rate of interest earned on the assets of the account, but not to exceed the rate of three and one-half percent per annum compounded annually from the date of commencement of provisional membership, computed to the first day of the month in which the refund is processed, and based on fiscal year balances. If the provisional member obtains unsubsidized employment with an employer who employs members who regularly have retirement coverage provided by that retirement fund or by a retirement fund enumerated in section 356.30, subdivision 3, or obtains sufficient service to become entitled to a deferred retirement annuity had the period of provisional membership been as a regular member, the board of trustees shall transfer the total employee and required employer contributions and any interest attributable to those contributions to the regular retirement fund and shall credit the period of service as a provisional member as allowable or formula service. Unless the provisional member becomes a regular member of the same retirement fund or a retirement fund enumerated in section 356.30, subdivision 3, within the time period allowed under the applicable federal regulations following the person's termination of provisional status, no period of provisional membership shall be considered allowable service for purposes of the combined service annuity pursuant to section 356.30 or any service in more than one retirement fund provision. For any former provisional member who becomes a regular member of a retirement fund enumerated in section 356.30, subdivision 3, the board of trustees shall require written certification of the fact of unsubsidized employment from the subsequent employer and of the fact of regular fund membership from the subsequent retirement fund. If any provisional member obtains service in an amount sufficient to entitle the provisional member to a disability benefit or the provisional member's survivor to a survivor's benefit had the provisional member been a regular member for that period of service, then the provisional member or the provisional member's survivor shall be entitled to a benefit when otherwise qualified notwithstanding the fact that the person was a provisional member. Upon the commencement of such benefit, an amount equal to the contributions and interest credited to the provisional member shall be transferred from the reserve account for provisional members to the regular fund. In any actuarial valuation made by the fund pursuant to this chapter, the results of the subsidiary reserve account for provisional members shall be contained in a separate calculation or tabulation. The separate calculation or tabulation shall use the actuarial assumptions used by the fund which are appropriate to the experience of the subsidiary reserve account for provisional members, and shall include the items contained in section 356.215, subdivision 4, clauses (1), (2), (6)(a), and (11).

Subd. 2. **Covered funds.** Subdivision 1 applies to the following funds:

- (1) Minneapolis employees retirement fund established pursuant to chapter 422A;
- (2) Minneapolis firefighters relief association established pursuant to chapter 69;
- (3) Minneapolis police relief association established pursuant to Laws 1949, Chapter 406, as amended;
- (4) Any plan covering employees of the housing and redevelopment agency of the city of Minneapolis as established by law, ordinance, or otherwise;
- (5) Minneapolis teachers retirement fund association established pursuant to chapter 354A.

History: 1978 c 720 s 11; 1981 c 298 s 11

356.452 REFUND.

Any person who is a member of any public pension plan or fund to which the provisions of Laws 1978, Chapter 720 apply on March 30, 1978 and who is excluded

from that membership pursuant to Laws 1978, Chapter 720 shall be entitled, upon making a valid application, to a refund of the accumulated employee or member contributions to the person's credit for the period of employment in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act plus interest at the rate of three and one-half percent per annum compounded annually from the date of commencement of coverage by the pension plan or fund, computed to the first day of the month in which the refund is processed, and based on the fiscal year balances. The refund shall be made without any requirement that the person terminate service prior to becoming eligible to receive the refund and shall be made without any minimum waiting period provided for in the provisions of the plan. Notwithstanding any law to the contrary, a refund taken under this section may be repaid to the fund from which it was taken at the fund's applicable rate of interest after attaining unsubsidized public employment with public pension plan or fund coverage and while so employed prior to retirement whether with the same public employer which provided the subsidized employment or another public employer.

History: 1978 c 720 s 20

356.453 PURCHASE OF PRIOR SERVICE.

Any person who is excluded from pension coverage pursuant to the provisions of Laws 1978, Chapter 720, but who subsequently becomes employed in unsubsidized public employment with public pension plan or fund coverage, whether with the same public employer which provided the subsidized employment or another public employer, shall be entitled to purchase service credit for that period of prior subsidized public employment, other than a period of prior subsidized public employment for which a repayment of a refund pursuant to section 356.452 is made, with the public pension plan or fund which, except for the exclusion provided for by Laws 1978, Chapter 720, would have provided pension coverage for the subsidized employment. Payment shall include all employee and employer contributions at the rates and on the salary in effect when the subsidized employment was rendered plus interest at the rate of six percent per annum compounded annually from the year purchased to the date payment is made; provided, however, that the employer for the unsubsidized employment, the employer for the subsidized employment, or the applicable federal comprehensive employment and training act prime sponsor from funds provided under the federal comprehensive employment and training act, as funds permit, may pay the employer contribution and the employer additional contribution, if any, plus interest at the specified rate. The public employer which provided the subsidized employment shall provide whatever documentation of periods of subsidized public employment and the salary received that the pension plan or fund shall require. Payment shall be made in one lump sum by the date of retirement and no service credit with respect to the payment shall be granted until payment is received by the pension plan or fund.

History: 1978 c 720 s 21

356.454 INTENT AND INTERPRETATION OF EXCLUSION.

The exclusion from pension or retirement fund coverage provided for by Laws 1978, Chapter 720 is intended to comply with the minimum requirements of the amended federal regulations governing the comprehensive employment and training act of 1973, as amended by the emergency jobs program extension act of 1976, Title 29, Code of Federal Regulations, Section 98.25, effective June 13, 1977 for authorized expenditures after October 1, 1977. Any administrative or judicial interpretation

of the exclusion provided for by Laws 1978, Chapter 720 shall limit the extension of this exclusion to the minimum requirements of the amended federal regulation.

History: 1978 c 720 s 22

356.455 CORRECTION OF ERRONEOUS INTERPRETATION OF EXCLUSION OF CERTAIN EMPLOYEES IN CERTAIN FEDERAL PROGRAMS.

The employment of a person as an enrollee under the federal comprehensive employment and training act in a subsidized on-the-job training, work experience or public service employment position shall not be deemed to be two employments for purposes of implementing the exclusion from retirement fund coverage provided for in Laws 1978, Chapter 720, even though the compensation for the person is paid in part from federal comprehensive employment and training act subsidy funds and is paid in part from local supplementary revenue sources other than funds provided under the federal comprehensive employment and training act, and any contrary prior administrative interpretation of the provisions of Laws 1978, Chapter 720 is deemed to be erroneous. This section shall be deemed to be remedial in nature and shall be effective retroactively to March 30, 1978. Any employee contributions and any employer and employer additional contributions taken from or on behalf of any person who would have been excluded from retirement fund coverage pursuant to Laws 1978, Chapter 720 except for the erroneous prior administrative interpretation shall be deemed to be erroneous deductions and shall be refunded as soon as practicable to the person and employing unit involved. The refund shall be accompanied by interest at the rate of five percent per annum compounded, payable from the date that the erroneous deduction was taken to the first day of the month in which the refund is processed.

History: 1979 c 216 s 22

356.60 Subdivision 1. MS1981 Supp [Repealed, 1982 c 578 art 1 s 19]

Subd. 2. MS1980 [Repealed, 1982 c 578 art 1 s 19]

Subd. 3. MS1980 [Repealed, 1982 c 578 art 1 s 19]

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.

The benefit limitation of clause (b) is to be determined on the date the benefit is initially payable or on the date the employee terminated employment, if earlier. The benefit limitation on any date is the benefit limitation for the limitation year in which the date occurs. The limitations apply only to the annual benefit which is derived from employer contributions. Mandatory and voluntary employee contributions, if any, are treated as a separate defined contribution plan maintained by the employer which is subject to the limitations placed on annual additions to defined contribution plans.

The maximum annual benefit of clause (b) for any limitation year is the lesser of (1) or (2) below:

(1) A dollar limitation of \$90,000, adjusted as of January 1 of each calendar year to the dollar limitation as determined for that year by the commissioner of Internal Revenue. The amount determined for any year will apply to limitation years ending with or within that calendar year.

(2) A compensation limitation of 100 percent of the average of compensation paid or made available to the participant by the employer during those three consecutive calendar years of employment, or actual number of consecutive calendar years of employment if employed less than three consecutive years, which give the highest average. Compensation means any compensation which is includable in the employee's gross income.

A benefit shall be deemed not to exceed the maximum benefit limitation of clause (b) if:

(1) the retirement benefits payable under the plan and under any other defined benefit plans of the employer do not exceed the \$10,000 limit set in section 415(b)(4) of the Internal Revenue Code for the plan year, or for any prior plan year, and

(2) the employer has not at any time maintained a defined contribution plan in which the employee participated.

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: 1982 c 578 art 1 s 10; 1983 c 286 s 16; 1984 c 574 s 12

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 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.

Subd. 2. Disposition of abandoned amounts. Any unclaimed public pension fund amounts existing in any public pension fund shall be presumed abandoned, but shall not be subject to the provisions of sections 345.31 to 345.60. Unless the benefit plan of the public pension fund specifically provides for a different disposition of unclaimed or abandoned funds or amounts, any unclaimed public pension fund amounts shall cancel and shall be credited to the public pension fund. If the unclaimed public pension fund amount exceeds \$25 and the inactive or former member again becomes a member of the public pension fund or applies for a retirement annuity pursuant to sections 3A.12, 352.72, 352B.30, 352C.051, 353.71, 354.60, 356.30, or 422A.16, subdivision 8, whichever is applicable, the cancelled amount shall be restored to the credit of the person.

History: 1981 c 224 s 178; 1983 c 286 s 17

356.70 EARLY RETIREMENT.

Subdivision 1. Combined age and service requirement. Any member of a retirement plan established pursuant to chapters 352, 353, 354, or 354A who has attained the age of at least 55 years and whose attained age plus credited allowable service totals 85, is entitled, upon application prior to December 31, 1986, to the normal retirement annuity provided in these chapters without any reduction in annuity by reason of such early retirement.

Subd. 2. Reports. The retirement associations to which this section applies shall request and the employing units of members retiring under the provisions of this section shall provide to the retirement association information on the salary, retirement contributions, and social security contributions paid by the employing unit to individuals filling the position vacated by the retiree. The employing unit shall also provide information on net savings, if any, made possible by the provisions of this section.

The retirement associations shall prepare reports to the legislature summarizing this information and other information in its possession relating to characteristics of retirees retiring under the provisions of this section including:

- (a) age at time of retirement;
- (b) years of service;
- (c) salary at time of retirement;
- (d) high-five average salary used to determine the retirement annuity; and
- (e) monthly benefit.

The reports shall be made to the legislature within 30 days following the end of calendar years 1984, 1985, and 1986 and shall cover all retirees retiring under the provisions of this section.

History: 1984 c 564 s 44

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