

CHAPTER 352D

STATE UNCLASSIFIED EMPLOYEES RETIREMENT
PROGRAM

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352D.01 ESTABLISHMENT.

There is hereby established within the Minnesota state retirement system a retirement program for certain public employees to be known as the Minnesota unclassified employees retirement program, which shall be administered by the Minnesota state retirement system.

History: 1971 c 604 s 1; 1973 c 624 s 1; 1986 c 458 s 5

352D.015 DEFINITIONS.

Subdivision 1. As used in this chapter, unless the context or subject matter indicates otherwise, the following terms shall have the meanings given.

Subd. 2. "Unclassified program" means the program established by this chapter.

Subd. 3. "Supplemental fund" means the fund established and governed by section 11A.17.

Subd. 4. "Regular fund" means the state employees retirement fund except the moneys for the unclassified program.

Subd. 5. "Covered employment" means employment covered by this chapter.

Subd. 6. "Employee shares" means shares in the supplemental fund purchased with the employee's contributions.

Subd. 7. "Employer shares" means shares in the supplemental fund purchased with the employer's contributions.

Subd. 8. "Total shares" means all the employee shares and employer shares credited to a participant. Where applicable, the term "contributions" shall mean "shares."

Subd. 9. "Value" means cash value at the end of the month following receipt of an application. If no application is required, "value" means the cash value at the end of the month in which the event necessitating the transfer occurs.

Subd. 10. [Repealed, 1975 c 368 s 51]

History: 1973 c 624 s 2; 1975 c 368 s 41; 1980 c 607 art 14 s 46; 1983 c 128 s 32; 1986 c 458 s 6

352D.02 COVERAGE.

Subdivision 1. **Coverage.** The following employees, if they are in the unclassified service of the state and are eligible for coverage under the state employees retirement fund, shall participate in the unclassified program unless an employee gives notice to the executive director of the state retirement system within one year following the commencement of employment in the unclassified service that the employee desires coverage under the regular employee plan. For the purposes of this chapter, an employee who does not file notice with the executive director shall be deemed to have exercised the option to participate in the unclassified plan.

(1) any employee in the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general or the state board of investment,

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(2) the head of any department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed to the position, or any employee enumerated in section 15A.081, subdivision 1 or 15A.083, subdivision 4,

(3) any permanent, full-time unclassified employee of the legislature or any commission or agency of the legislature or a temporary legislative employee having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota state retirement system,

(4) any person employed in a position established pursuant to section 43A.08, subdivision 1, clause (c), or subdivision 1a or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level,

(5) the chair, chief administrator, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan waste control commission as designated by the commission; the chair, executive director, and not to exceed three positions at the division director or assistant to the chair level of the regional transit board; a chief administrator who is an employee of the metropolitan transit commission; and the chair, executive director, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan council as designated by the council; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations shall be made without approval of the board of directors of the Minnesota state retirement system,

(6) the executive director, associate executive director, and not to exceed nine positions of the higher education coordinating board in the unclassified service, as designated by the higher education coordinating board; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations shall be made without approval of the board of directors of the Minnesota state retirement system,

(7) the clerk of the appellate courts appointed pursuant to article VI, section 2, of the Constitution of the state of Minnesota,

(8) the chief executive officers of correctional facilities operated by the department of corrections and of hospitals and nursing homes operated by the department of human services,

(9) any employee whose principal employment is at the state ceremonial house,

(10) employees of the Minnesota educational computing corporation, and

(11) any employee of the world trade center board.

Subd. 1a. The following employees if they are eligible for coverage under the state employees retirement fund, or the teachers retirement association, or would have been eligible for coverage under those funds but for this subdivision, shall participate in the plan, subject to the provisions of subdivision 5 and Laws 1986, chapter 458, section 36, and have social security coverage under the agreement between the state and the secretary of health and human services: the chancellor, university presidents, and unclassified managerial employees in the state university system employed at the level of dean or higher.

Subd. 1b. Any person who on the day before June 30, 1982 is a participant in the state unclassified employees retirement program, whose position is placed in the classified service pursuant to Laws 1982, chapter 560, may elect to maintain membership in the unclassified program as long as the person holds the position or a position in a higher class in the same agency. When an unclassified position which entitles a person to participate in the unclassified retirement program is placed in the classified service, the commissioner of employee relations shall send written notice to the incumbent of the position, and to the director of the Minnesota state retirement system. This notice shall state the incumbent's option under this subdivision. A person eligible to maintain membership in the unclassified plan shall notify the executive director of

the state retirement system of the person's election to maintain membership in the unclassified plan within 60 days of the date on which the commissioner sends the notice stating that the position has been placed in the classified service. A person who does not file this notice shall be deemed to have waived the right to remain in the unclassified plan.

Subd. 1c. An employee covered by the regular plan who is subsequently employed as a permanent, full-time unclassified employee of the legislature or any commission or agency of the legislature may elect to transfer accumulated employee and matching employer contributions, as provided in section 352D.03.

Subd. 2. A person becoming a participant in the unclassified program by virtue of employment in a position specified in subdivision 1, clause (2) and remaining in the unclassified service shall remain a participant in the program even though the position the person occupies is deleted from any of the sections referenced in subdivision 1, clause (2) by subsequent amendment, except that a person shall not be eligible to elect the unclassified program after separation from unclassified service if on the return of the person to service, that position is not specified in subdivision 1, clause (2). Any person employed in a position specified in subdivision 1 shall cease to participate in the unclassified program in the event the position is placed in the classified service.

Subd. 3. An election to not participate is irrevocable during any period of covered employment. An employee credited with employee shares in the unclassified program, after acquiring credit for ten years of allowable service but prior to termination of covered employment, may, notwithstanding other provisions of this subdivision, elect to terminate participation in the unclassified plan and be covered by the regular plan by filing such election with the executive director. The executive director shall thereupon redeem the employee's total shares and shall credit to the employee's account in the regular plan the amount of contributions that would have been so credited had the employee been covered by the regular plan during the employee's entire covered employment. The balance of money so redeemed and not credited to the employee's account shall be transferred to the state contribution reserve of the state employees retirement fund, except that the employee contribution paid to the unclassified plan in excess of that required by the general employee plan shall be refunded to the employee as provided in section 352.22.

Subd. 4. When any person elects participation in the unclassified program all contributions from the time first eligible to make such an election shall be covered by the program.

Subd. 5. An employee in a position with retirement coverage under the basic program in the teachers retirement association is not entitled to participate in the plan unless the employee leaves the position and begins employment more than 30 days later in a position with retirement coverage under the plan.

History: 1971 c 604 s 2; 1973 c 624 s 3; 1975 c 368 s 42,43; 1976 c 329 s 11; 1977 c 429 s 17; 1979 c 50 s 43; 1980 c 607 art 14 s 37; 1981 c 224 s 68,69; 1982 c 399 s 1; 1982 c 560 s 56,57; 1983 c 128 s 33; 1983 c 247 s 138; 1984 c 574 s 8; 1984 c 619 s 14; 1984 c 654 art 2 s 124; art 5 s 58; 1Sp1985 c 10 s 88; 1986 c 444; 1986 c 458 s 7

352D.03 TRANSFER OF ASSETS.

A sum of money representing the assets credited to each employee exercising the option contained in section 352D.02, plus an equal employer contribution together with interest for the employment period at the actuarially assumed rates during this period, compounded annually, shall be used for the purchase of shares on behalf of each employee in the accounts of the supplemental retirement fund established by section 11A.17. Any employer's contribution to amortize the deficit in the state employee's retirement fund shall not, however, be used for the purchase of shares.

History: 1971 c 604 s 3; 1973 c 35 s 54; 1973 c 624 s 4; 1974 c 152 s 12; 1980 c 607 art 14 s 46

352D.04 INVESTMENT OPTIONS.

Subdivision 1. An employee exercising an option to participate in the retirement program provided by this chapter may elect to purchase shares in one or a combination of the income share account, the growth share account, the money market account, the bond market account, or the common stock index account established in section 11A.17. The employee may elect to participate in one or more of the investment accounts in the fund by specifying, on a form provided by the executive director, the percentage of the employee's contributions provided in subdivision 2 to be used to purchase shares in each of the accounts.

Twice in any calendar year, each participant may indicate in writing on forms provided by the Minnesota state retirement system a choice of options for subsequent purchases of shares. Thereafter until a different written indication is made by such participant the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares shall be purchased for a participant.

A change in choice of investment option shall be effective no later than the first pay date first occurring after 30 days following the receipt of the request for a change.

Twice in any calendar year a participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased. However, if a partial transfer is made a minimum of \$1,000 must be transferred and a minimum balance of \$1,000 must remain in the previously selected investment option. A change is restricted to a transfer from one or more accounts to a single account. Changes in investment options for the participant's shares shall be effected as soon as cash flow to an account practically permits but not later than six months after the requested change.

Subd. 2. The moneys used to purchase shares under this section shall be the employee and employer contributions provided in this subdivision.

(a) The employee contribution shall be an amount equal to four percent of salary.

(b) The employer contribution shall be an amount equal to six percent of salary.

These contributions shall be made by deduction from salary in the manner provided in section 352.04, subdivisions 4, 5, and 6.

History: 1971 c 604 s 4; 1973 c 624 s 5; 1974 c 152 s 13; 1980 c 607 art 14 s 38; 1981 c 224 s 70; 3Sp1981 c 2 art 1 s 68; 1983 c 128 s 34; 1986 c 356 s 9; 1986 c 444

352D.05 WITHDRAWAL OPTIONS.

Subdivision 1. Except as authorized by section 352D.06, no withdrawal of shares shall be permitted prior to termination of covered employment.

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

Subd. 3. Thirty days after termination of covered employment or at any time thereafter a participant shall be entitled upon application, to withdraw the cash value of the participant's total shares or may leave such shares on deposit with the supplemental retirement fund. Shares not withdrawn shall remain on deposit with the supplemental retirement fund until the former participant attains the age of at least 58 years, and applies for an annuity as provided in section 352D.06, subdivision 1.

Subd. 4. A participant in the unclassified program may repay regular refunds taken pursuant to section 352.22, as provided in section 352.23. A participant in the unclassified program or an employee covered by the general plan who has withdrawn the value of the total shares may repay the refund taken and thereupon restore the service credit, rights and benefits forfeited by paying into the fund the greater of (1) the amount refunded plus interest at 6-1/2 percent per annum compounded annually from the date that the refund was taken until the date that the refund is repaid, or (2) an amount equal to the total of the employee and employer matching and additional contributions for the forfeited employment period less the administrative fee provided in section 352D.09, subdivision 7, plus interest at the rate of 6-1/2 percent per annum

compounded annually from the date of the start of the forfeited employment period until the date that the refund is paid. If the participant had withdrawn only the employee shares as permitted under prior laws, repayment shall be pro rata. Payment shall be made in a lump sum.

Subd. 5. No payment shall be made under this section to a person in covered employment.

History: 1971 c 604 s 5; 1973 c 624 s 6; 1975 c 368 s 44; 1976 c 81 s 1; 1978 c 562 s 10; 1980 c 607 art 14 s 39,40; 1986 c 444

352D.06 ANNUITIES.

Subdivision 1. When a participant attains at least age 58, is retired from covered service, and applies for a retirement annuity, the cash value of the participant's shares shall be transferred to the Minnesota postretirement investment fund and used to provide an annuity for the retired employee based upon the participant's age when the benefit begins to accrue according to the reserve basis used by the state employees retirement fund in determining pensions and reserves.

Subd. 2. A participant has the option in an application for an annuity to apply for and receive the value of one-half of the total shares and thereafter receive an annuity, as provided in subdivision 1, based on the value of one-half of the total shares.

Subd. 3. An annuity herein shall begin to accrue the first day of the first full month after an application is received or after termination of state service, whichever is later.

History: 1971 c 604 s 6; 1973 c 624 s 7; 1975 c 368 s 45,46; 1980 c 607 art 14 s 45 subd 2; 1986 c 444; 1986 c 458 s 8

352D.065 DISABILITY BENEFITS.

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

Subd. 2. A participant who becomes totally and permanently disabled has the option even if on leave of absence without pay to receive:

- (1) The value of the participant's total shares;
- (2) The value of one-half of the total shares and an annuity based on the value of one-half of the total shares; or
- (3) An annuity based on the value of the participant's total shares.

Subd. 3. The annuity payable under this section shall begin to accrue the first day of the month following the date of disability and shall be based on the participant's age when the annuity begins to accrue. The shares shall be valued as of the end of the month following authorization of payments.

Subd. 4. The benefits payable under this section shall not be reduced by amounts received or receivable under applicable workers' compensation laws.

Subd. 5. A participant who returns to covered service after receiving benefits under this section shall not be required or allowed to repay such benefits.

History: 1973 c 624 s 8; 1975 c 359 s 23; 1975 c 368 s 47,48; 1986 c 444; 1986 c 458 s 9

352D.07 [Repealed, 1973 c 624 s 13]

352D.075 DEATH BENEFITS.

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

Subd. 2. If a participant dies leaving a spouse and there is no named beneficiary who survives to receive payment or the spouse is named beneficiary, the spouse may receive:

- (1) The value of the participant's total shares;
- (2) The value of one-half of the total shares and beginning at age 58 or thereafter receive an annuity based on the value of one-half of the total shares, provided that if

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the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; or

(3) Beginning at age 58 or thereafter receive an annuity based on the value of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; and further provided, if said spouse dies after receiving annuity payments but before receiving payments equal to the value of the employee shares, the value of the employee shares remaining shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse.

Subd. 3. If a participant dies and has named a beneficiary, the value of the total shares shall be paid to such beneficiary, but if such beneficiary dies before receiving payment, or if no beneficiary has been named and there is no spouse, the value of said shares shall be paid to the children of the participant in equal shares, but if no such children survive then in equal shares to the parents of the participant, but if no such children or parents survive, then to the estate of the participant.

History: 1973 c 624 s 9; 1975 c 368 s 49,50; 1986 c 444

352D.08 [Repealed, 1973 c 624 s 13]

352D.085 COMBINED SERVICE.

Subdivision 1. Service under the unclassified program for which the employee has been credited with employee shares may be used for the limited purpose of qualifying for benefits under sections 352.115, 352.72, subdivision 1, 352.113, 354.44, 354.45, 354.48, and 354.60; provided such service may not be used to qualify for a disability benefit under section 352.113 or 354.48 if a participant was under the unclassified program at the time of the disability, and provided further that the years of service and salary paid while the participant was in the unclassified program shall not be used in determining the amount of benefits.

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

History: 1973 c 624 s 10; 1986 c 444; 1986 c 458 s 10

352D.09 ADMINISTRATION.

Subdivision 1. The unclassified employees retirement plan and the provisions of this chapter shall be administered by the Minnesota state retirement system. The provisions of chapter 352 shall govern in all instances where not inconsistent with the provisions of this chapter.

Subd. 2. Whenever redemption or purchases from the supplemental retirement fund are required to be made, the executive director shall make them.

Subd. 3. The executive director shall annually distribute the prospectus prepared by the supplemental fund, by July 1 or when received from such fund, whichever is later, to each participant in covered employment.

Subd. 4. Whenever benefits or withdrawals are authorized or required to be paid, payment shall be made only after receipt of an application signed by the person or representative authorized to receive the benefit or withdrawal; such application shall be made only on forms authorized by the executive director.

Subd. 5. If the beneficiary, surviving spouse or estate has not made application for benefits within ten years after the date of death of a participant the value of the shares shall be appropriated to the regular fund and provisions of section 352.12, subdivision 12 shall govern. If a former participant fails to make a claim for benefits within five years after termination of covered service or by age 70, whichever is later,

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the value of the shares shall be appropriated to the regular fund and the provisions of section 352.22, subdivision 8 shall apply.

Subd. 6. The monthly annuities payable under this chapter may be paid by a single installment at the beginning of a calendar year, for annuities accrued in the previous year, when requested by the annuitant and approved by the executive director.

Subd. 7. One-tenth of one percent of salary shall be deducted from the employee contributions and one-tenth of one percent of salary from the employer contributions authorized by section 352D.04, subdivision 2, to pay the administrative expenses of the unclassified program.

History: 1971 c 604 s 9; 1973 c 624 s 11; 1981 c 224 s 71; 3Sp1981 c 2 art 1 s 69

352D.10 [Repealed, 1981 c 224 s 276]

352D.11 PURCHASE OF PRIOR SERVICE CREDIT.

Subdivision 1. **Eligibility.** A qualified legislative employee may purchase prior service credit from the Minnesota state retirement system for service for which the employee did not receive service credit from the state retirement system. An employee is qualified to purchase prior service credit only if:

(1) the employee is a permanent employee of the senate, the house of representatives, or of a joint legislative agency or legislative commission, or a former permanent employee of the senate, the house of representatives, or of a joint legislative agency or legislative commission who has not withdrawn the value of shares in the unclassified program; and

(2) before permanent employment the employee served as a temporary, intermittent; or contract employee of the senate, the house of representatives, a joint legislative staff agency, or a legislative commission.

Subd. 2. **Payments by employee.** An employee entitled to purchase service credit may make the purchase by paying to the state retirement system an amount equal to the current employee contribution rate in effect for the state retirement system applied to the current or final salary rate multiplied by the months and days of prior temporary, intermittent, or contract legislative service. Payment shall be made in one lump sum unless the executive director of the state retirement system agrees to accept payment in installments over a period of not more than three years from the date of the agreement. Installment payments shall be charged interest at a rate found appropriate by the executive director.

Subd. 3. **Certification.** Proof of all legislative employment and the duration of all legislative employment shall be established for current or former employees by certification of the appropriate employer:

(1) by the committee on rules and administration of the senate;

(2) by the committee on rules and legislative administration of the house of representatives; or

(3) by the agency director or commission chair for service as an employee of a joint legislative staff agency or legislative commission.

Certification to the executive director of the state retirement system shall include the exact period or periods of employment for which the employee or qualified former employee is entitled to obtain service credit. Service credit shall be computed and granted upon receiving payment based on the relationship that the temporary, intermittent, or contract service bears to full-time employment.

Subd. 4. **Employer contributions.** Employee payments to the state retirement system authorized by this section shall be matched by the current employer of the qualified employee from the appropriation made to the respective legislative expense funds or the appropriation available to the agency or commission. If the qualified employee is a participant in the unclassified program at the time of payment, payments by the employee and employer shall be used to purchase shares in the Minnesota supplemental retirement fund.

History: 1983 c 360 s 1; 1986 c 444

352D.12 TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.

An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under chapters 352, 353, 354, 354A, and 422A may, within the time limits in this section, elect to transfer to the unclassified program accumulated employee and equal employer contributions with interest at six percent a year compounded annually, based on fiscal year balances.

If a participant has taken a refund from a fund listed in this section, the participant may repay the refund to that fund, notwithstanding any restrictions on repayment to that fund, plus six percent interest a year compounded annually and have the accumulated employee and equal employer contributions transferred to the unclassified program with interest at six percent a year compounded annually based on fiscal year balances.

A participant electing to transfer prior service contributions under this section must complete the application for the transfer and repay any refund within one year of July 1, 1985 or the commencement of the employee's participation in the unclassified program, whichever is later.

History: *1Sp1985 c 7 s 9*