

## CHAPTER 352

## MINNESOTA STATE RETIREMENT SYSTEM

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**352.01 DEFINITIONS.**

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **State employee.** "State employee" means any employee or officer in the classified and unclassified service of the state. The term also includes the special classes of persons listed in subdivision 2A but excludes the special classes of persons listed in subdivision 2B.

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

- (1) Employees of the Minnesota historical society.
- (2) Employees of the state horticultural society.
- (3) Employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed prior to July 1, 1963.
- (4) Employees of the Minnesota crop improvement association.
- (5) Employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system.
- (6) Employees of the state universities employed under the university activities program.
- (7) Currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in clause (8) of subdivision 2B.
- (8) Employees of the armory building commission.
- (9) Permanent employees of the legislature and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation.
- (10) Trainees who are employed on a full-time established training program

performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period.

(11) Employees of the Minnesota safety council.

(12) Employees of the transit operating division of the metropolitan transit commission and any employees on authorized leave of absence from the transit operating division who are employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division.

(13) Employees of the metropolitan council, metropolitan parks and open space commission, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan sports facilities commission or the metropolitan mosquito control commission unless excluded or covered by another public pension fund or plan pursuant to section 473.141, subdivision 12, or 473.415, subdivision 3.

(14) Judges of the tax court.

Subd. 2B. **Excluded employees.** The following persons are excluded from the meaning of state employee:

(1) elective state officers;

(2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board or the state board for community colleges, as the case may be;

(3) employees who are eligible to membership in the state teachers retirement association except employees of the department of education who have elected or may elect to be covered by the Minnesota state retirement system instead of the teachers retirement association;

(4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;

(5) officers and enlisted personnel in the national guard and the naval militia and such as are assigned to permanent peacetime duty who pursuant to federal law are or are required to be members of a federal retirement system;

(6) election officers;

(7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;

(9) all courts and court employees, referees, receivers, jurors, and notaries public, except employees of the appellate courts and referees and adjusters employed by the department of labor and industry;

(10) patient and inmate help in state charitable, penal and correctional institutions including the Minnesota veterans home;

(11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(12) employees of the Sibley House Association;

(13) employees of the Grand Army of the Republic and employees of the ladies of the G.A.R.;

(14) operators and drivers employed pursuant to section 16.07, subdivision 4;

(15) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service therefor is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full time secretary;

(16) state troopers;

(17) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of the same year; and persons employed at any time or times by the state fair administration for special events held on the fairgrounds;

(18) emergency employees in the classified service except emergency employees who within the same pay period become provisional or probationary employees on other than a temporary basis, shall be deemed "state employees" retroactively to the beginning of the pay period;

(19) persons described in section 352B.01, subdivision 2, clauses (b) and (c) formerly defined as state police officers;

(20) all temporary employees in the classified service, all temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and all seasonal help in the classified service employed by the department of revenue;

(21) trainees paid under budget classification number 41, and other trainee employees, except those listed in subdivision 2A, clause (10);

(22) persons whose compensation is paid on a fee basis;

(23) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(24) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(25) chaplains and nuns who have taken a vow of poverty as members of a religious order;

(26) labor service employees employed as a laborer 1 on an hourly basis;

(27) examination monitors employed by departments, agencies, commissions, and boards for the purpose of conducting examinations required by law;

(28) members of appeal tribunals, exclusive of the chair, to which reference is made in section 268.10, subdivision 4;

(29) persons appointed to serve as members of fact finding commissions, adjustment panels, arbitrators, or labor referees under the provisions of chapter 179;

(30) temporary employees employed for limited periods of time under any state or federal program for the purpose of training or rehabilitation including persons employed for limited periods of time from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(31) full-time students employed by the Minnesota historical society who are employed intermittently during part of the year and full time during the summer months;

(32) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, the members of which board are appointed by the metropolitan council;

(33) persons employed in positions designated by the department of employee relations as student workers;

(34) any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employment, unless the employee gives notice to the director within 60 days following appointment that coverage is desired;

(35) members of trades employed by the metropolitan waste control commission with trade union pension plan coverage pursuant to a collective bargaining agreement first employed after June 1, 1977; and

(36) persons employed in subsidized on-the-job training, work experience or public service employment as enrollees under the federal Comprehensive Employment

and Training Act from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution.

**Subd. 3. Head of department.** "Head of department" means the head of any department, institution, or branch of the state service which directly pays salaries out of its income or which prepares, approves, and submits salary abstracts of its employees to the commissioner of finance and state treasurer.

**Subd. 4. Accumulated contributions.** "Accumulated contributions" means the total, exclusive of interest, of (a) the sums deducted from the salary of an employee, (b) the amount of payments, including assessments, paid by the employee in lieu of such salary deductions and all other payments made under Laws 1929, chapter 191, or any amendment thereof, and credited to the employee's individual account in the retirement fund.

**Subd. 5. Retirement fund.** "The retirement fund" includes the aggregate of all "accumulated contributions" of employees, and all other moneys paid into the state treasury or received by the director pursuant to the provisions of Laws 1929, chapter 191, or any amendment thereof, together with all income and profits therefrom and interest thereon, including contributions on the part of the federal government, the state and departments thereof.

**Subd. 6.** [Repealed, Ex1967 c 57 s 29]

**Subd. 7. Prior service.** "Prior service" means the allowable service rendered before the first day of July, 1929, and includes the service during the first world war of officers, soldiers, sailors, marines, and army nurses who were state employees at the time of enlisting or being drafted into the military service of the United States, and who returned directly to the service of the state upon returning from the first world war. It also includes any temporary service or service of less than six months rendered prior to July 1, 1929, upon payment for such service credit as provided in the law in effect at the time of such payment or authorized agreement for such payment.

**Subd. 8.** [Repealed, 1957 c 928 s 33]

**Subd. 9.** [Repealed, 1957 c 928 s 33]

**Subd. 10.** [Repealed, 1963 c 383 s 59]

**Subd. 11. Allowable service.** "Allowable service" means:

(1) Any service rendered by an employee for which on or before July 1, 1957, the employee was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239;

(2) Any service rendered by an employee for which on or before July 1, 1961, the employee elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1961, section 352.24;

(3) Except as provided in clauses (9) and (10), any service rendered by an employee after July 1, 1957, for any calendar month in which the employee is paid salary from which deductions are made, deposited and credited in the fund, including deductions made, deposited and credited as provided in section 352.041;

(4) Except as provided in clauses (9) and (10), any service rendered by an employee after July 1, 1957 for any calendar month for which payments in lieu of salary deductions are made, deposited and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, section 352.021, subdivision 4.

For purposes of clauses (3) and (4), except as provided in clauses (9) and (10), any salary paid for a fractional part of any calendar month is deemed the compensation for the entire calendar month;

(5) The period of absence from their duties by employees who by reason of injuries incurred in the performance thereof are temporarily disabled and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund;

(6) The unused portion of an employee's annual leave allowance for which the employee is paid salary;

(7) Any service covered by a refund repaid as provided in section 352.23 or 352D.05, subdivision 4, but does not include service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system;

(8) Any service prior to July 1, 1978 by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division which was credited by the metropolitan transit commission-transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous or allowable service as defined in the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977;

(9) Any service rendered after July 1, 1983, by an employee who is employed on a part-time basis for less than 50 percent of full time, for which the employee is paid salary from which deductions are made, deposited and credited in the fund, including deductions made, deposited and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based upon the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year. For periods of part-time service which is duplicated service credit, the provisions of section 356.30, subdivision 1, clauses (i) and (j), shall govern;

(10) Any service by an employee in the Minnesota demonstration job-sharing program pursuant to sections 43.56 to 43.62 which is less than 40 hours per week or 2,080 hours per year and for which the employee is paid salary from which deductions are made, deposited and credited in the fund, shall be credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year.

The allowable service determined and credited on a fractional basis pursuant to clauses (9) and (10) shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis shall not be used in determining the length of service required for eligibility for benefits;

(11) Any period of authorized leave of absence without pay which does not exceed one year and for which the employee obtained credit by payment to the fund made in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate provided in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee desires to obtain allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause shall include interest at the rate of six percent per annum from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence.

Subd. 12. **Actuarial equivalent.** "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

Subd. 13. **Salary.** "Salary" means any compensation paid to any employee including wages, allowances, and fees, but excluding amounts of severance pay.

Subd. 14. [Repealed, 1963 c 383 s 59]

Subd. 15. **Approved actuary.** "Approved actuary" means any actuary who is either a fellow of the society of actuaries or who has at least 15 years of service to major public employee funds, or any firm retaining such an actuary on its staff.

Subd. 16. **Year of allowable service.** "Year of allowable service" means any 12 calendar months not necessarily consecutive in which an employee is entitled to allowable service credit. It also means 12 months credit each calendar year for teachers in the state universities and state institutions who may or may not receive compensation in every month in the calendar year.

Subd. 17. **Total and permanent disability.** "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration. "Long-continued and indefinite duration" means that the disability has been or is expected to be for a period of at least one year.

Subd. 18. **"Annuity" and "benefit" synonymous.** The words "annuity" and "benefit," wherever they appear in this chapter, are synonymous.

Subd. 19. **Retirement.** "Retirement" means the time after a state employee is entitled to an accrued annuity, as defined in subdivision 21, payable pursuant to an application for annuity filed in the office of the system as provided in section 352.115, subdivision 8 or, in the case of an employee who has received a disability benefit, when that employee attains age 65.

Subd. 20. **Retired employee.** "Retired employee" means an employee who has retirement status as defined in subdivision 19.

Subd. 21. **Accrued annuities.** For the purposes of this chapter and chapters 3A, 352B, 352C and 490 "accrued annuity" means an annuity which had become payable to a retired employee in the lifetime of the employee. An annuity or benefit authorized as provided in this chapter and chapters 3A, 352B, 352C and 490 becomes payable on the first day of each calendar month for that calendar month and is to be paid on the first day of each calendar month beginning with benefits payable on and after December 1, 1977.

Notwithstanding any provision to the contrary in this chapter and chapters 3A, 352B, 352C and 490, benefit payment authorized as "payable for life" shall be payable for the entire month in which death occurs and the benefit payment for the month of death shall be payable to the surviving spouse or other beneficiary only if the annuitant dies before negotiating the check.

Subd. 22. **Disabled employee.** For the purposes of this chapter "disabled employee" means an employee who is totally and permanently disabled as defined in subdivision 17, and who as a result thereof is entitled to receive a disability benefit as provided in section 352.113.

Subd. 23. **Coverage or covered by the system.** "Coverage" or "covered by the system" for the purposes of this chapter means that state employees who serve the state of Minnesota and make the required employee contributions to the retirement fund will by reason thereof become entitled to either (1) a retirement annuity, or (2) a disability benefit, or (3) a refund of accumulated contributions, all as provided in this chapter.

**History:** (254-1) 1929 c 191 s 1; 1931 c 351 s 1; 1933 c 326 s 1; 1935 c 238 s 1; 1939 c 432 s 1; 1941 c 391 s 1; 1943 c 622 s 1; 1945 c 38 s 1; 1945 c 284 s 1,2; 1947 c 631 s 2-6; 1949 c 644 s 2,3; 1951 c 441 s 2-8; 1953 c 320 s 1; 1955 c 239 s 1-3; 1957 c 576 s 1,2; 1957 c 928 s 1-6,34; Ex1959 c 6 s 1-3; 1961 c 560 s 31; Ex1961 c 67 s 1,2; 1963 c 383 s 1-8; 1965 c 230 s 1,2; 1965 c 590 s 1; 1965 c 698 s 3; 1967 c 148 s 2; Ex1967 c 1

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*s 6; Ex1967 c 57 s 1-7; 1969 c 6 s 45; 1971 c 12 s 1,2; 1973 c 178 s 20; 1973 c 221 s 1,2; 1973 c 349 s 2; 1973 c 492 s 14; 1973 c 507 s 45; 1973 c 582 s 3; 1975 c 271 s 6; 1975 c 321 s 2; 1975 c 359 s 23; 1975 c 368 s 13; 1976 c 134 s 78; 1976 c 329 s 2; 1977 c 98 s 1; 1977 c 388 s 1; 1978 c 538 s 1,2; 1978 c 672 s 11,12; 1978 c 720 s 3; 1980 c 342 s 1,2; 1980 c 614 s 135; 1980 c 617 s 47; 1981 c 37 s 2; 1981 c 224 s 41-44; 1983 c 128 s 1-3; 1983 c 247 s 137; 1983 c 286 s 3; 1984 c 654 art 3 s 100; 1985 c 248 s 54; 1Sp1985 c 7 s 4; 1Sp1985 c 13 s 317; 1986 c 444*

**352.015** [Repealed, 1951 c 441 s 1; 1957 c 928 s 33].

**352.02** [Repealed, 1957 c 928 s 33]

## **352.021 MINNESOTA STATE RETIREMENT SYSTEM.**

**Subdivision 1. Establishment.** There is hereby established the Minnesota state retirement system, hereinafter called the system, for state employees. The Minnesota state retirement system is a continuation of the state employees retirement association. Any person who was a member of the state employees retirement association on June 30, 1967, shall be covered by the Minnesota state retirement system and shall be entitled to all benefits provided by such system upon fulfilling the age, service, contribution, and other requirements thereof.

**Subd. 2. State employees covered.** Every person who is a state employee, as defined in section 352.01, on July 1, 1967, and every person becoming a state employee thereafter is covered by the system provided by this chapter. Acceptance of state employment or continuance in state service is deemed consent to have deductions made from salary for deposit to the credit of the account of the state employee in the retirement fund.

**Subd. 3. Optional exemptions.** Any person who is appointed by the governor or lieutenant governor may request exemption from coverage under this chapter if the appointee is not so covered at the date of such appointment. To qualify for this exemption request must be made within 90 days from the date of entering upon the duties of the position to which appointed. A person requesting exemption shall not thereafter be entitled to such coverage so long as employed in the position which entitled that person to exemption therefrom.

**Subd. 4.** MS 1957 [Repealed, Ex1959 c 6 s 34]

**Subd. 4. Re-entering service after refundment.** Whenever a former employee who has withdrawn accumulated contributions re-enters employment in a position entitled to coverage under the state retirement system established by this chapter, the employee shall be covered thereby on the same basis as a new employee and shall not be entitled to credit for any former service, nor shall the annuity rights forfeited at the time of taking a refundment be restored, except as provided in this chapter.

**Subd. 5. Continuing coverage.** Any state employee who has made contributions to the retirement fund for a period of one year and who, thereafter continuing in state service, becomes eligible to membership in the state teachers retirement association shall have the option of continuing coverage under the system by filing in its office written election therefor. The election to be covered by the system under this subdivision or section 352.01, subdivision 2B, clause (3) shall be made on a form approved by the director within 90 days after appointment to the position. If the option is exercised, the employee shall not thereafter be entitled to membership in the teachers retirement association while employed by the state in a position which entitled the employee to make this election.

**History:** 1957 c 928 s 7; Ex1959 c 6 s 5,6; 1963 c 383 s 9; Ex1967 c 57 s 8; 1973 c 221 s 3; 1983 c 128 s 4; 1986 c 444

**352.022** [Repealed, 1984 c 564 s 51]

**352.028 COVERAGE TERMINATION.**

Coverage of any person under the system shall terminate upon that person's ceasing to be a state employee.

**History:** 1963 c 383 s 10; Ex 1967 c 57 s 9; 1986 c 444

**352.029 COVERAGE FOR EMPLOYEES OF LABOR ORGANIZATIONS.**

Subdivision 1. **Qualifications.** A former state employee who is an employee of a labor organization which is an exclusive bargaining agent representing state employees or a state employee on leave of absence without pay to provide service as an employee or officer of a labor organization that is an exclusive bargaining agent representing state employees, may elect pursuant to subdivision 2 to be covered by the state retirement system established by this chapter with respect to service with the labor organization unless specifically excluded under section 352.01, subdivision 2B.

Subd. 2. **Election.** A person described in subdivision 1 shall be covered by the state retirement system if written election to be covered is delivered to the executive director before December 31, 1985, within 90 days of being employed by the labor organization, or within 90 days of commencing their first leave of absence with an exclusive bargaining agent, whichever is later.

Subd. 3. **Contributions.** The employee, employer and additional employer contributions required pursuant to section 352.04 shall be the obligation of the employee who elects coverage under this section; provided, however, that the employing labor organization may pay the employer and employer additional contributions. Contributions made by the employee shall be made by salary deduction. The employing labor organization shall remit all contributions to the state retirement system pursuant to section 352.04.

Subd. 4. **Purchase of prior service credit.** Any person who elects membership pursuant to this section shall be allowed to make payment for service rendered prior to December 31, 1985, in a labor organization designated in subdivision 1; provided that the labor organization makes satisfactory certification of the prior service of the former state employee. Payment shall include all employee, employer and additional employer contributions at the rates in effect when the service was rendered plus interest at the rate of six percent per annum from the year of purchase to the date payment is made; provided, however, that the employing labor organization may pay the employer and employer additional contributions plus interest at the specified rate. Payment shall be made in one lump sum prior to December 31, 1985 or prior to retirement, whichever is earlier, and no allowable service with respect to such payment shall be credited to the employee's account until payment is received by the executive director.

Subd. 5. **Board membership excluded.** Employees of a labor organization who become members of the state retirement system pursuant to this section shall not be eligible for election to the board of trustees.

**History:** 1977 c 429 s 13; 1981 c 224 s 45; 1Sp1985 c 7 s 5

**352.03 BOARD OF DIRECTORS, COMPOSITION, EXECUTIVE DIRECTOR; DUTIES, POWERS.**

Subdivision 1. **Membership of board; election; term.** The policy making function of the system is hereby vested in a board of 11 members, who shall be known as the board of directors, hereinafter called the board. This board shall consist of three members appointed by the governor, one of whom shall be a constitutional officer or appointed state official and two of whom shall be public members knowledgeable in pension matters, four state employees who shall be elected by state employees covered by the system excluding employees in categories specifically authorized to designate or elect a member by this subdivision, one employee of the transit operating division of the metropolitan transit commission designated by the executive committee of the labor organization which is the exclusive bargaining agent representing employees of the transit division, one member of the state patrol retirement fund elected by members



of that fund at a time and in a manner fixed by the board, one employee covered by the correctional employees plan elected by employees covered by that plan, and one retired employee elected by retired employees at a time and in a manner to be fixed by the board. Two state employee members, whose terms of office shall begin on the first Monday in March next succeeding their election, shall be elected biennially. Elected members and the appointed transit operating division member shall hold office for a term of four years, except the retired member whose term shall be two years, and until their successors are elected or appointed, and have qualified. A state employee on leave of absence shall not be eligible for election or re-election to membership on the board of directors; and the term of any board member who is on leave for more than six months shall automatically terminate upon the expiration of this period.

**Subd. 1a. Terms; compensation; removal; vacancies; public members.** The membership terms, compensation, removal of members, and filling of vacancies for the public members on the board shall be as provided in section 15.0575.

**Subd. 2. Vacancy.** Any vacancy of a state employee or retired employee in the board caused by death, resignation, or removal of any member so elected shall be filled by the board for the unexpired portion of the term in which the vacancy occurs. Any vacancy of the employee of the transit operating division member of the board caused by death, resignation, or removal shall be filled by the governing board of the labor organization which is the exclusive bargaining agent representing employees of the transit operating division.

**Subd. 3.** [Repealed, 1976 c 134 s 79]

**Subd. 4. Duties and powers of board of directors.** It is the duty of the board and it has power to:

- (1) Elect a chair;
- (2) Appoint an executive director;
- (3) Establish rules for the administration of the provisions of this chapter and chapters 3A, 352B, 352C, 352D and 490 and transaction of the business of the system, all subject to the limitations of said chapter and the law;
- (4) Consider and dispose of, or take such other action as the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system;
- (5) Advise the director on any matters relating to the system and the carrying out of the functions and purposes of said chapter, which advice shall be controlling; and

The director and assistant director shall be in the unclassified service but appointees may be selected from civil service lists if it is desired to do so. The salary of the executive director shall be as provided by section 15A.081, subdivision 1. The salary of the assistant director shall be set in accordance with section 43A.18, subdivision 3.

**Subd. 4a. Additional duties of the board.** The board may consider, review and make recommendations regarding the financial and other needs of retired employees and may disseminate appropriate retirement information to the retired employee.

**Subd. 5. Executive director.** The executive director, hereinafter called the director, of the system shall be appointed by the board on the basis of fitness, experience in the retirement field, and leadership ability. The director shall have had at least five years' experience on the administrative staff of a major retirement system.

**Subd. 6. Duties and powers of executive director.** The management of the system is vested in the director who shall be the executive and administrative head of the system. The director shall act as advisor to the board on all matters pertaining to the system, and shall also act as the secretary of the board. The director shall:

- (1) Attend all meetings of the board;
- (2) Prepare and recommend to the board rules for the purpose of carrying out the provisions of this chapter;
- (3) Establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

- (4) Designate an assistant director with the approval of the board;
- (5) Appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said chapter;
- (6) Organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under such conditions as the director may prescribe. Appointments to exercise delegated power shall be by written order filed with the secretary of state;
- (7) With the advice and consent of the board, contract for actuarial services, professional management services, and consulting services as may be necessary and fix the compensation therefor. The contracts shall not be subject to the competitive bidding procedure prescribed by chapter 16. Professional management services may not be contracted for more often than once in every six years. Copies of all professional management survey reports shall be sent directly to the legislature and the legislative auditor at the same time reports are furnished the board. Only management firms experienced in conducting management surveys of federal, state or local public retirement systems shall be qualified to contract with the director hereunder;
- (8) With the advice and consent of the board provide inservice training for all employees of the system;
- (9) Make refundments of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased state employees or deceased former state employees, all as provided in this chapter;
- (10) Determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment thereof beginning as of the dates the annuities and benefits begin to accrue, all in accordance with the provisions of said chapter;
- (11) Pay annuities, refundments, survivor benefits, salaries and all necessary operating expenses of the system;
- (12) Certify funds available for investment to the state board of investment;
- (13) With the advice and approval of the board request the state board of investment to sell securities when the director determines that funds are needed for the purposes of the system;
- (14) Prepare and submit to the board and the legislature an annual report covering the operation of the system, as required by sections 356.215 to 356.23;
- (15) Prepare and submit biennial and quarterly budgets to the board and with the approval of the board submit the budgets to the department of administration; and
- (16) With the approval of the board, perform such other duties as may be required for the administration of the retirement and other provisions of this chapter and for the transaction of its business.

**Subd. 7. Directors' fiduciary obligation.** It is the duty of the board and the director to administer the law faithfully without prejudice and consistent with the expressed intent of the legislature. They shall act in their respective capacities with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it, and the state employees who are its beneficiaries.

**Subd. 8. Medical advisor.** The state commissioner of health or such other licensed physician on the staff of the commissioner as the commissioner may designate shall be the medical advisor of the director.

**Subd. 9. Duties of the medical advisor.** The medical advisor shall designate licensed physicians to examine applicants for disability benefits. The medical advisor shall pass upon all medical reports based upon such examinations required to determine whether a state employee is totally and permanently disabled as defined in section 352.01, subdivision 17, shall investigate all health and medical statements and certificates by or on behalf of a state employee in connection with a disability benefit, and shall

report in writing to the director conclusions and recommendations on all matters referred for advice.

**Subd. 10. Power to determine employee's status.** Except as otherwise specifically provided in this chapter, the final power to determine the status of any individual in the employ of the state for the purposes of this chapter is vested in the board and its decision is final.

**Subd. 11. Legal adviser, attorney general.** The attorney general shall be the legal adviser of the board and of the director. The board may sue or be sued in the name of the board of directors of the Minnesota state retirement system and in all actions brought by it or against it, the board shall be represented by the attorney general provided that venue of all such actions shall be in the Ramsey county district court.

**Subd. 12. Department of employee relations, duties.** Upon request of the director, the department of employee relations shall furnish such information relative to the status of state employees as may be required by the director or the board in the performance of their duties.

**Subd. 13. Department of labor and industry, duties.** The department of labor and industry shall furnish the director with a copy of each abstract submitted to the commissioner of finance and to be charged to the state compensation revolving fund which shall be construed as notice to the director that the employees listed thereon have sustained injury arising out of and in the course of employment by the state of Minnesota and are entitled to credit for service on the records of the system during the time compensation is received for temporary disability resulting from such injury, but shall not be used for any other purpose.

**Subd. 14. Departmental information.** Under the direction of the director the head of each department shall furnish such information and keep such records as the director or the board may require for the discharge of their duties.

**Subd. 15. Calendar year basis optional.** For all purposes except quarterly and biennial budgets the system may operate on a calendar rather than a fiscal year basis.

**Subd. 16. Data processing services.** Notwithstanding chapter 16, or any law to the contrary, the executive director of the Minnesota state retirement system may use the services of the department of administration, information services division, for electronic data processing and related services or may contract for all or a portion of such services.

**History:** (254-3) 1929 c 191 s 3; 1931 c 351 s 3; 1935 c 238 s 3; 1941 c 391 s 3; 1947 c 631 s 9; 1949 c 644 s 8; Ex1959 c 6 s 4; 1963 c 383 s 11; 1965 c 691 s 1; Ex1967 c 1 s 6; Ex1967 c 57 s 10; 1973 c 35 s 52; 1973 c 492 s 14; 1973 c 507 s 45; 1973 c 653 s 24,25; 1975 c 368 s 15-17; 1976 c 134 s 66,67; 1977 c 305 s 45; 1977 c 429 s 10-12; 1978 c 538 s 3,4; 1980 c 617 s 47; 1981 c 224 s 46; 1983 c 63 s 1; 1983 c 299 s 28; 1985 c 248 s 70; 1986 c 444

### **352.04 STATE EMPLOYEES RETIREMENT FUND, CONTRIBUTIONS BY EMPLOYEE AND EMPLOYER.**

**Subdivision 1. Fund created.** (1) There is created a special fund to be known as the state employees retirement fund. In that fund there shall be deposited employees contributions, employers contributions and other amounts authorized by law.

(2) Effective July 1, 1969, the Minnesota state retirement system shall participate in the Minnesota postretirement investment fund. In that fund there shall be deposited the amounts provided in section 352.119.

**Subd. 2. Employee contributions.** The employee contribution to the fund shall be an amount equal to 3.73 percent of salary, beginning with the first full pay period after June 30, 1984. These contributions shall be made by deduction from salary in the manner provided in subdivision 4.

**Subd. 3. Employer contributions.** The employer contribution to the fund shall be an amount equal to 3.90 percent of salary beginning with the first full pay period after June 30, 1984.

**Subd. 4. Payroll deductions.** The head of each department shall cause employee contributions to be deducted from the salary of each employee covered by the system on every payroll abstract and shall approve one voucher payable to the state treasurer for the aggregate amount so deducted on the payroll abstract. Deductions from salaries of employees paid direct by any department, institution, or agency of the state shall be made by the officer or employee authorized by law to pay such salaries. The head of any department or agency having authority to appoint any employee who receives fees as compensation or who receives compensation on federal payrolls shall collect as the required employee contribution the applicable amounts required in subdivision 2. All such deductions from salary and amounts collected shall be remitted to the director with a statement showing the amount of earnings or fees, and in the case of fees, the number of transactions, and the amount of each of such deductions and collections and the names of the employees on whose account the same have been made.

**Subd. 5. Payment of employer contributions.** The head of each department or agency shall cause employer contributions to be made to the fund on each payroll abstract at the time each employee is paid salary in the amounts required by subdivision 3. These contributions shall be charged as administrative costs. Each department shall pay these amounts from such accounts and funds from which each department or agency receives its revenue, including appropriations from the general fund and from any other fund, now or hereafter existing, for the payment of salaries and in the same proportion as it pays therefrom the amounts of such salaries.

**Subd. 6. Quasistate agencies; employer contributions.** For those of their employees who are covered by the system, the state horticultural society, the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, the Minnesota crop improvement association, the Minnesota historical society, the armory building commission, the Minnesota safety council, the Metropolitan council and any of its statutory boards, and any other agency employing employees covered by this system, respectively, shall also pay into the retirement fund the amount required by subdivision 3.

**Subd. 7. [Repealed, 1973 c 221 s 11]**

**Subd. 8. Department required to pay omitted salary deductions.** (a) If any department fails to take deductions past due for a period of 60 days or less from an employee's salary as provided in this section, those deductions shall be taken on subsequent payroll abstracts. (b) If any department fails to take deductions past due for a period in excess of 60 days from an employee's salary as provided in this section, the department, and not the employee, shall pay the employee and employer contributions and an amount equivalent to six percent of the total amount due in lieu of interest. (c) If any department fails to take deductions past due for a period of 60 days or less and the employee is no longer in state service so that the required deductions cannot be taken from the salary of the employee, the department shall nevertheless pay the required employer contributions. If any department fails to take deductions past due for a period in excess of 60 days and the employee is no longer in state service, the omitted contributions shall be recovered pursuant to clause (b). (d) If an employee from whose salary required deductions were past due for a period of 60 days or less leaves state service prior to the payment of the omitted deductions and subsequently returns to state service, the unpaid amount thereof shall be considered the equivalent of a refund, and the employee shall accrue no right by reason thereof, except that the employee may pay the amount thereof as provided in section 352.23.

**Subd. 9. Erroneous deductions, canceled warrants.** (1) Any deductions taken from the salary of an employee for the retirement fund in error shall, upon discovery and verification by the department making the deduction, be refunded to the employee.

(2) In the event a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refundment of the sum so deducted, or any portion of it as is required to adjust the deductions, shall be made to the department or institution provided application for it is made on a form furnished

by the director, and the department's payments shall likewise be refunded to the department.

Subd. 10. [Repealed, 2Sp1981 c 1 s 8]

Subd. 11. **Gifts and bequests.** The director is hereby authorized and empowered to credit to the retirement fund any moneys received in the form of donations, gifts, appropriations, bequests, or otherwise, or derived therefrom.

Subd. 12. **Fund disbursement restricted.** The state employees retirement fund and the participation in the Minnesota postretirement investment fund shall be disbursed only for the purposes herein provided. The expenses of the system and any benefits herein provided, other than benefits payable from the Minnesota postretirement investment fund, shall be paid from the state employees retirement fund. The retirement allowances, retirement annuities, and disability benefits, as well as refundment of any sum remaining to the credit of a deceased retired employee or a disabled employee shall be paid only from the state employees retirement fund after such needs have been certified and the amounts withdrawn from the participation in the Minnesota postretirement investment fund under the provisions of section 11A.18. The amounts necessary to make the payments from the state employees retirement fund and the participation in the Minnesota postretirement investment fund are hereby annually appropriated from said funds for said purposes.

**History:** (254-4) 1929 c 191 s 4; 1931 c 351 s 4; 1933 c 326 s 4; 1935 c 238 s 4; 1939 c 432 s 2; 1941 c 391 s 4; 1943 c 622 s 3; 1945 c 284 s 5-7; 1945 c 603 s 1; 1947 c 631 s 10,11; 1949 c 644 s 9,10; 1951 c 441 s 13,14; 1955 c 239 s 7,8; 1957 c 928 s 8,33; 1961 c 633 s 1; Ex1961 c 67 s 3-6; 1963 c 383 s 12-19; 1965 c 861 s 1; 1967 c 571 s 1; Ex1967 c 57 s 11; 1969 c 399 s 1; 1969 c 893 s 3-5; 1971 c 194 s 1; 1973 c 492 s 14; 1973 c 653 s 26,27; 1980 c 607 art 14 s 45 subd 2; s 46; 1980 c 614 s 136; 3Sp1981 c 2 art 1 s 64,65; 1982 c 578 art 1 s 2; 1982 c 641 art 1 s 9,10; 1984 c 564 s 4,5; 1986 c 444

### 352.041 LEAVE OF ABSENCE FOR EMPLOYMENT BY POLITICAL SUBDIVISION.

Subdivision 1. **Allowable service credit.** Any employee covered by the system who is given a leave of absence for employment by a political subdivision of the state shall continue to pay into the state employees retirement fund for the period of such leave, and upon such payment shall be given allowable service credit as a state employee on the records of the system the same as though the employee had received salary from the state therefor. Such payments into the retirement fund shall be at the rate required in section 352.04, subdivision 2, and shall be based upon the salary received from the political subdivision subject to the maximum amount, if any.

Subd. 2. **Employee contributions, procedure.** The officer or employee authorized by law to pay salaries to employees of the political subdivision employing such state employee shall cause employee contributions to be deducted from the salary of each employee who is on leave of absence from state service as aforesaid on each payroll abstract and shall pay such sum to the director each pay period.

Subd. 3. **Employer contributions, procedure.** The officer or employee authorized by law to pay salaries to employees of the political subdivision employing such state employee covered by the system shall also cause employer contributions to be made to the state employees retirement fund on each payroll abstract in the amount required by section 352.04, subdivision 3. These contributions are to be charged as an administrative cost.

Subd. 4. [Repealed, 1963 c 383 s 59]

Subd. 5. **Employer contributions, leaves of absence; tax levies.** Every political subdivision employing a state employee covered by the system on leave of absence from state service for employment by a political subdivision of the state shall pay into the state employees retirement fund the amount of the employer contribution required by law for state employees covered by the system. Such employing political subdivisions, except school districts, may levy such taxes as may be necessary for the payment of

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employer contributions without limitation as to rate or amount, and the levy of such taxes shall not cause the amount of other taxes to be levied by political subdivisions, except school districts, which are subject to any such limitation, to be reduced in any amount whatsoever.

Subd. 6. [Repealed, 1983 c 128 s 36]

Subd. 7. [Repealed, 1963 c 383 s 59]

**History:** 1959 c 647 s 1; 1963 c 383 s 20,21; Ex1967 c 57 s 12; Ex1971 c 31 art 20 s 10; 1986 c 444

## 352.05 STATE TREASURER TO BE TREASURER OF SYSTEM.

The state treasurer shall be ex officio treasurer of the retirement funds of the system and the general bond to the state shall cover all liability for actions as treasurer of these funds. All moneys of the system received by the treasurer shall be set aside in the state treasury to the credit of the proper fund. The treasurer shall deliver to the director each month copies of all payroll abstracts of the state together with the commissioner of finance's warrants covering the deductions made on these payroll abstracts for the retirement fund; whereupon the director shall cause to be made, in quadruplicate, a list of the commissioner of finance's warrants and these warrants shall then be deposited with the state treasurer to be credited to the retirement fund. The treasurer shall pay out of this fund only on warrants issued by the commissioner of finance, upon abstracts signed by the director, or by the finance officer designated by the director during the disability or the absence of the director from the city of St. Paul, Minnesota. Abstracts for investments may be signed by the secretary of the state board of investment.

**History:** (254-5) 1929 c 191 s 5; 1931 c 351 s 5; 1935 c 238 s 5; 1941 c 391 s 5; 1945 c 284 s 8; 1957 c 928 s 28; Ex1961 c 67 s 7; Ex1967 c 57 c 13; 1973 c 492 s 14; 1986 c 444

352.06 [Repealed, 1967 c 404 s 8]

## 352.061 INVESTMENT BOARD TO INVEST FUNDS.

The director shall, from time to time, certify to the state board of investment such portions of the state employees retirement fund as in the judgment of the director may not be required for immediate use. Assets from the state employees retirement fund shall be transferred to the Minnesota postretirement investment fund as provided in section 11A.18. The state board of investment shall thereupon invest and reinvest sums so transferred, or certified, in such securities as are duly authorized legal investments for such purposes under section 11A.24.

**History:** 1967 c 404 s 7; Ex1967 c 57 s 14; 1969 c 893 s 6; 1980 c 607 art 14 s 45 subd 2; s 46; 1986 c 444

352.07 [Repealed, 1963 c 383 s 59]

352.08 [Repealed, 1963 c 383 s 59]

352.09 [Repealed, 1957 c 928 s 33]

352.10 [Repealed, 1945 c 284 s 1]

352.103 Subdivision 1. [Repealed, 1963 c 383 s 59]

Subd. 2. [Repealed, 1963 c 383 s 59; 1965 c 230 s 18]

352.11 [Repealed, 1957 c 928 s 33]

## 352.113 PERMANENT DISABILITY BENEFITS.

Subdivision 1. **Age and service requirements.** Any employee covered by the system who is less than 65 years of age who becomes totally and permanently disabled after ten or more years of allowable service and any employee who is at least 50 years of age but less than 65 years of age who becomes totally and permanently disabled after five or more years of allowable service shall be entitled to a disability benefit in an

amount provided in subdivision 3. If such disabled employee's state service has terminated at any time, at least five years of allowable service must have been rendered after last becoming a state employee covered by the system.

**Subd. 2. Application; accrual of benefits.** An employee making claim for a total and permanent disability benefit shall file a written application therefor in the office of the system in a form and manner prescribed by the executive director. The benefit shall begin to accrue the day following the commencement of disability or the day following the last day paid whichever is later but in no event earlier than 60 days prior to the date the application is filed with the director.

**Subd. 3. Computation of benefits.** The total and permanent disability benefit shall be computed in the manner provided in section 352.115. The disability benefit shall be the normal annuity without reduction for each month the employee is under age 65 at the time of becoming disabled. A disabled employee may elect to receive the normal disability benefit or an optional annuity as provided in section 352.116, subdivision 3. The election of an optional annuity shall be made prior to the commencement of payment of the disability benefit and shall be effective the date on which the disability begins to accrue as provided in subdivision 2.

**Subd. 4. Medical examinations; authorization for payment of benefit.** An applicant shall provide medical evidence to support an application for total and permanent disability. The director shall have the employee examined by at least one additional licensed physician designated by the medical advisor. The physicians shall make written reports to the director concerning the employee's disability including medical opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17. The director shall also obtain written certification from the employer stating whether the employee is on sick leave of absence because of a disability which will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer. If upon the consideration of the reports of the physicians and such other evidence as may have been supplied by the employee or others interested therein, the medical advisor finds the employee totally and permanently disabled, the advisor shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled, and the director shall thereupon determine the propriety of authorizing payment of a disability benefit as provided in this section. The employee must be on approved leave of absence from the employer to be eligible to make application for a total and permanent disability benefit, but the fact that an employee is placed on leave of absence without compensation because of disability shall not bar that employee from receiving a disability benefit. Unless payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached age 65 as provided in this section, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving; in that event the surviving spouse shall be entitled to the disability benefit for the calendar month in which the disabled employee died.

**Subd. 5. [Repealed, 1Sp1985 c 7 s 36]**

**Subd. 6. Regular medical examinations.** At least once each year during the first five years following the allowance of a disability benefit to any employee, and at least once in every three-year period thereafter, the director may require any disabled employee to undergo a medical examination to be made at the place of residence of such employee, or at any place mutually agreed upon, by a physician or physicians designated by the medical advisor and engaged by the director. If any examination indicates to the medical advisor that the employee is no longer permanently and totally disabled, or is engaged in or is able to engage in a gainful occupation, payments of the disability benefit by the fund shall be discontinued. The payments shall discontinue as soon as the employee is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after the medical advisor finds that such employee is no longer permanently and totally disabled.

**Subd. 7. Partial re-employment.** Should the disabled employee resume a gainful occupation from which earnings are less than the employee's salary at the date of disability or the salary currently paid for similar positions, the director shall continue the disability benefit in an amount which when added to such earnings does not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is lower, provided the disability benefit in such case does not exceed the disability benefit originally allowed. No deductions for the retirement fund shall be taken from the salary of a disabled employee who is receiving a disability benefit as provided in this subdivision.

**Subd. 8. Refusal of examination.** Should any such disabled employee refuse to submit to a medical examination as herein provided, payments by the fund shall be discontinued and all rights of the employee in any disability benefit shall be revoked by the director.

**Subd. 9. Return to state service.** Any employee receiving a disability benefit who is restored to active state service except employees receiving benefits as provided in subdivision 7, shall have deductions taken for the retirement fund and upon subsequent retirement have the payable retirement annuity based upon all allowable service including that upon which the disability benefits were based. No employee shall be entitled to receive disability benefits and a retirement annuity at the same time.

**Subd. 10. Employee again disabled after resuming employment.** If a disabled employee resumes gainful employment with the state and is not entitled to continued payment of a disability benefit as provided in subdivision 7, the right to a disability benefit shall terminate when the employee has been employed for one year thereafter. Should such employee again become totally and permanently disabled before reaching age 65, application for a disability benefit may again be made. In the event the employee is entitled to a disability benefit it shall be computed as provided in subdivision 9.

**Subd. 11. Recomputation of benefit.** If an employee who has resumed employment as provided in subdivision 10 is re-employed for more than three months, but is unable to continue in such re-employment for one year, the disability benefit shall be recomputed allowing additional service credit for the period of re-employment; provided that if the period of re-employment does not exceed three months, the deductions taken from salary after resuming employment shall be returned to the employee, who shall not be entitled to service credit for the period covered by the returned deductions.

**Subd. 12. Retirement status at age 65.** The disability benefit paid to a disabled employee hereunder shall terminate when the employee reaches age 65. If the disabled employee is still totally and permanently disabled when the employee reaches age 65, the employee shall be deemed to be a retired employee and, if the employee had elected an optional annuity pursuant to subdivision 3, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the employee had not elected an optional annuity pursuant to subdivision 3, may then elect to receive either a normal retirement annuity equal in amount to the disability benefit paid before the employee reached age 65 or an optional annuity as provided in section 352.116, subdivision 3. Election of an optional annuity shall be made prior to reaching age 65. If an optional annuity is elected, the election shall be effective on the date on which the employee attains the age of 65 years and the optional annuity shall begin to accrue the first of the month following the month in which the employee attains age 65.

**History:** 1951 c 441 s 21; 1955 c 239 s 13; 1957 c 928 s 13; Ex1959 c 6 s 13; Ex1961 c 67 s 9; 1963 c 383 s 22-25; Ex1967 c 57 s 15; 1971 c 12 s 3; 1971 c 194 s 2; 1975 c 359 s 23; 1975 c 368 s 18-20; 1981 c 68 s 10,11; 1981 c 224 s 47; 1983 c 128 s 5-7; 1984 c 564 s 6,7; 1984 c 574 s 5,6; 1986 c 444

### 352.115 RETIREMENT ANNUITY.

**Subdivision 1. Age and service requirements.** After separation from state service any employee (a) who has attained the age of at least 55 years and who is entitled to credit for not less than ten years allowable service or (b) who has received credit for



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not less than 30 years allowable service regardless of age is entitled upon application to a retirement annuity.

**Subd. 2. Average salary.** The retirement annuity hereunder payable at age 65 or thereafter shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3 hereof, on the basis of the employee's average salary for the period of allowable service. Such retirement annuity is known as the "normal" retirement annuity.

For each year of allowable service, "average salary" of an employee for the purpose of determining a retirement annuity means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions.

"Average salary" shall not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor shall it include the reduced salary, if any, paid during the period the employee is entitled to benefit payments from the workers' compensation court of appeals for temporary disability.

**Subd. 3. Retirement annuity formula.** The employee's average salary, as defined in subdivision 2 multiplied by 1 percent per year of allowable service for the first ten years and 1.5 percent for each subsequent year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee qualifying therefor is entitled.

**Subd. 4.** [Repealed, 1983 c 128 s 36]

**Subd. 5.** [Repealed, 1983 c 128 s 36]

**Subd. 6.** [Repealed, 1965 c 230 s 18]

**Subd. 7. Application for annuity.** Application for annuity may be made by the employee, or someone acting in behalf of the employee, upon proof of authority satisfactory to the director.

**Subd. 8. Accrual of annuity.** State employees shall make application for an annuity but such application shall not be made more than 60 days prior to the time the employee is eligible to retire by reason of both age and service requirements. If the director determines an applicant for annuity has fulfilled all the requirements of the law to entitle the applicant to an annuity, the director shall authorize payment thereof in accordance with the provisions of this chapter and payment shall be made pursuant to this authorization. An annuity shall begin to accrue no earlier than 60 days prior to the date the application is filed with the director, but in no event prior to the day following the termination of state service or prior to the day the employee is eligible to retire by reason of both age and service requirements. The retirement annuity shall cease with the last payment which had accrued during the lifetime of the retired employee unless an optional annuity provided in section 352.116, subdivision 3, had been selected and had become payable. The joint and last survivor annuity shall cease with the last payment received by the survivor during the lifetime of the survivor. If a retired employee had not selected an optional annuity, or a survivor annuity is not payable under the option, and a spouse survives, such spouse shall be entitled only to the annuity for the calendar month in which the retired employee died. If an optional annuity is payable after the death of the retired employee, the survivor shall be entitled to the annuity for the calendar month in which the retired employee died.

**Subd. 9. Annuities payable monthly.** All annuities, and disability benefits authorized under the provisions of this chapter shall be paid in equal monthly installments and shall not be increased, decreased, or revoked except as provided herein.

**Subd. 10. Re-employment of annuitant.** Should any retired employee again become entitled to receive salary or wages from the state, or any employer who employs state employees as that term is defined in section 352.01, subdivision 2, other than salary or wages received as a temporary employee of the legislature during a legislative session, the annuity or retirement allowance shall cease when the retired employee has earned an amount equal to the annual maximum earnings allowable for that age for the

continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of 42 U.S.C., Section 403, in any calendar year. In the event that the retired employee has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the retired employee shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The annuity shall be resumed when state service terminates, or, if the retired employee is still employed at the beginning of the next calendar year, at the beginning of such calendar year, and payment shall again terminate when the retired employee has earned the applicable re-employment earnings maximum specified in this subdivision. No payroll deductions for the retirement fund shall be made from the earnings of a re-employed retired employee. If the retired employee is granted a sick leave without pay, but not otherwise, the annuity or retirement allowance shall be resumed during the period of sick leave. No change shall be made in the monthly amount of an annuity or retirement allowance because of the re-employment of an annuitant.

**Subd. 11. Accrued annuity at death.** Any annuity which had accrued prior to the death of a retired employee, and any disability benefit which had accrued prior to the death of a disabled employee shall be paid to the beneficiary whom the retired employee or the disabled employee had last designated. If (a) no beneficiary has been so designated, or (b) the designated beneficiary should die before making claim for payment of such annuity or benefit, payment shall be made to the surviving spouse, or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the legal representative of such retired employee or disabled employee. If such designated beneficiary, surviving spouse, or legal representative entitled thereto does not apply for payment within five years from the date of death of the retired employee or disabled employee, the annuity or disability benefit which had accrued at the time of death shall be credited to and become a part of the retirement fund.

**Subd. 12. Death, return of warrants.** If at the time of death a retired employee, a disabled employee or a survivor has in possession commissioner of finance's warrants covering a retirement annuity, disability benefit or survivor benefit from the retirement fund, in the absence of probate proceedings, and upon the return of such warrants for cancellation, payment of such accrued annuity or benefit shall be paid as provided in subdivision 11, or 352.12, subdivision 4. Payments made under the provisions of this subdivision shall be a bar to recovery by any other person or persons.

**Subd. 13. [Repealed, 1981 c 224 s 276]**

**History:** 1957 c 928 s 9; Ex1959 c 6 s 7,9,20; Ex1961 c 67 s 10; 1963 c 383 s 26-32; 1963 c 814 s 1; 1965 c 230 s 3-6; Ex1967 c 57 s 16; 1969 c 893 s 7; 1971 c 12 s 4; 1973 c 35 s 53; 1973 c 221 s 4; 1973 c 492 s 14; 1973 c 653 s 28-30; 1975 c 271 s 6; 1975 c 359 s 23; 1975 c 368 s 21-23; 1976 c 134 s 78; 1980 c 342 s 3; 1980 c 607 art 14 s 33; 1981 c 224 s 48; 1983 c 128 s 8; 1984 c 564 s 8,9; 1984 c 574 s 7; 1986 c 444

### 352.116 ANNUITIES UPON RETIREMENT.

**Subdivision 1. Reduced annuity before age 65.** Any employee who retires prior to age 65 shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, reduced so that the reduced annuity shall be the actuarial equivalent of the annuity which would be payable to the employee if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 65, provided however that if an employee is entitled to credit for not less than 30 years allowable service, the retirement annuity shall be reduced so that the reduced annuity shall be the actuarial equivalent of the annuity which would be payable to the employee if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 62.

**Subd. 2. Normal annuity at age 65.** Any employee who retires after age 65 shall be paid the annuity provided in section 352.115.

Subd. 3. **Optional annuities.** The board shall establish an optional retirement annuity which shall take the form of a joint and survivor annuity. The board may also in its discretion establish an optional annuity which shall take the form of an annuity payable for a period certain and for life thereafter. The optional forms shall be actuarially equivalent to the normal forms provided in sections 352.115 and 352.116, whichever applies. In establishing these optional forms the board shall obtain the written recommendation of an approved actuary as defined in section 352.01, subdivision 15, and these recommendations shall be a part of the permanent records of the board.

**History:** 1957 c 928 s 10; Ex1959 c 6 s 11; Ex1961 c 67 s 11; 1963 c 383 s 33-35; Ex1967 c 57 s 17; 1969 c 37 s 1; 1971 c 274 s 1; 1973 c 653 s 31; 1978 c 781 s 1; 1980 c 509 s 130; 1981 c 224 s 49

**352.117** Subdivision 1. [Repealed, 1963 c 383 s 59]

Subd. 2. [Repealed, 1963 c 383 s 59]

Subd. 3. [Repealed, 1959 c 162 s 3]

**352.118** [Repealed, 1983 c 128 s 36]

**352.1181** [Repealed, 1981 c 224 s 276]

### **352.119 PARTICIPATION IN MINNESOTA POSTRETIREMENT INVESTMENT FUND.**

Subdivision 1. **Adjustable fixed benefit annuity.** Adjustable fixed benefit annuity means the payments made from the participation in the fund to an annuitant after retirement in accordance with the provisions of this section. It also means that the payments made to the persons receiving benefits shall never be an amount less than the amount originally determined on the date of retirement or on July 1, 1969, whichever is later but not including the supplemental benefit provided for in section 352.73.

Subd. 2. **Valuation of assets; adjustment of benefits.** (1) Effective July 1, 1969, for those employees commencing to receive benefits pursuant to this chapter, and acts amendatory thereof, the required reserves as determined in accordance with the interest assumption then in effect and appropriate mortality table based on experience of the fund as recommended by the system's actuary shall be transferred to the Minnesota postretirement investment fund as of the date benefits begin to accrue.

(2) Annuity payments shall be adjusted in accordance with the provisions of section 11A.18.

Subd. 3. **Increases made automatically.** Notwithstanding section 356.18, increases in benefit payments pursuant to this section will be made automatically unless the intended recipient files written notice with the Minnesota state retirement system requesting that the increase shall not be made.

**History:** 1969 c 893 s 9; 1971 c 12 s 5; 1971 c 414 s 7; 1973 c 653 s 33; 1980 c 607 art 14 s 45 subd 2; s 46

**352.1191** [Repealed, 1983 c 128 s 36]

### **352.12 REFUND AFTER DEATH OF EMPLOYEE OR FORMER EMPLOYEE.**

Subdivision 1. **Death before termination of service.** If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refundment to the last designated beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest thereon to the date of death at the rate of five percent per annum compounded annually. In the event an employee dies who has received a refundment which was subsequently

repaid in full, interest shall be paid on such repaid refundment only from the date of repayment. If the repayment was made in installments, interest shall be paid only from the date installment payments began. The designated beneficiary, surviving spouse or representative of the estate of an employee who had received a disability benefit shall not be entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death.

**Subd. 2. Surviving spouse benefit.** If an employee or former employee who has attained the age of at least 50 years and has credit for not less than ten years allowable service or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest provided in subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity shall be computed as provided in sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1 and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity payable under this subdivision. The annuity shall cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the benefits paid and payable to the surviving spouse shall be paid to the deceased employee's last designated beneficiary or, if none, to the surviving children of the deceased spouse in equal shares or, if none, to the surviving parents of the deceased spouse or, if none, to the representative of the estate of such deceased spouse. Any employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

**Subd. 3. Refund of \$1,500 or less.** If a state employee or former state employee dies without having designated a beneficiary, or if the beneficiary should die before making application for refund of the sum to the credit of such deceased employee or former employee, and there is no surviving spouse, and the amount of the refund does not exceed \$1,500 exclusive of interest the director may, 90 days after the date of death of the employee or former employee in the absence of probate proceedings, upon proper application make refund to the next of kin of the deceased employee or former employee, as determined by the director with the concurrence of the board, to be entitled thereto consistent with the laws of descent and such determination and payment without notice shall be conclusive and final and shall be a bar against claims of all other persons.

**Subd. 4. Refund to minor beneficiary.** If an employee or former employee dies having named as a beneficiary a person who is a minor at the time of the application for refund, and the amount of the refund does not exceed \$1,500, exclusive of interest, the director in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of such minor beneficiary, for the benefit of such child. Any annuity, retirement allowance or disability benefit which had accrued at the time of death of a disabled or retired employee, payable to a minor beneficiary, may similarly be paid, and such payment shall be a bar to recovery by any other person or persons.

**Subd. 5. Monthly installments.** The beneficiary or surviving spouse of any deceased employee or former employee entitled to receive a refundment shall have the option of having the amount due paid in monthly installments in such amounts as may be agreed upon with the director.

**Subd. 6. Death after service termination.** Except as provided in subdivision 1, if a former employee covered by the system dies and has not received an annuity, a retirement allowance or a disability benefit, a refundment shall be made to the last

designated beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions.

**Subd. 7. Absence of optional or reversionary annuity.** If a retired employee dies who selected neither an optional annuity or a reversionary annuity, there shall be paid to the designated beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate, an amount equal to the excess, if any, of the accumulated contributions to the credit of the retired employee immediately prior to retirement over and above the aggregate of (1) all annuities, retirement allowances and disability benefits which had been received and which had accrued in the lifetime of the decedent, and (2) the annuity, retirement allowance or disability benefit if applicable, payable to the surviving spouse under section 352.115, subdivision 8, or 352.113, subdivision 4, for the calendar month in which the retired employee died.

**Subd. 8. MS 1961 [Repealed, 1963 c 383 s 59]**

**Subd. 8. Optional or reversionary annuity.** If the last eligible recipient of an optional annuity dies and the total amounts paid thereunder are less than the accumulated contributions to the credit of the retired employee immediately prior to retirement, the balance of such accumulated contributions shall be paid to the person designated by the retired employee in writing to receive the same, but if no such designation has been made by the retired employee the remaining balance of such accumulated contributions shall be paid to the surviving children of the deceased recipient of the optional annuity in equal shares or, if none, to the deceased recipient's parents or, if none, to the representative of the deceased recipient's estate.

**Subd. 9. Beneficiary designation.** The designation of a beneficiary or person to receive any accumulated contributions remaining to the credit of an employee, a former employee, or a retired employee, at the time of death, as provided in this section, must be in writing and must be filed with the director prior to the death of the employee, former employee, or retired employee.

**Subd. 10. Death of beneficiary before refund.** If the last designated beneficiary or beneficiaries and the surviving spouse of a (a) deceased employee, (b) former employee, or (c) retired employee, should die before receiving a refund of the sum to the credit of the deceased employee, former employee or retired employee at the time of death, the refund shall be made to the estate of the deceased employee or as provided in subdivision 3 if the amount of the refund does not exceed \$1,500 exclusive of interest.

**Subd. 11. Death of disability annuitant.** If an employee who has received a disability benefit dies, there shall be paid to the last designated beneficiary or, if there be none, to the surviving spouse, or if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate, an amount equal to the excess, if any, of the accumulated contributions to the credit of the employee at the time the disability benefit began to accrue over and above the aggregate of (1) all disability benefits received and which had accrued during life, and (2) the benefit for the month in which the disabled employee died, payable, if applicable, to the surviving spouse under section 352.113, subdivision 4.

**Subd. 12. Refundment, failure to request.** If the last designated beneficiary, surviving spouse, legal representative or next of kin, as determined by the director with the concurrence of the board, fails to make claim for refundment as provided in this section (a) within five years from the date of death of a retired employee or disabled employee, or (b) within five years after the last deduction was taken from the salary of a deceased employee or deceased former employee, the accumulated contributions of such deceased employee, former employee, retired employee or disabled employee shall be credited to the retirement fund; however, if claim to refundment is made within ten

years after the transfer of accumulated contributions to the fund or within ten years after the date of death, whichever is later, and the amount transferred to the fund is over \$25, the sum shall be restored to the account of such deceased employee, former employee, retired employee, or disabled employee and refundment shall then be made to the surviving spouse or, if none, to the legal representative of the estate irrespective of any designation of beneficiary made by the deceased employee, former employee, retired employee or disabled employee.

**Subd. 13. Refundment, beneficiary.** If at the time of death a former employee has in possession a commissioner of finance's warrant which does not exceed \$500 covering a refundment of accumulated contributions in the retirement fund, in the absence of probate proceedings such commissioner of finance's warrant may be returned for cancellation, and then upon application made by the last designated beneficiary of such deceased former employee, refundment of the accumulated contributions shall be made to the last designated beneficiary. Payments made under the provisions of this subdivision shall be a bar to recovery by any other person or persons.

**History:** (254-11) 1929 c 191 s 14; 1933 c 326 s 1; 1935 c 238 s 12; 1941 c 391 s 11; 1947 c 631 s 15; 1949 c 644 s 15; 1951 c 441 s 22-24; 1957 c 928 s 12; 1959 c 162 s 1,2; 1963 c 383 s 36-45; 1965 c 230 s 7-9; Ex1967 c 57 s 18; 1969 c 188 s 1; 1969 c 893 s 10; 1971 c 12 s 6; 1971 c 194 s 3,4; 1973 c 221 s 5-7; 1973 c 492 s 14; 1975 c 368 s 24-29; 1981 c 224 s 50; 1983 c 128 s 9-11; 1984 c 564 s 10,11; 1986 c 444; 1986 c 458 s 4

**352.13** [Repealed, 1963 c 383 s 59]

**352.14** [Repealed, 1963 c 383 s 59]

## **352.15 EXEMPTION FROM PROCESS AND TAXATION.**

Subdivision 1. None of the moneys, annuities, or other benefits mentioned herein shall be assignable either in law or in equity or be subject to any state estate tax, or to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.611. Provided, however, the executive director may pay an annuity, benefit or refund to a banking institution, qualified under chapter 48, that is trustee for a person eligible to receive such annuity, benefit or refund. Upon the request of a retired, disabled or former employee, the executive director may mail the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such employee's account or joint account with a spouse. The board of directors may prescribe the conditions under which such payments will be made.

**Subd. 2.** Upon certification to the director by the commissioner of finance or the regents of the university of Minnesota or the head of any other department or agency responsible for the processing of its payrolls, the director shall release part or all of any moneys held for an employee in a retirement fund to correct a salary overpayment to an employee who has been erroneously paid. Provided however that the director shall not release such moneys until such time as the former employee or person otherwise entitled thereto would be eligible to apply for a refund and has been given proper notice. Amounts paid under the provisions of this subdivision shall be the equivalent of a refund. If an employee or survivor is entitled to an immediate or deferred annuity or survivor benefit, no funds shall be paid from a retirement account under this provision. The director shall prescribe the form and manner of certification.

**History:** (254-17) 1929 c 191 s 17; 1931 c 351; 1933 c 326; 1935 c 238 s 15; 1941 c 391 s 14; Ex1959 c 6 s 21; 1971 c 789 s 4; 1975 c 368 s 30; 1979 c 303 art 3 s 28; 1979 c 303 art 3 s 28; 1983 c 128 s 12; 1984 c 547 s 4; 1986 c 444

## **352.16 INSURANCE LAWS NOT TO APPLY.**

None of the laws of this state regulating insurance or insurance companies shall apply to the Minnesota state retirement system or any of its funds.

**History:** (254-18) 1929 c 191 s 18; 1933 c 326; 1935 c 238 s 16; 1941 c 391 s 15; Ex1967 c 57 s 19

**352.17** [Repealed, 1963 c 383 s 59]

**352.18** [Repealed, 1963 c 383 s 59]

**352.22 REFUND OR DEFERRED ANNUITIES.**

Subdivision 1. **Service termination.** Any employee who ceases to be a state employee by reason of termination of state service, shall be entitled to a refund provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a refund may be made 30 or more days after the termination of state service if the applicant has not again become a state employee required to be covered by the system.

Subd. 2. **Amount of refundment.** Except as provided in subdivision 3, any person who ceased to be a state employee after June 30, 1973, by reason of termination of state service shall receive a refundment in an amount equal to employee accumulated contributions plus interest at the rate of five percent per annum compounded annually. Such interest shall be computed to the first day of the month in which the refund is processed and shall be based on fiscal year balances.

Subd. 2a. **Amount of certain refund.** For any employee who is entitled to receive a refund pursuant to subdivision 1 and who, prior to July 1, 1978, was a member of the metropolitan transit commission—transit operating division employees retirement fund, the refund for contributions made prior to July 1, 1978 shall be equal to the following amounts:

(a) For any employee contributions made prior to January 1, 1950, the amount equal to one-half of the employee contributions without interest;

(b) For any employee contributions made subsequent to December 31, 1949, but prior to January 1, 1975, the amount of the employee contributions plus simple interest at the rate of two percent per annum; and

(c) For any employee contributions made subsequent to December 31, 1974, but prior to July 1, 1978, the amount of the employee contributions plus simple interest at the rate of 3-1/2 percent per annum. The refund of contributions made on or after July 1, 1978 shall be determined pursuant to subdivision 2. Interest shall be computed to the first day of the month in which the refund is processed and shall be based on fiscal year balances. No refunds of contributions made to the metropolitan transit commission—transit operating division employees retirement fund received prior to July 1, 1978 or for service rendered prior to July 1, 1978 may be repaid.

Subd. 3. **Deferred annuity.** (1) Any employee with at least ten years of allowable service when such termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. This annuity shall be computed in the manner provided by the law in effect at the time state service terminated, on the basis of allowable service prior to termination of service.

(2) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, who does not return to state service shall have any annuity, deferred annuity or other benefit to which the employee may become entitled computed under the law in effect on the last working day.

(3) No application for a deferred annuity shall be made more than 60 days prior to the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity shall begin to accrue no earlier than 60 days prior to the date the application is filed in the office of the system, but in no event prior to the date the employee reaches the required age for entitlement to the annuity nor prior to the day following the termination of state service in a position not covered by the retirement system nor prior to the day following the termination of employment in a position which requires the employee to be a member of either the public employees retirement association or the teachers retirement association.

(4) Application for the accumulated contributions left on deposit with the fund may be made at any time after 30 days following the date of termination of service.

Subd. 4. [Repealed, 1983 c 128 s 36]

Subd. 5. **Refundment generally unlimited.** The right of refundment provided in this section is not restricted as to time unless specifically provided and the statute of limitation does not apply thereto.

Subd. 6. [Repealed, 1965 c 230 s 18]

Subd. 7. [Repealed, Ex1967 c 57 so 20]

Subd. 8. **Refund specifically limited.** If a former employee covered by the system does not apply for refund within five years after the last deduction was taken from salary for the retirement fund, and does not have sufficient service to qualify for a deferred annuity such accumulated contributions shall be credited to and become a part of the retirement fund. In the event the former employee returns to state service and becomes a state employee covered by the system, the amount so credited to the retirement fund, if more than \$2, shall be restored to the individual account. If the amount so credited to the fund is over \$2 and the former employee applies for refund or an annuity pursuant to the provisions of section 352.72, the amount shall be restored to the former employee's individual account and refund made or annuity paid whichever applies.

Subd. 9. **Refundment for persons committed to state hospitals.** While a former employee is under commitment as an inmate of a state hospital under the jurisdiction of the commissioner of human services, or of a similar public authority if the former employee is an inmate of a state hospital of another state, and if the inmate is entitled to a refundment of accumulated employee contributions in the retirement fund in an amount not to exceed \$300, refundment of such accumulated contributions may be made, upon appropriate application therefor, to the superintendent of such state hospital of this state, or similar public authority of another state if authorized so to do by the laws of that state, and such refundment shall be a bar to recovery by any other person or persons.

Subd. 10. **Other refunds.** Former employees covered by the system who are or who become members of the state patrol retirement fund, the state teacher's retirement association or employees of the University of Minnesota excluded from coverage under the system by action of the board of regents; or labor service employees, excluded from coverage under section 352.01, subdivision 2B, clause (26); or employees of the adjutant general who under federal law effectually elect membership in a federal retirement system; or officers or employees of the senate or house of representatives, excluded from coverage under section 352.01, subdivision 2B, clause (8), shall be entitled to make application for a refund of their accumulated contributions plus interest as provided in subdivision 2, upon the expiration of 30 days or more after their coverage ceases, notwithstanding their continuance in state service but in positions not covered by this chapter.

Subd. 11. [Repealed, 1980 c 342 s 21]

**History:** 1957 c 928 s 14; Ex1959 c 6 s 14, 15; Ex1961 c 67 s 13, 14; 1963 c 383 s 46-52; 1965 c 230 s 10-13; Ex1967 c 57 s 20; 1969 c 31 s 1; 1969 c 188 s 2; 1969 c 893 s 11; 1971 c 12 s 7, 8; 1971 c 194 s 5; 1973 c 221 s 8; 1973 c 653 s 35, 36; 1975 c 368 s 31, 32; 1978 c 538 s 5; 1980 c 342 s 4, 5; 1981 c 37 s 2; 1981 c 224 s 51-53; 1Sp1981 c 4 art 1 s 163; 1983 c 128 s 13; 1984 c 564 s 12; 1984 c 654 art 5 s 58; 1Sp1985 c 7 s 6; 1986 c 444

### 352.23 TERMINATION OF RIGHTS.

When any employee accepts a refund as provided in section 352.22, all existing service credits and all rights and benefits to which the employee was entitled prior to the acceptance of such refund shall terminate and shall not again be restored until the former employee acquires not less than one year's allowable service credit subsequent to taking the last refund. In that event, the employee may repay all refunds previously taken from the retirement fund. Repayment of refunds will entitle the employee only to credit for service covered by (a) salary deductions, (b) payments made in lieu of salary deductions, and (c) payments made to obtain credit for service as permitted by laws in effect at the time payment was made. If an employee before taking one or more



refunds had credit for prior service or for military service without payment in either case, the employee may obtain credit for such forfeited service prior to July 1, 1929, and for such forfeited military service by making payments at a contribution rate of three percent of the average salary upon which deductions for the retirement fund were based, for the three year period immediately preceding repayment of refund for service credit prior to July 1, 1929, and on the salary received at the time of entering military service to restore military service credit. All such payments and repayment of refunds are to be paid with interest at six percent per annum compounded annually and may be paid in a lump sum or by payroll deduction in the manner provided in section 352.04.

**History:** 1957 c 928 s 15; Ex1959 c 6 s 22; 1965 c 230 s 14; Ex1967 c 57 s 21; 1969 c 1083 s 1; 1973 c 653 s 37; 1980 c 607 art 14 s 34; 1986 c 444

**352.24** [Repealed, 1963 c 383 s 59]

**352.241** [Repealed, 1963 c 383 s 59]

**352.25** [Repealed, 1963 c 383 s 59]

**352.26** [Repealed, 1963 c 383 s 59]

## **352.27 CREDIT FOR MILITARY SERVICE.**

Any employee given a leave of absence to enter military service who returns to state service upon discharge from military service as provided in section 192.262, may obtain credit for the period of military service but shall not be entitled to credit for any voluntary extension of military service at the instance of the employee beyond the initial period of enlistment, induction or call to active duty, nor to credit for any period of service following a voluntary return to military service. Such employee may obtain such credit by paying into the fund an employee contribution based upon the salary received at the date of return from military service. The amount of this contribution shall be the applicable amounts required in section 352.04, subdivision 2, plus interest at six percent per annum compounded annually. In such cases the matching employer contribution and additional contribution provided in section 352.04 shall be paid by the department employing such employee upon return to state service from funds available to such department at the time and in the manner provided in section 352.04.

**History:** 1957 c 928 s 20; Ex1959 c 6 s 25; 1963 c 383 s 53; 1965 c 230 s 15; Ex1967 c 57 s 22; 1969 c 188 s 3; 1973 c 653 s 38; 1986 c 444

## **352.271 METROPOLITAN TRANSIT COMMISSION-TRANSIT OPERATING DIVISION EMPLOYEES; CREDIT FOR MILITARY SERVICE.**

Any employee of the metropolitan transit commission operating division who was on a leave of absence to enter military service on July 1, 1978, who has not taken a refund of employee contributions as authorized by article 12 of the metropolitan transit commission-transit operating division employees retirement fund document or section 352.22, subdivision 2a, and who returns to service as an employee of the metropolitan transit commission-transit operating division upon discharge from military service as provided in section 192.262 shall be entitled to receive allowable service credit for the period of military service. If an employee has taken a refund of employee contributions as authorized, and would otherwise be entitled to receive allowable service credit pursuant to this section, the employee shall be entitled to receive allowable service credit for the period of military service upon repayment to the executive director of the Minnesota state retirement system of the amount refunded plus interest at the rate of six percent per annum compounded annually from the date on which the refund was taken to the date of repayment. No employee shall be entitled to receive allowable service credit for any voluntary extensions of military service at the instance of the employee beyond any initial period of enlistment, induction or call to active duty.

**History:** 1980 c 342 s 19

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**352.28** Subdivision 1. [Repealed, 1975 c 368 s 51]

Subd. 2. [Repealed, 1975 c 368 s 51]

Subd. 3. [Repealed, Ex1967 c 57 s 29]

Subd. 4. [Repealed, 1975 c 368 s 51]

Subd. 5. [Repealed, 1963 c 383 s 59]

Subd. 6. [Repealed, 1963 c 383 s 59]

Subd. 7. [Repealed, 1975 c 368 s 51]

Subd. 8. [Repealed, 1975 c 368 s 51]

**352.29** [Repealed, 1963 c 383 s 59]

**352.30** [Repealed, Ex1959 c 6 s 34]

**352.31** [Repealed, 1963 c 383 s 59]

**352.32** [Repealed, 1975 c 368 s 51]

**352.33** [Repealed, 1963 c 383 s 59]

**352.34** [Repealed, 1963 c 383 s 59]

**352.35** [Repealed, 1963 c 383 s 59]

**352.36** [Repealed, 1963 c 383 s 59]

**352.37** [Repealed, 1963 c 383 s 59]

**352.38** Subdivision 1. [Repealed, 1975 c 368 s 51]

Subd. 2. [Repealed, 1963 c 383 s 59]

Subd. 3. [Repealed, 1975 c 368 s 51]

**352.61** [Repealed, 1963 c 383 s 59]

**352.62** Subdivision 1. [Repealed, 1963 c 383 s 59]

Subd. 2. [Repealed, 1963 c 383 s 59]

Subd. 3. [Repealed, Ex1961 c 67 s 23]

**352.63** [Repealed, 1963 c 383 s 59]

**352.64** [Repealed, 1963 c 383 s 59]

**352.65** [Repealed, 1963 c 383 s 59]

**352.651** [Repealed, 1963 c 383 s 59]

**352.66** Subdivision 1. [Repealed, 1959 c 162 s 3]

Subd. 2. [Repealed, 1959 c 162 s 3]

Subd. 3. [Repealed, 1963 c 383 s 59]

**352.67** [Repealed, 1963 c 383 s 59]

**352.68** [Repealed, 1963 c 383 s 59]

**352.69** [Repealed, 1963 c 383 s 59]

**352.71** [Repealed, 1983 c 128 s 36]

**352.715** [Repealed, 1975 c 368 s 51]

**352.72 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.**

Subdivision 1. **Entitlement to annuity.** Any person who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and firefighters' fund, or the teachers retirement association, or the state patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ten or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that a refund has not been taken from any one of these funds since

service entitling the employee to coverage under the system or the employee's membership in any of the associations last terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ten years allowable service in the respective system or association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ten or more years.

Subd. 2. **Computation of deferred annuity.** The deferred annuity, if any, accruing under subdivision 1, or section 352.22, subdivision 3, shall be computed in the manner provided in section 352.22, subdivision 3, on the basis of allowable service prior to termination of state service and augmented as provided herein. The required reserves applicable to a deferred annuity or to an annuity for which a former employee was eligible but had not applied or to any deferred segment of an annuity shall be determined as of the date the benefit begins to accrue and augmented by interest compounded annually from the first day of the month following the month in which the employee ceased to be a state employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose shall be five percent compounded annually until January 1, 1981, and thereafter three percent compounded annually. If a person has more than one period of uninterrupted service, the required reserves related to each period shall be augmented by interest pursuant to this subdivision. The sum of the augmented required reserves so determined shall be the present value of the annuity. Uninterrupted service for the purpose of this subdivision shall mean periods of covered employment during which the employee has not been separated from state service for more than two years. If a person repays a refundment, the service restored by the repayment shall be considered as continuous with the next period of service for which the employee has credit with this system. The formula percentages used for each period of uninterrupted service shall be those as would be applicable to a new employee. The mortality table and interest assumption used to compute the annuity shall be those in effect at the time the employee files application for annuity. This section shall not reduce the annuity otherwise payable under this chapter.

Subd. 3. [Repealed, 1971 c 274 s 4]

Subd. 4. **Refundment repayment.** Any person who has received a refundment from the state employees retirement fund, and who is a member of a public retirement system included in subdivision 1, may repay such refundment with interest to the state employees retirement fund. If a refundment is repaid to the fund and more than one refundment has been received from the fund, all refundments must be repaid. Such repayment shall be made as provided in section 352.23, and under such terms and conditions consistent therewith as may be agreed upon with the director.

Subd. 5. **Early retirement.** The requirements and provisions for retirement prior to age 65 in sections 352.115, subdivision 1, and 352.116 shall also apply to an employee fulfilling such requirements with a combination of service as provided in subdivision 1.

**History:** *Ex1961 c 67 s 22; 1963 c 383 s 57; 1965 c 230 s 17; Ex1967 c 57 s 28; 1969 c 188 s 4; 1971 c 274 s 2,3; 1973 c 221 s 9,10; 1975 c 368 s 33,34; 1977 c 429 s 63; 1978 c 796 s 10; 1981 c 37 s 2; 1981 c 224 s 54,55; 1986 c 444*

NOTE: See also sections 353.71 and 354.60.

### 352.73 SUPPLEMENTAL BENEFIT FOR FORMER STATE EMPLOYEES.

Subdivision 1. Any person who at June 30, 1963, was receiving from the state employees retirement fund an annuity or retirement allowance based upon not less than 20 years allowable service, who is receiving such annuity or retirement allowance on June 30, 1967, and

(a) who did not have social security coverage as a state employee shall receive on and after July 1, 1967 the following supplemental benefit: \$18 a month, or

(b) who had social security coverage as a state employee and who was eligible to

receive either an immediate social security benefit or who would become eligible to receive a social security benefit based in whole or in part upon social security coverage as a state employee shall receive on and after July 1, 1967, a supplemental benefit of \$10 a month.

Subd. 2. The supplemental benefit payable under subdivision 1 hereof shall not be paid to any person receiving, or who may become eligible to receive, a survivor benefit pursuant to the election of an employee to take an optional annuity or a reversionary annuity; nor shall such supplemental benefit be paid to any person receiving a survivor benefit under Minnesota Statutes 1957, section 352.117, subdivisions 1 and 2, as amended, or to any employee receiving a disability benefit. Such supplemental payment shall be paid to a surviving spouse receiving payment as provided in section 352.115, subdivision 8.

Subd. 3. The supplemental benefit herein provided is for the purpose of relief in the present inflationary period and is not an increase in the amount of the annuity or retirement allowance such retired state employee receives from the state employees retirement fund. This supplemental benefit is not a vested right and the legislature reserves the power to withdraw, abolish, or modify it in any way. The benefits herein provided for shall be administered by the director of the Minnesota state employees retirement system. These supplemental benefits shall be paid in the same manner and at the same time annuities and retirement allowances are paid and, for the purpose of economy, such benefits may be included in the warrants on which the annuities are paid. Money certified by the director to the commissioner of finance as needed to meet the state's obligations to the state employees retirement fund shall be transferred to the fund at least once a month.

Subd. 4. [Repealed, 1980 c 614 s 191]

**History:** 1967 c 714 s 1,2; 1969 c 293 s 1; 1980 c 614 s 137; 1986 c 444

### **352.75 TRANSFER OF PENSION COVERAGE SAVINGS CLAUSE; INCREASE IN EXISTING ANNUITIES AND BENEFITS.**

Subdivision 1. **Existing employees.** Notwithstanding any provisions of law to the contrary, as of July 1, 1978, all active employees of the transit operating division of the metropolitan transit commission and all employees on authorized leaves of absence from the transit operating division who are employed on July 1, 1978, by a labor organization which is the exclusive bargaining agent representing employees of the transit operating division shall cease to be members of the metropolitan transit commission—transit operating employees retirement fund and shall cease to have any accrual of service credit, rights or benefits under that retirement fund. From and after July 1, 1978, all active employees of the transit operating division of the metropolitan transit commission and all employees on authorized leaves of absence from the transit operating division who are employed on July 1, 1978, by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division shall be members of the Minnesota state retirement system, shall be considered state employees for purposes of this chapter, unless specifically excluded pursuant to section 352.01, subdivision 2B, and shall have past service with the transit operating division of the metropolitan transit commission credited by the Minnesota state retirement system in accordance with section 352.01, subdivision 11, clause (10). Any employees on authorized leaves of absence from the transit operating division of the metropolitan transit commission who become employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division after July 1, 1978, shall be entitled to be members of the Minnesota state retirement system pursuant to section 352.029.

Subd. 2. **New employees.** All persons first employed by the metropolitan transit commission as employees of the transit operating division on or after July 1, 1978, shall be members of the Minnesota state retirement system and shall be considered state employees for purposes of this chapter unless specifically excluded pursuant to section 352.01, subdivision 2B.

**Subd. 3. Existing retired members and benefit recipients.** As of July 1, 1978, the liability for all retirement annuities, disability benefits, survivorship annuities and survivor of deceased active employee benefits paid or payable by the metropolitan transit commission—transit operating division employees retirement fund shall be transferred to the Minnesota state retirement system, and shall no longer be the liability of the metropolitan transit commission—transit operating division employees retirement fund. The required reserves for retirement annuities, disability benefits and optional joint and survivor annuities in effect on the day prior to July 1, 1978, and the required reserves for the increase in annuities and benefits provided pursuant to subdivision 6 shall be determined using a five percent interest assumption and the applicable Minnesota state retirement system mortality table and shall be transferred by the Minnesota state retirement system to the Minnesota postretirement investment fund on July 1, 1978, but shall be considered transferred as of June 30, 1978. The annuity or benefit amount in effect on July 1, 1978, including the increase granted pursuant to subdivision 6, shall be utilized for purposes of any adjustments made pursuant to section 11A.18. For persons receiving benefits as survivors of deceased former retirement annuitants, the benefits shall be considered as having commenced on the date on which the retirement annuitant began receiving the retirement annuity.

**Subd. 4. Existing deferred retirees.** Any former member of the metropolitan transit commission—transit operating division employees retirement fund who is not an active employee of the transit operating division of the metropolitan transit commission on July 1, 1978, who has at least ten years of active continuous service with the transit operating division of the metropolitan transit commission as defined by the metropolitan transit commission—transit operating division employees retirement plan document in effect on December 31, 1977, who has not received a refund of contributions and who has not retired or begun receiving an annuity or benefit from the metropolitan transit commission—transit operating division employees retirement fund shall be entitled to a retirement annuity from the Minnesota state retirement system upon attaining the age of at least 55 years and submitting a valid application for a retirement annuity to the executive director of the Minnesota state retirement system. The person shall be entitled to a retirement annuity in an amount equal to the normal old age retirement allowance calculated under the metropolitan transit commission—transit operating division employees retirement fund plan document in effect on December 31, 1977 subject to an early retirement reduction or adjustment in amount on account of retirement prior to the normal retirement age specified in that metropolitan transit commission—transit operating division employees retirement fund plan document. The deferred retirement annuity of any person to whom this subdivision applies shall be augmented. The required reserves applicable to the deferred retirement annuity, determined as of the date the allowance begins to accrue using an appropriate mortality table and an interest assumption of five percent, shall be augmented by interest at the rate of five percent per annum compounded annually from January 1, 1978 to January 1, 1981 and three percent per annum compounded annually from January 1, 1981 to the first day of the month in which the annuity begins to accrue. Upon the commencement of the retirement annuity, the required reserves for the annuity shall be transferred to the Minnesota postretirement investment fund in accordance with subdivision 2 and section 352.119. Upon application for a retirement annuity under this subdivision, the person shall be entitled to elect a joint and survivor optional annuity pursuant to section 352.116, subdivision 3.

**Subd. 5. Savings clause for certain existing employees.** Any person who is a member of the metropolitan transit commission—transit operating division employees retirement fund on July 1, 1978 shall be entitled to retain past and prospective rights under the retirement benefit formula, normal retirement age and early reduced retirement age provisions of the metropolitan transit commission—transit operating division employees retirement fund plan document in effect on July 1, 1978 in lieu of the provisions contained in sections 352.115; 352.116; 352.22, subdivisions 3 to 11; and 356.30.

**Subd. 6. Increase in existing annuities and benefits.** All persons receiving

retirement allowances or annuities, disability benefits, survivorship annuities and survivor of deceased active employee benefits from the metropolitan transit commission—transit operating division employees retirement fund on December 31, 1977 and on July 1, 1978, shall be entitled to have that retirement allowance or annuity, disability benefit, survivorship annuity or survivor of deceased active employee benefit increased by an amount equal to \$20 per month. Notwithstanding section 356.18, increases in payments pursuant to this subdivision shall be made automatically unless the intended recipient files written notice with the executive director of the Minnesota state retirement system requesting that the increase shall not be made. If any actuarial reduction or adjustment was applied to the retirement allowance or annuity, disability benefit, survivorship annuity or survivor of deceased active employee benefit, the increase specified in this subdivision shall be similarly reduced or adjusted. Upon the death of any person receiving an annuity or benefit where the person made a joint and survivor optional annuity election, the survivor shall be entitled to the continued receipt of the increase provided for under this subdivision; provided, however, that the increase shall be reduced or adjusted in accordance with the optional annuity election.

**History:** 1978 c 538 s 8-10; 1980 c 607 art 14 s 35, 45, subd 2; 1981 c 224 s 56

### 352.76 GENERAL ADMINISTRATION.

The provisions of this chapter shall govern in all instances where not inconsistent with the provisions of Laws 1978, chapter 538.

**History:** 1978 c 538 s 17

### 352.85 SPECIAL RETIREMENT COVERAGE FOR MILITARY AFFAIRS DEPARTMENT PERSONNEL.

Subdivision 1. **Eligibility; retirement annuity.** Any person who is employed by the department of military affairs who is covered by the general employee retirement plan of the Minnesota state retirement system as provided in section 352.01, subdivision 23, who is ordered to active duty pursuant to section 190.08, subdivision 3, who elects this special retirement coverage pursuant to subdivision 4, who is required to retire from federal military status at the age of 60 years by applicable federal laws or regulations and who terminates employment as a state employee upon attaining that age shall be entitled, upon application, to a retirement annuity computed in accordance with section 352.115, subdivisions 2 and 3, without any reduction for early retirement pursuant to section 352.116, subdivision 1.

Subd. 2. **Disability benefit.** An employee described in subdivision 1, who is less than 60 years of age and who shall become disabled and physically or mentally unfit to perform occupational duties due to injury, sickness or other disability, and who shall be found disqualified for retention on active duty as a result of a physical examination required by applicable federal laws or regulations, shall be entitled upon application to disability benefits computed in the same manner as specified in section 352.113. Disability benefits shall be otherwise governed by section 352.113, except that the age for the termination of the disability benefit shall be 60 years.

Subd. 3. **Additional contributions.** The special retirement annuities and disability benefits authorized by this section shall be financed by an employee contribution from the covered department of military affairs employee of 1.6 percent and an employer contribution from the department of military affairs of 1.6 percent, which contributions shall be in addition to the contributions required by section 352.04, subdivisions 2 and 3, and shall be made in the manner provided for in section 352.04, subdivisions 4, 5 and 6.

Subd. 4. **Election of coverage.** To be covered by the provisions of Laws 1980, chapter 607, any employee of the department of military affairs, described in subdivision 1, who is employed on July 1, 1980, or is first employed in such position after July 1, 1980, shall by August 1, 1980, or within 30 days of their employment, whichever is later, file a notice with the executive director of the Minnesota state retirement system

on a form prescribed by the executive director stating whether or not the employee elects to be covered. Elections shall be irrevocable during any period of covered employment.

**Subd. 5. Restriction on coverage.** Nothing in this section shall be construed to apply to the adjutant general.

**Subd. 6. Actuarial valuation exhibit.** In each valuation of the Minnesota state retirement system prepared pursuant to section 356.215, an exhibit pertaining to this special retirement program shall be included which shall contain for the special program those actuarial valuation contents items specified in section 356.215, subdivisions 4 to 4k, which the executive director deems are necessary to adequately disclose the actuarial condition of the special program.

**History:** 1980 c 607 art 15 s 22; 1981 c 224 s 57; 1982 c 575 s 1,2; 1Sp1985 c 7 s 35; 1986 c 444

### 352.86 SPECIAL COVERAGE FOR TRANSPORTATION DEPARTMENT PILOTS.

**Subdivision 1. Eligibility; retirement annuity.** Any person who is employed by the department of transportation in the civil service employment classification of aircraft pilot or chief pilot who is covered by the general employee retirement plan of the Minnesota state retirement system pursuant to section 352.01, subdivision 23, who elects this special retirement coverage pursuant to subdivision 3, who is prohibited from performing the duties of aircraft pilot or chief pilot after attaining the age of 62 years by a rule adopted by the commissioner of transportation and who terminates employment as a state employee upon attaining that age shall be entitled, upon application, to a retirement annuity computed in accordance with section 352.115, subdivisions 2 and 3, without any reduction for early retirement pursuant to section 352.116, subdivision 1.

**Subd. 1a. Disability benefits.** An employee described in subdivision 1, who is less than 62 years of age and who becomes disabled and physically or mentally unfit to perform occupational duties due to injury, sickness, or other disability, and who is found disqualified for retention as chief pilot or pilot as a result of a physical examination required by applicable federal laws or regulations, shall be entitled upon application to disability benefits for a maximum of five years in the amount of 75 percent of current monthly salary, to be paid by the appointing authority from the state airports fund. In no case shall disability benefits continue beyond the age of 62 years. These benefits are in lieu of all other state benefits for the disability, including, but not limited to, workers' compensation benefits.

**Subd. 2. Additional contributions.** The special retirement annuity authorized by subdivision 1 shall be financed by an employee contribution from the covered aircraft pilot or chief pilot of 1.6 percent and an employer contribution from the department of transportation of 1.6 percent, which contributions shall be in addition to the contributions required by section 352.04, subdivisions 2 and 3, and shall be made in the manner provided for in section 352.04, subdivisions 4, 5 and 6.

**Subd. 3. Election of coverage.** To be covered by the provisions of this section an employee of the department of transportation described in subdivision 1 who is employed in the described position on July 1, 1982 or thereafter shall, by August 1, 1982, or within 90 days of their employment, whichever is later, file a notice with the executive director of the Minnesota state retirement system on a form prescribed by the executive director stating whether or not the employee elects to be covered by this special plan. Elections shall be irrevocable during any period of covered employment.

**Subd. 4. Actuarial valuation exhibit.** In each valuation of the Minnesota state retirement system prepared pursuant to section 356.215, an exhibit pertaining to this special retirement program shall be included which shall contain for the special program those actuarial valuation content items specified in section 356.215, subdivisions 4 to 4k, which the executive director deems are necessary to adequately disclose the actuarial condition of the special program.

**History:** 1982 c 575 s 3; 1983 c 293 s 98,99; 1985 c 248 s 70; 1Sp1985 c 7 s 35; 1986 c 444

**352.90 CORRECTIONAL EMPLOYEES.**

It is the policy of the legislature to provide special retirement benefits and contributions for certain correctional employees who may be required to retire at an early age because they are unable to retain the mental or physical capacity required to maintain the safety, security, discipline and custody of inmates at state adult correctional facilities.

**History:** 1973 c 653 s 39; 1980 c 600 s 2; 1981 c 224 s 58

**352.91 COVERED CORRECTIONAL SERVICE.**

Subdivision 1. Covered correctional service means: (a) services performed on, before, or after July 1, 1973, by a state employee, as defined in section 352.01, as an attendant guard, attendant guard supervisor, correctional captain, correctional counselor I, correctional counselor II, correctional counselor III, correctional counselor IV, correctional lieutenant, correctional officer, correctional sergeant, director of attendant guards and guard farmer garden, provided the employee was employed in such position on July 1, 1973 or thereafter; (b) services performed before July 1, 1973 by an employee covered under clause (a) in a position classified as a houseparent, special schools counselor, shop instructor or guard instructor; and (c) services performed before July 1, 1973 in a position listed in clause (a) and positions classified as houseparent, guard instructor and guard farmer dairy, by a person employed on July 1, 1973 in a position classified as a license plant manager, prison industry lead supervisor (general, metal fabricating and foundry), prison industry supervisor, food service manager, prison farmer supervisor, prison farmer assistant supervisor or rehabilitation therapist employed at the Minnesota security hospital. However an employee shall not be covered hereunder if first employed after July 1, 1973 and who because of age could not acquire sufficient service to qualify for an annuity as a correctional employee.

Subd. 2. Covered correctional service shall also mean service rendered at any time by state employees as special teachers, maintenance personnel, and members of trades certified by the commissioner of employee relations as being regularly engaged in rehabilitation, treatment, custody or supervision of inmates employed at the Minnesota correctional facility-St. Cloud, the Minnesota correctional facility-Stillwater and the Minnesota correctional facility-Shakopee on or after July 1, 1974, other than any employees who are 62 years of age or older as of July 1, 1974, and, effective the first payroll period after June 1, 1980 or the date of initial employment in covered correctional service, whichever is later, shall also include those employees of the Minnesota correctional facility-Lino Lakes and the employees of any other adult state correctional facility which may be established, who perform covered correctional service after June 1, 1980. The term special teacher shall also include the classifications of facility educational administrator and supervisor.

Subd. 3. Covered correctional service includes service rendered prior to July 1, 1973, in a classification of farmer or farm manager by an employee employed in a covered correctional position on July 1, 1973. Services performed before July 1, 1974 in a classification defined in subdivisions 1, clause (a) and (b) and 2 by an employee in a covered correctional position on or after July 1, 1974, shall be covered correctional service and shall be applicable to employees retiring after July 1, 1974. The portion of the retirement benefit payable to any special teacher who was covered by the correctional plan under subdivision 2 and who retires after July 1, 1974, which is based on service rendered prior to July 1, 1974, if such service was covered by the state teachers retirement basic formula, shall be not less than the benefit determined using such basic formula and shall never be less than the benefit which would have been payable on such service under the basic formula adjusted for the number of months the employee is under age 65 at date of retirement.

Subd. 3a. **Security guards.** Covered correctional service shall also mean service rendered prior to January 1, 1981, in the classification of security guard by any employee employed in a covered correctional position on January 1, 1981.

Subd. 3b. Covered correctional service also means service performed by certain



state employees in positions usually covered by this section who were excluded by law from coverage between July 1973 and July 1980 if they were 45 years of age or over when hired, provided they are state employees on March 26, 1986 and provided they elect coverage. Eligible employees who elect coverage must file written notice of their election with the director prior to July 1, 1986.

Subd. 4. Upon the recommendation of the commissioner of corrections or the commissioner of human services, whichever is the appropriate employing authority, with the approval of the legislative advisory committee and with notification to and receipt of comments from the legislative commission on pensions and retirement, the commissioner of employee relations may certify additional civil service classifications at state adult correctional or security hospital facilities to the executive director of the Minnesota state retirement system as positions rendering covered correctional service.

**History:** 1973 c 653 s 40; 1974 c 520 s 1; 1975 c 368 s 35; 1978 c 781 s 2; 1980 c 600 s 3-5; 1980 c 617 s 47; 1981 c 224 s 59; 1981 c 297 s 3; 1984 c 654 art 5 s 58; 1986 c 444; 1986 c 458 s 31

### 352.92 CORRECTIONAL EMPLOYEE CONTRIBUTIONS.

Subdivision 1. **Employee contributions.** Beginning with the first full pay period after July 1, 1984, in lieu of employee contributions payable under section 352.04, subdivision 2, contributions by covered correctional employees shall be in an amount equal to 4.90 percent of salary.

Subd. 2. **Employer contributions.** Beginning with the first full pay period after July 1, 1984, in lieu of employer contributions payable under section 352.04, subdivision 3, the employer shall contribute for covered correctional employees an amount equal to 8.70 percent of salary.

**History:** 1973 c 653 s 41; 3Sp1981 c 2 art 1 s 66,67; 1982 c 641 art 1 s 11,12; 1984 c 564 s 13

### 352.93 RETIREMENT ANNUITY.

Subdivision 1. After separation from state service an employee covered under section 352.91 who has attained the age of at least 55 years and has credit for not less than a total of ten years of covered correctional service and regular Minnesota state retirement system service shall be entitled upon application to a retirement annuity under this section based only on covered correctional employees' service. Application may be made no earlier than 60 days prior to the date the employee is eligible to retire by reason of both age and service requirements.

For the purpose of this section, average salary means the average of the monthly salary during the employees' highest five successive years of salary as an employee covered by the Minnesota state retirement system.

Subd. 2. The monthly annuity under this section shall be determined by multiplying the average monthly salary by the number of years, or completed months, of covered correctional service by 2.5 percent for the first 25 years of correctional service and two percent for each year thereafter; provided however, the monthly annuity shall not exceed 75 percent of the average monthly salary.

Subd. 3. The annuity under this section shall begin to accrue as provided in section 352.115, subdivision 8, and shall be paid for an additional 84 full calendar months or to the first of the month following the month in which the employee becomes age 65, whichever occurs first, except that in no event shall payment cease prior to the first of the month following the month in which the employee becomes 62, and then be reduced to the amount as calculated under section 352.115, except that if this amount, when added to the social security benefit based on state service the employee is eligible to receive at such time, is less than the benefit payable under subdivision 2, the retired employee shall receive an amount that when added to such social security benefit will equal the amount payable under subdivision 2. When an annuity is reduced under this subdivision, the percentage adjustments, if any, that have been applied to

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the original annuity under section 11A.18, prior to the reduction, shall be compounded and applied to the reduced annuity. A former correctional employee employed by the state in a position covered by the regular plan between the ages of 58 and 65 shall receive a partial return of correctional contributions at retirement with five percent interest based on the following formula:

Employee contributions contributed as a correctional employee in excess of the contributions such employee would have contributed as a regular employee	X	Years and complete months of regular service between ages 58 and 65 ..... 7
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Subd. 4. A former employee who has both regular and correctional service shall, if qualified, receive an annuity based on both periods of service under applicable sections of law but no period of service shall be used more than once in calculating the annuity.

Subd. 5. [Repealed, 1983 c 128 s 36]

Subd. 6. [Repealed, 1983 c 128 s 36]

**History:** 1973 c 653 s 42; 1975 c 368 s 36; 1980 c 607 art 14 s 46; 1983 c 128 s 14; 1984 c 564 s 14.15; 1986 c 444

## 352.94 AUGMENTATION.

Subdivision 1. An employee who becomes a correctional employee after serving as a regular employee shall be covered under section 352.72, subdivision 2, with respect to the regular service.

Subd. 2. An employee who becomes a regular employee after serving as a correctional employee shall not be covered under section 352.72, subdivision 2, with respect to correctional service.

**History:** 1973 c 653 s 43; 1986 c 444

## 352.95 DISABILITY BENEFITS.

Subdivision 1. Any covered correctional employee less than 55 years of age who shall become disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty which shall render the employee physically or mentally unable to perform the duties, shall be entitled to a disability benefit based on covered correctional service only, in an amount equal to 50 percent of the average salary defined in section 352.93, plus an additional 2-1/2 percent for each year of covered correctional service in excess of 20 years but not in excess of 25 years, and two percent for each year of covered correctional service in excess of 25 years, prorated for completed months, to a maximum monthly benefit of 75 percent of the average monthly salary.

Subd. 1a. **Optional annuity election.** A disabled correctional employee may elect the normal disability benefit or an optional annuity as provided in section 352.116, subdivision 3. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit and shall be effective the date on which the disability benefit begins to accrue as provided in subdivision 3. Upon becoming effective, the optional annuity shall begin to accrue on the same date as provided for the disability benefit.

Subd. 2. Any covered correctional employee who after not less than five years of covered correctional service, before reaching the age of 55 shall become disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, shall be entitled to a disability benefit based on covered correctional service only. The disability benefit shall be

computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least ten years of covered correctional service.

Subd. 3. No application for disability benefits shall be made until after the last day physically on the job. The disability benefit shall begin to accrue the day following the last day for which the employee is paid sick leave or annual leave, but in no event earlier than 60 days prior to the date the application is filed.

Subd. 4. An applicant shall provide medical evidence to support an application for disability benefits. The director shall have the employee examined by at least one additional licensed physician designated by the medical advisor. The physicians shall make written reports to the director concerning the employee's disability, including medical opinions as to whether the employee is disabled within the meaning of this section. The director shall also obtain written certification from the employer stating whether the employee is on sick leave of absence because of a disability which will prevent further service to the employer, and as a consequence the employee is not entitled to compensation from the employer. If upon the consideration of the reports of the physicians and such other evidence as may have been supplied by the employee or others, the medical advisor finds the employee disabled within the meaning of this section, the advisor shall make appropriate recommendation to the director in writing, together with the date from which the employee has been disabled, and the director shall thereupon determine the propriety of authorizing payment of a disability benefit as provided in this section. Unless payment of a disability benefit has terminated because the employee is no longer disabled, or because the employee has reached age 62, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the employee's lifetime. During the time that disability benefits are paid, the director shall have the right at reasonable times to require the disabled employee to submit proof of the continuance of the disability claimed. If any examination indicates to the medical advisor that the employee is no longer disabled, the disability payment shall be discontinued upon reinstatement to state service or within 60 days of such finding, whichever is sooner.

Subd. 5. **Retirement status at age 65.** The disability benefit paid to a disabled correctional employee hereunder shall terminate at the end of the month in which the employee reaches age 62. If the disabled correctional employee is still disabled when the employee reaches age 62, the employee shall be deemed to be a retired employee and, if the employee had elected an optional annuity pursuant to subdivision 1a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the employee had not elected an optional annuity pursuant to subdivision 1a, may then either elect to receive a normal retirement annuity computed in the manner provided in section 352.115 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity shall be made prior to attaining the age of 62 years. The reduction for retirement prior to age 65 as provided in section 352.116, subdivision 1, shall not be applicable. The savings clause provision of section 352.93, subdivision 3, shall be applicable. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee attains the age of 62 years.

Subd. 6. If the employee is entitled to receive a disability benefit as provided in subdivision 1 or 2 and has credit for less covered correctional service than the length of service upon which the correctional disability benefit is based, and also has credit for regular plan service, the employee shall be entitled to a disability benefit or deferred retirement annuity based on the regular plan service only for that service which when combined with the correctional service exceeds number of years on which the correctional disability benefit is based. The disabled employee who also has credit for regular plan service must in all respects qualify under the provisions of section 352.113 to be entitled to receive a disability benefit based on the regular plan service, except that the service may be combined to satisfy length of service requirements. Any deferred annuity to which the employee may be entitled based on regular plan service shall be

augmented as provided in section 352.72 while the employee is receiving a disability benefit under this section.

Subd. 7. Should the disabled employee resume a gainful occupation from which earnings are less than the salary received at the date of disability or the salary currently paid for similar positions, or should the employee be entitled to receive workers' compensation benefits, the disability benefit shall be continued in an amount which when added to such earnings and workers' compensation benefits does not exceed the salary received at the date of disability or the salary currently paid for similar positions, whichever is higher, provided the disability benefit in such case does not exceed the disability benefit originally authorized and in effect.

**History:** 1973 c 653 s 44; 1980 c 342 s 6; 1981 c 68 s 12,13; 1983 c 128 s 15,16; 1984 c 564 s 16; 1984 c 574 s 9; 1Sp1985 c 7 s 7; 1986 c 444

## 352.951 APPLICABILITY OF GENERAL LAW.

Except as otherwise provided, the provisions of this chapter shall apply to covered correctional employees.

**History:** 1981 c 224 s 60

## 352.96 DEFERRED COMPENSATION.

Subdivision 1. **Written agreement for deferment.** At the request of an officer or employee of the state of Minnesota or any political subdivision thereof, or an employee covered by any of the retirement funds enumerated in section 356.20, subdivision 2, the appointing authority shall by payroll deduction defer the payment of part of the compensation of the officer or employee as provided in a written agreement between the officer or employee and the state of Minnesota, the political subdivision, or other employing unit whose employees are covered by any of the public retirement funds enumerated in section 356.20, subdivision 2, in such a manner as will qualify the deferred amount for benefits afforded under federal and state tax laws, rules, and rulings.

Subd. 2. **Purchase of shares.** The amount of compensation so deferred may be used to purchase:

- (a) shares in the Minnesota supplemental investment fund established in section 11A.17;
- (b) saving accounts in federally insured financial institutions;
- (c) life insurance contracts, fixed annuity and variable annuity contracts from companies which are subject to regulation by the commissioner of commerce; or
- (d) any combination of (a), (b) or (c) above, as specified by the participant.

The shares accounts or contracts so purchased shall stand in the name of the state of Minnesota or other employing unit, for the officer or employee whose deferred compensation purchased said shares, until distributed to said officer or employee in a manner agreed upon by the employee and the executive director of the Minnesota state retirement system, acting for the employer. Nothing in this subdivision shall be construed as to authorize an employer contribution, nor shall the state, the political subdivision, or other employing unit be responsible for any loss which may result from investment of the deferred compensation.

Subd. 3. **Executive director to administer section.** The provisions of this section shall be administered by the executive director of the Minnesota state retirement system pursuant to the provisions of subdivision 4. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (b) and (c). All contracts must be approved prior to execution by the state board of investment. All contracts shall provide that all options in subdivision 2 shall be presented in an unbiased manner, shall be presented in a manner so as to conform to applicable rules promulgated by the executive director, shall be reported on a periodic basis to all employees participating in the deferred compensation program, and shall not be the subject of unreasonable solicitation of state employees to participate in the program.

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The contract may not call for any person to jeopardize the tax-deferred status of moneys invested by state employees pursuant to this section. All costs or fees in relation to the options provided under subdivision 2, clause (c), shall be paid by the underwriting companies ultimately selected by the state board of investment.

**Subd. 4. Executive director to establish rules.** The executive director of the Minnesota state retirement system shall establish rules and procedures to carry out the provisions of this section including allocation of administrative costs against the assets accumulated under this section. Funds to pay such costs are hereby appropriated from the fund or account in which the assets accumulated under this section are placed. The rules established by the executive director shall conform to federal and state tax laws, regulations and rulings, and are not subject to the administrative procedure act. Rules adopted after July 1, 1977, relating to the options provided under subdivision 2, clauses (b) and (c), must be approved by the state board of investment. A state employee shall not be permitted to make payments under a plan until the plan or applicable component thereof has been approved as to its tax-deferred status by the internal revenue service.

**Subd. 5. Other laws not applicable.** No provision of this chapter or other law specifically referring to this chapter is applicable to this section unless this section is specifically mentioned therein.

**History:** 1975 c 273 s 1; 1977 c 300 s 1-3; 1980 c 607 art 14 s 45 subd 1; s 46; 1981 c 208 s 10; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1985 c 248 s 70; 1986 c 356 s 8

## **352.97 PRIOR DEFERRED COMPENSATION PLANS; CONSTRUCTION.**

Sections 352.96 and 352.97 shall not be construed to preempt, prohibit, ratify or approve any other deferred compensation plan which is established prior to or which may be established subsequent to June 3, 1975.

**History:** 1975 c 273 s 2