

CHAPTER 353

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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353.01 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. **Public employee.** "Public employee" means any person performing personal services for a governmental subdivision, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term also includes special classes of persons listed in subdivision 2a, but excludes special classes of persons listed in subdivision 2b.

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

- (a) Elected or appointed officers and employees of elected officers.
- (b) District court reporters.
- (c) Officers and employees of the public employees retirement association.
- (d) Employees of the League of Minnesota Cities.
- (e) Officers and employees of public hospitals, owned or operated by or an integral part of, any governmental subdivision or governmental subdivisions.
- (f) Employees of a school district who receive separate salaries for driving their own buses.
- (g) Employees of the Association of Minnesota Counties.
- (h) Employees of the Metropolitan Inter-County Association.
- (i) Employees of the Minnesota Municipal Utilities Association.
- (j) Employees of the metropolitan airports commission if employment initially commences on or after July 1, 1979.

(k) Employees of the Minneapolis employees retirement fund, if employment initially commences on or after July 1, 1979.

(l) Employees of the Range Association of Municipalities and Schools.

(m) Employees of the soil and water conservation districts.

(n) Employees of a county historical society who are county employees.

(o) Employees of an economic development authority created under sections 458C.01 to 458C.23.

Subd. 2b. Excluded employees. The following persons are excluded from the meaning of "public employee":

(a) Persons employed for professional services where such service is incidental to regular professional duties.

(b) Election officers.

(c) Independent contractors and their employees.

(d) Patient and inmate help in governmental subdivision charitable, penal and correctional institutions.

(e) Members of boards, commissions, bands and others who serve the governmental subdivision intermittently.

(f) Employees who hold positions of an essentially temporary or seasonal character, provided such employment does not continue for a period in excess of 120 working days in any calendar year. Immediately following the expiration of such 120 working days if such employees continue in public service and earn in excess of \$325 in any one calendar month, the department heads must then report all such employees for membership and must cause employee contributions to be made on behalf of such employees in accordance with section 353.27, subdivision 4, and they shall remain members until termination of public service.

(g) Part-time employees who receive monthly compensation not exceeding \$325, and part-time employees and elected officials whose annual compensation is stipulated in advance to be not more than \$3,900 per year, except that members shall continue their membership until termination of public service.

(h) Persons who first occupy an elected office after March 1, 1978, the compensation for which does not exceed \$325 per month.

(i) Emergency employees who are employed by reason of work caused by fire, flood, storm or similar disaster.

(j) Employees who by virtue of their employment are required to contribute to any other pension, relief or retirement fund established for the benefit of officers and employees of a governmental subdivision, except as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; provided that this clause shall not prevent a person from contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time.

(k) Police matrons employed in a police department of any city who are transferred to the jurisdiction of a joint city and county detention and corrections authority.

(l) Chaplains and nuns who have taken a vow of poverty as members of a religious order.

(m) Full-time students who are enrolled and are regularly attending classes at an accredited school, college or university; provided, no person employed full time by a governmental subdivision shall be exempt under this paragraph.

(n) Resident physicians, medical interns and pharmacist interns who are serving in public hospitals.

(o) Appointed or elected officers, paid entirely on a fee basis, and who were not members on June 30, 1971.

(p) Nothing in Laws 1973, chapter 753 shall be interpreted to impair or revoke any option exercised under Laws 1963, chapter 793.

(q) 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 fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Training and Employment Act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contributions in addition to the required employee contribution.

(r) Town, city or county assessors elected or appointed pursuant to chapter 273 who do not receive compensation in excess of \$325 per month from any one employing governmental subdivision or who are employed pursuant to an employment contract which sets forth the total compensation to be paid and the length of service, not to exceed three months in duration, required for the performance of the contract and which was entered into in advance of the commencement of employment.

(s) A person holding a part time adult supplementary vocational technical school license who renders part time teaching service in a vocational technical school if (1) the service is incidental to the person's regular nonteaching occupation; and (2) the applicable vocational technical school stipulates annually in advance that the part time teaching service will not exceed 300 hours in a fiscal year; and (3) the part time teaching service actually does not exceed 300 hours in a fiscal year.

(t) A person exempt from licensure pursuant to section 125.031.

Subd. 3. Head of department. "Head of department" means the head of any department, institution, office, or branch of service of any governmental subdivision which directly pays salaries out of its revenue or is empowered to authorize the payment of such salaries.

Subd. 4. Accumulated deductions. "Accumulated deductions" means the total of the amounts deducted from the salary of a member, exclusive of interest, and the total of the amounts paid by a member in lieu of such deductions and credited to the member's individual account in the retirement fund.

Subd. 5. [Repealed, 1971 c 106 s 40]

Subd. 6. Governmental subdivision. "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources, but does not mean any municipal housing and redevelopment authority organized under the provisions of sections 462.415 to 462.705; or any port authority organized pursuant to chapter 458; or any hospital district organized or reorganized prior to July 1, 1975 pursuant to sections 447.31 to 447.37.

Subd. 7. Member. A member is a person who accepts employment as a "public employee" and remains a member while performing services as a public employee and while on an authorized leave of absence or an authorized temporary layoff; provided, however, (1) that any elected public officer or any person appointed to fill a vacancy in an elective office shall have the right to exercise an option to become a member by filing application for membership, but the option to become a member, once exercised, may not be withdrawn during the incumbency of the person in office; and (2) that any member who is appointed by the governor to be a state department head and elects pursuant to section 352.021, subdivision 3, not to be covered by the Minnesota state retirement system, shall remain a member of the public employees retirement association. Membership in the retirement association of any person shall terminate upon the person ceasing to be a "public employee."

Subd. 8. MS 1953 [Repealed, 1957 c 935 s 27]

Subd. 8. Association. "Association" means the public employees retirement association.

Subd. 9. [Repealed, 1957 c 935 s 27]

Subd. 10. **Salary.** "Salary" means the periodical compensation of any public employee, before deductions for deferred compensation or supplemental retirement plans, and also means "wages" and includes net income from fees. Fees paid to district court reporters shall not be considered a salary. Lump sum annual leave payments and severance payments shall not be deemed to be salary. Prior to the time that all sick leave has been used, amounts paid to an employee pursuant to a disability insurance policy or program where the employer paid the premiums shall be considered salary, and after all sick leave has been used, the payment shall not be considered salary. Workers' compensation payments shall not be considered salary.

Subd. 11. **Public service.** "Public service" means service as an officer or employee of a governmental subdivision.

Subd. 12. MS 1949 [Repealed, 1953 c 78 s 18]

Subd. 12. **Temporary layoff.** "Temporary layoff" including seasonal leave of absence, means a suspension of public employment for a period not exceeding three months in any calendar year, by action of the employing governmental subdivision evidenced by appropriate record of the employer and promptly transmitted to the association.

Subd. 13. [Repealed, 1963 c 641 s 38]

Subd. 14. **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. 15. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased member, provided such child is (a) under the age of 18, (b) age 18 through 21 and a full time student, and in either case unmarried and dependent for more than one-half of support upon such member at the time of death and for not less than 90 days prior thereto; provided, that the child of a deceased member, who at the time of death was receiving total and permanent disability benefits pursuant to section 353.33, shall be deemed dependent if dependent upon the decedent for more than one-half of support during the 90 days prior to the decedent's becoming totally and permanently disabled. It also includes any child of the member conceived during the member's lifetime and born after death. It also means any dependent child who is the subject of adoption proceedings filed by a member, and who within two years after death of the member, by judgment and decree duly entered, is adjudged to be the adopted child of the deceased member; subject, however, to the qualifying conditions of age and dependency aforesaid and the dependency of the child hereunder shall date from the decree of adoption.

Subd. 16. **Allowable service.** "Allowable service" means:

(1) Service during years of actual membership in the course of which employee contributions were currently made; periods covered by payments in lieu of salary deductions made as provided in section 353.35, and service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(2) Any period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(3) Any period of authorized leave of absence without pay which does not exceed one year, and during or for which a member obtained credit by payments to the fund made in lieu of salary deductions, provided that such payments are made in an amount or amounts based on the member's average salary on which deductions were paid (a) for the last six months of public service, or (b) that portion of the last six months while the member was in public service, to apply to the period in either case immediately preceding commencement of such leave of absence; provided, however, that if the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion thereof, the employee shall also, as a condition to the

exercise of such election, pay to the fund an amount equivalent to both the required employer and additional employer contributions therefor, such payment to be made currently or within one year from the date the leave of absence terminates, unless the employer by appropriate action of its governing body and made a part of its official records, prior to the date of the first payment of such employee contribution, certifies to the association in writing that it will cause to be paid such employer and additional employer contributions from the proceeds of a tax levy made pursuant to section 353.28. Payments under this clause shall include interest at the rate of six percent per annum from the date of the termination of the leave of absence to the date payment is made.

(4) Any period during which a member is on an authorized sick leave of absence, without pay limited to one year, or an authorized temporary layoff.

(5) Any period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service pursuant to section 192.262, and pays into the fund employee contributions based upon the employee's salary at the date of return from military service. After June 30, 1983 payment must be made within five years of the date of discharge from the military service. The amount of these contributions shall be in accord with the contribution rates and salary limitations, if any, in effect during such leave, plus interest thereon at six percent per annum compounded annually from the date of return to public service to the date payment is made. In such cases the matching employer contribution and additional employer contribution provided in section 353.27, subdivisions 3 and 3a, shall be paid by the department employing such member upon return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor. Such member shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty.

(6) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, Minnesota Statutes 1984, chapter 401, and transferred into county service under Minnesota Statutes 1984, section 401.04, allowable service means combined years of allowable service as defined in Minnesota Statutes 1984, section 352.01, subdivision 11, and Minnesota Statutes 1984, section 353.01, subdivision 16, paragraphs (1) to (5).

Subd. 17. **Approved actuary.** "Approved actuary" means any actuary who is 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. 18. **Year of allowable service.** "Year of allowable service" means any 12 calendar months not necessarily consecutive in which a public employee received compensation from the governmental subdivision or was eligible to credit for service. It also means 12 months credit each year for employees who are paid on a yearly basis and who may or may not receive compensation in every calendar month in the year.

Subd. 19. **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. 20. **Surviving spouse.** "Surviving spouse" means the unremarried spouse of a deceased member who was living with the member at the time of death, or at the time the member became totally and permanently disabled.

Subd. 21. [Repealed, 1971 c 106 s 40]

Subd. 22. [Repealed, 1971 c 106 s 40]

Subd. 23. **Retirement annuity.** "Retirement annuity" means the amount paid or payable by the fund to a former member after retirement.

Subd. 24. **Optional annuity.** "Optional annuity" means the allowance paid or payable by the fund to the designated optional annuity beneficiary of a member or

former member, pursuant to an optional annuity form selected at or before retirement, or to the spouse of a deceased member under section 353.32, subdivision 1a.

Subd. 25. [Repealed, 1973 c 753 s 85]

Subd. 26. [Repealed, 1971 c 106 s 40]

Subd. 27. **Benefit.** "Benefit" means a monthly survivor benefit paid or payable by the fund to a surviving spouse or a dependent child and also includes a monthly disability benefit paid or payable by the fund to a member who is totally and permanently disabled.

Subd. 28. **Retirement.** "Retirement" means the withdrawal of a member from active public service who is paid a retirement annuity thereafter and commences with the date designated by the board of trustees when the retirement annuity shall first accrue to the former member after withdrawal from active public service. This date shall determine any rights specified in this chapter which occur either before or after retirement, as the case may be; but if there is not a complete and continuous separation from public service for 30 days following the withdrawal from public service for the purpose of retirement, no rights shall accrue thereunder and retirement shall not be accomplished thereby.

Subd. 29. **Designated beneficiary.** "Designated beneficiary" means the person designated by a member in writing, filed with the association, to receive a refund of the balance of the member's accumulated deductions after death.

Subd. 30. **Designated optional annuity beneficiary.** "Designated optional annuity beneficiary" means the person designated by a former member to receive a joint and survivor annuity or a modified joint and survivor annuity.

Subd. 31. **Leave of absence.** "Leave of absence" means any period during which a member is duly authorized by an employer to refrain from active employment, with or without pay, evidenced by appropriate record of the employer and promptly transmitted to the association.

Subd. 32. **Coordinated member.** "Coordinated member" means any public employee, including any public hospital employee, covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare, making the provisions of the federal old age, survivors and disability insurance act applicable to such member.

Subd. 33. **Basic member.** "Basic member" means any public employee, including any public hospital employee, not covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare.

Subd. 34. [Repealed, 1982 c 404 s 10]

History: (254-23) 1931 c 307 s 1; 1933 c 374 s 1; 1937 c 466 s 1; 1941 c 285 s 1; 1945 c 78 s 1; 1947 c 18 s 1; 1949 c 84 s 1; 1951 c 22 s 1-8; 1953 c 78 s 1; 1955 c 815 s 11; 1957 c 815 s 1; 1957 c 935 s 1-5; 1959 c 650 s 1-7,39,43,58; 1961 c 482 s 1; 1961 c 595 s 1; 1961 c 746 s 1; 1963 c 440 s 1; 1963 c 641 s 3-12; 1965 c 104 s 1; 1965 c 880 s 1,2; Ex1967 c 26 s 1; Ex1967 c 37 s 1; 1969 c 940 s 1,2; 1971 c 106 s 1-8; 1971 c 503 s 1,2; 1973 c 123 art 5 s 7; 1973 c 753 s 3-18; 1974 c 229 s 1-8; 1975 c 102 s 1-3; 1975 c 359 s 23; 1976 c 329 s 12-15; 1977 c 347 s 52,53; 1977 c 429 s 19-22,63; 1978 c 471 s 1; 1978 c 720 s 6; 1978 c 796 s 23-26; 1979 c 216 s 1-4,21; 1979 c 303 art 6 s 5; 1980 c 609 art 5 s 20; 1981 c 68 s 16-18; 1981 c 180 s 1; 1981 c 224 s 73-75; 1981 c 298 s 11; 1982 c 404 s 1-4; 1982 c 424 s 64,115,125; 1983 c 286 s 6; 1985 c 261 s 3; 1Sp1985 c 7 s 12; 1986 c 399 art 2 s 9; 1986 c 400 s 9; 1986 c 444; 1986 c 458 s 11; 1Sp1986 c 3 art 2 s 41

353.015 [Repealed, 1973 c 753 s 85]

353.016 [Repealed, 1977 c 429 s 65]

353.017 EMPLOYEES OF LABOR ORGANIZATIONS.

Subdivision 1. Qualifications. A former member of the association who is an employee of a labor organization that represents public employees who are association members may elect pursuant to subdivision 2 to be a coordinated member with respect

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to service with such labor organization unless specifically exempt under section 353.01, subdivision 2b.

Subd. 2. **Election.** A person described in subdivision 1 will be covered by the association if written election to be covered is delivered to the board within 30 days of being employed by such labor organization.

Subd. 3. **Contributions.** The employee, employer and additional employer contributions shall be the obligation of the employee who elects coverage herein in accord with this chapter; provided, however, the employer, labor organization, may pay the employer and additional employer contributions. The employer shall, in any event, deduct the necessary contributions from the employee's salary and remit all contributions to the public employees retirement association pursuant to section 353.27, subdivisions 4, 7, 10, 11, and 12.

Subd. 4. [Repealed, 1982 c 404 s 10]

Subd. 5. **Board membership excluded.** Persons who become association members pursuant to this section shall not be eligible for election to the board of trustees.

History: 1975 c 102 s 4; 1978 c 796 s 27; 1979 c 216 s 5; 1986 c 444

353.018 [Repealed, 1977 c 429 s 65]

353.019 [Repealed, 1977 c 429 s 65]

353.02 [Repealed, 1957 c 935 s 27]

353.022 [Repealed, 1981 c 68 s 46]

353.023 [Repealed, 1982 c 404 s 10]

353.024 EMPLOYEES OF SUBURBAN PUBLIC HEALTH NURSING SERVICE, INCORPORATED.

From and after June 1, 1981, employees of the Suburban Public Health Nursing Service, Incorporated, shall become members of the public employees retirement association unless specifically exempt under section 353.01, subdivision 2b, and the Suburban Public Health Nursing Service, Incorporated, shall be deemed to be a governmental subdivision for the purpose of this chapter.

Retirement coverage by the public employees retirement association shall be provided by the appropriate retirement program as follows:

(a) an employee who was a basic member of the public employees retirement association prior to December 2, 1977, and who chose to be excluded from federal old age, survivors, disability and health insurance coverage during an authorized referendum for the period from December 2, 1977, to June 1, 1981, shall be deemed to be a basic member and shall be entitled to coverage by the basic retirement program; and

(b) an employee who was either a basic member or a coordinated member prior to December 2, 1977, and who chose to be included in federal old age, survivors, disability and health insurance coverage during an authorized referendum for the period December 2, 1977, to June 1, 1981, or an employee who was a coordinated member prior to December 2, 1977, and who chose to be excluded from federal old age, survivors, disability and health insurance coverage during an authorized referendum for the period from December 2, 1977, to June 1, 1981, shall be deemed to be a coordinated member and shall be entitled to coverage by the coordinated retirement coverage.

History: 1981 c 68 s 19

353.025 RANGE ASSOCIATION OF MUNICIPALITIES AND SCHOOLS.

From and after January 1, 1982, employees of the Range Association of Municipalities and Schools hereinafter referred to as the association, shall become coordinated members of the public employees retirement association unless specifically exempt under section 353.01, subdivision 2b, and the association shall be deemed to be a governmental subdivision for the purposes of this chapter.

History: 1981 c 68 s 20

353.026 COVERAGE FOR CERTAIN MUNICIPAL AND SCHOOL DISTRICT EMPLOYEES.

Any person who was employed by the city of Minneapolis, Special School District No. 1, or public corporation as defined in section 422A.01, subdivision 9, on or after July 1, 1978 and prior to July 1, 1979, and who was excluded from retirement coverage by the coordinated program of the Minneapolis municipal employees retirement fund pursuant to section 422A.09, subdivision 3, shall be entitled to retirement coverage by the public employees retirement association unless specifically excluded pursuant to section 353.01, subdivision 2b, from and after May 19, 1981.

History: 1981 c 224 s 77

353.027 RETENTION OF COVERAGE FOR CERTAIN MUNICIPAL COURT EMPLOYEES.

Any person employed on January 1, 1975, by a municipal court established pursuant to Minnesota Statutes 1957, section 488.03 and located in the cities of New Brighton, Roseville, Maplewood, North Saint Paul, White Bear Lake or St. Paul shall be eligible for membership in the public employees retirement association and shall retain any rights or benefits the person had attained as a member of the association on January 1, 1975, so long as the person remains an employee of the municipal court of Ramsey county.

History: 1981 c 224 s 78

353.028 CITY MANAGERS; ELECTION; DEFERRED COMPENSATION.

Subdivision 1. Definitions. For purposes of this section "city manager" means (1) a person duly appointed to and holding the position of city manager in a Plan B statutory city or in a home rule city operating under the "council-manager" form of government, or (2) a person appointed to and holding the position of chief administrative officer of a home rule charter city or a statutory city pursuant to a charter provision, ordinance, or resolution establishing such a position and prescribing its duties and responsibilities. "Governing body" means the city council of the city employing the city manager. "Election" means the election described in subdivision 2.

Subd. 2. Election. A city manager may elect to be excluded from membership in the association. The election of exclusion shall be made within 30 days following the commencement of employment or within 30 days following May 22, 1981, whichever occurs later, in writing on a form prescribed by the executive director and shall be approved by a resolution of the governing body of the city. The election of exclusion shall not be effective until it is filed with the executive director. Membership of a city manager in the association shall cease on the date the written election is received by the executive director or upon a later date specified. The election to be excluded from membership shall include a provision agreeing that the person will not at any time in the future seek any authorization to purchase service credit for any period of excluded service and shall be irrevocable.

Subd. 3. Deferred compensation; city contribution. If an election of exclusion is made, and if the city manager and the governing body of the city agree in writing that the additional compensation is to be deferred and shall be contributed on behalf of the city manager to a deferred compensation program which meets the requirements of section 457 of the Internal Revenue Code of 1954, as amended through December 31, 1980, the governing body may compensate the city manager, in addition to the salary allowed under any limitation imposed on salaries by law or charter, in an amount equal to the employer contribution which would be required by section 353.27, subdivision 3, if the city manager were a member of the association.

Subd. 4. Refunds; deferred annuity. A city manager who makes an election to be excluded from membership is entitled to a refund of accumulated deductions or, if otherwise qualified, a deferred annuity in the manner provided by section 353.34, at the option of the manager.

Subd. 5. Election; other employment. If a city manager who has made an election to be excluded accepts employment in another governmental subdivision or accepts employment other than as a city manager in the same city, the election shall be deemed to have been rescinded on the effective date of employment.

History: 1981 c. 254 s. 1

353.03 BOARD OF TRUSTEES.

Subdivision 1. Management; composition; election. The management of the public employees retirement fund is vested in a board of trustees consisting of the state auditor and eight members. The governor shall appoint five trustees to four-year terms; one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who shall be a retired annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association shall elect three trustees for terms of four years. Trustees elected by the membership of the association shall be public employees and members of the association. For seven days beginning November 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund. No name may be withdrawn from nomination by the nominee after November 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. Disputes between the board and a candidate concerning application of these policies to a particular statement shall be resolved by the secretary of state. A candidate who:

(a) receives contributions or makes expenditures in excess of \$100; or

(b) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100;

for the purpose of bringing about the candidate's election, must file a report with the ethical practices board disclosing the source and amount of all contributions to the candidate's campaign. The ethical practices board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate must file a report within 30 days from the day that the results of the election are announced. The ethical practices board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position shall be void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund shall be January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes shall be so designed and the ballots shall be counted in such a manner as to insure that each vote is secret.

The elections shall be supervised by the secretary of state. It shall be the duty of the board of trustees to faithfully administer the law without prejudice and consistent with the expressed intent of the legislature. They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers of the governmental subdivisions which aid in financing it and the public employees who are its beneficiaries. They shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs.

Subd. 1a. Vacancy, how filled. Any vacancy on the board caused by death,

resignation, or removal of any trustee, or occurring because an elected trustee ceases to be a public employee and an active member of the association, must be filled by the board for trustees elected by members, and by the governor for other trustees, for the unexpired portion of the term in which the vacancy occurs.

Subd. 2. No compensation expenses. The members of the board of trustees shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties. Members of the board of trustees shall suffer no loss of compensation from a public employer by reason of service on or for the board or on any authorized committee thereof.

Subd. 2a. [Repealed, 1977 c 429 s 65]

Subd. 3. Duties and powers of the board. (a) The board shall elect a president and vice-president. The board shall approve the staffing complement necessary to administer the fund. The cost of administering this chapter must be paid by the fund.

(b) The board shall adopt bylaws for its own government and for the management of the fund consistent with the laws of the state and may modify them at pleasure. It shall adopt, alter, and enforce reasonable rules consistent with the laws of the state for the administration and management of the fund, for the payment and collection of payments from members, and for the payment of withdrawals and benefits. It shall pass upon and allow or disallow all applications for membership in the fund and shall allow or disallow claims for withdrawals, pensions, or benefits payable from the fund. It shall adopt an appropriate mortality table based on experience of the fund as recommended by the association actuary, with interest set at the rate specified in section 356.215, subdivision 4, clause (4). It shall provide for the payment out of the fund of all necessary expenses for the administration of the fund and of all claims for withdrawals, pensions, or benefits allowed. The board shall approve or disapprove all recommendations and actions of the executive director made subject to its approval or disapproval by subdivision 3a.

(c) In passing upon all applications and claims, the board may summon, swear, hear, and examine witnesses and, in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the fund, as a condition precedent to the passing on the claim, and, in the case of all applications and claims, may conduct investigations necessary to determine their validity and merit.

(d) The board may continue to authorize the sale of life insurance to members under the insurance program in effect on January 1, 1985, but must not change that program without the approval of the commissioner of finance. The association shall not receive any financial benefit from the life insurance program beyond the amount necessary to reimburse the association for costs incurred in administering the program. The association shall not engage directly or indirectly in any other activity involving the sale or promotion of goods or services, or both, whether to members or nonmembers.

(e) The board shall establish procedures governing reimbursement of expenses to board members. These procedures shall define the types of activities and expenses that qualify for reimbursement, shall provide that all out-of-state travel must be authorized by the board, and shall provide for independent verification of claims for expense reimbursement. The procedures must comply with applicable rules and policies of the department of finance, the department of administration, and the department of employee relations.

Subd. 3a. Executive director. (a) **Appointment.** The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.081, subdivision 1.

(b) **Duties.** The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive 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, who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;
- (6) with the approval of the board, contract for actuarial services, professional management services, and consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16B. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. 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;
- (7) with the approval of the board provide inservice training for all employees of the association;
- (8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, all as provided in this chapter;
- (9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment thereof beginning as of the dates such annuities and benefits begin to accrue, all in accordance with the provisions of this chapter;
- (10) pay annuities, refunds, survivor benefits, salaries and all necessary operating expenses of the association;
- (11) prepare and submit to the board and the legislature an annual report covering the operation of the association, as required by chapter 356;
- (12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner; and
- (13) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Subd. 4. Offices. The commissioner of administration shall make provision for suitable office space in the state capitol or other state office buildings, or at such other location in St. Paul as is determined by the commissioner for the use of the board of trustees and its executive director. The commissioner shall give the board at least four months notice for any proposed removal from their present location. Any and all rental charges shall be paid by the trustees from the public employees retirement fund.

Subd. 5. Application of laws. Laws applicable to state agencies and agencies with statewide jurisdiction shall apply to the association.

History: (254-25) 1931 c 307 s 3; 1949 c 84 s 2; 1951 c 22 s 16; 1959 c 650 s 8,58;

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1963 c 641 s 13; 1967 c 641 s 1; 1969 c 940 s 3; 1971 c 106 s 10,11; 1973 c 753 s 19,20; 1974 c 229 s 9; 1975 c 102 s 5-8; 1976 c 329 s 17,18; 1977 c 429 s 18; 1978 c 796 s 28; 1979 c 216 s 6,7; 1981 c 180 s 2-4; 1981 c 224 s 79; 1984 c 462 s 27; 1985 c 11 s 5-10; 1986 c 444

353.04 [Repealed, 1957 c 935 s 27]

353.05 CUSTODIAN OF FUNDS.

The state treasurer shall be ex officio treasurer of the retirement funds of the association and the treasurer's general bond to the state shall be so conditioned as to cover all liability for acts as treasurer of these funds. All moneys of the association received by the treasurer shall be set aside in the state treasury to the credit of the proper fund. The treasurer shall transmit monthly to the executive director a detailed statement of all amounts so received and credited to the fund. Payments out the fund shall be made only on warrants issued by the commissioner of finance, upon abstracts signed by the executive director; provided that abstracts for investment may be signed by the secretary of the state board of investment.

History: (254-27) *1931 c 307 s 5; 1959 c 650 s 58; 1971 c 106 s 12; 1974 c 229 s 10; 1975 c 102 s 6; 1986 c 444*

353.06 STATE BOARD OF INVESTMENT TO INVEST FUNDS.

The executive director shall from time to time certify to the state board of investment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. Assets from the public 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 the sum so certified, or transferred, in such securities as are duly authorized as legal investments for state employees retirement fund and shall have authority to sell, convey, and exchange such securities and invest and reinvest the securities when it deems it desirable to do so and shall sell securities upon request of the board of trustees when such funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the state employees retirement fund shall apply to the accounting, purchase and sale of securities for the public employees retirement fund.

History: (254-28) *1931 c 307 s 6; 1959 c 650 s 58; 1961 c 380 s 5; 1965 c 305 s 5; 1973 c 753 s 21; 1975 c 102 s 6; 1980 c 607 art 14 s 45 subd 2; s 46*

353.07 [Repealed, 1973 c 753 s 85]

353.08 LEGAL ADVISER, ATTORNEY GENERAL; VENUE.

The attorney general shall be the legal adviser of the board of trustees. The board may sue or be sued in the name of the board of trustees of the public employees retirement association and, in all actions brought by it or against it, the board shall be represented by the attorney general. The venue of all actions against and by the public employees retirement association shall be Ramsey county.

History: (254-30) *1931 c 307 s 8; 1933 c 374 s 1; 1959 c 650 s 58; 1973 c 753 s 22; 1975 c 102 s 9*

353.09 [Repealed, 1957 c 935 s 27]

353.10 [Repealed, 1957 c 935 s 27]

353.11 [Repealed, 1957 c 935 s 27]

353.12 [Repealed, 1957 c 935 s 27]

353.13 [Repealed, 1973 c 753 s 85]

353.14 BENEFITS FROM OTHER FUNDS.

No annuity or benefit provided by this chapter shall be affected, diminished, or impaired by any pension, benefit, or annuity which any member or survivor is entitled to receive from a tax supported public retirement system authorized by any other law, for different service for which the member or survivor is entitled to receive benefit or annuity from the public employees retirement association.

History: 1963 c 641 s 1; 1973 c 753 s 23; 1986 c 444

353.15 NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS.

No money, annuity, or benefit provided for in this chapter is assignable or subject to any state estate tax, or to execution, levy, attachment, garnishment, or legal process, except as provided in section 518.611. Provided, however, the association may pay an annuity, benefit or refund to a trust company, 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 member, the association may mail the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such person's account or joint account with a spouse. The association may prescribe the conditions under which such payment will be made. If in the judgment of the executive director conditions so warrant, payment may be made to a public body in behalf of an annuitant, disabilitant, or survivor upon such terms as the executive director may prescribe.

History: (254-40) 1931 c 307 s 18; 1955 c 815 s 9; 1971 c 789 s 5; 1973 c 753 s 24; 1975 c 102 s 6,10; 1976 c 329 s 19; 1978 c 772 s 62; 1979 c 303 art 3 s 29; 1981 c 180 s 5; 1984 c 547 s 6; 1986 c 444

353.16 AUDIT OF BOOKS AND ACCOUNTS; INSURANCE LAWS NOT APPLICABLE.

None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds. The books and accounts of the association and the retirement fund shall be examined and audited annually, if funds and personnel permit, by the legislative auditor of the state and a full and detailed report thereof made to the board of trustees. The cost of any examination shall be paid by the retirement association in accordance with the provisions of section 16A.127, subdivision 7, and for the purposes of this section the public employees retirement association shall be considered a state agency as referred to in section 16A.127, subdivision 7.

History: (254-41) 1931 c 307 s 19; 1933 c 374 s 1; 1959 c 645 s 1; 1959 c 650 s 58; 1971 c 106 s 15; 1974 c 229 s 11; 1979 c 50 s 45; 1981 c 224 s 80

353.17 [Repealed, 1971 c 106 s 40]**353.18 RULES.**

All matters and administrative details not specifically provided for in this chapter shall be governed by rules issued and promulgated by the board of trustees. The final power to determine the status of any individual in the employ of any governmental subdivision, for the purposes of this chapter, is hereby vested in the board, and such determination shall not be disturbed unless found to be arbitrary and capricious.

History: (254-44) 1931 c 307 s 22; 1941 c 285 s 9; 1959 c 650 s 58; 1973 c 753 s 25; 1985 c 248 s 70

353.19 PENALTIES FOR FALSE INFORMATION.

Any person who shall give any false information to the board of trustees or any officer or agent of the retirement association, or any person who shall willfully fail or refuse to perform or discharge any duty prescribed by this chapter shall, upon conviction thereof, be guilty of a gross misdemeanor.

History: (254-45) 1931 c 307 s 23; 1959 c 650 s 58; 1973 c 753 s 26

353.20 [Repealed, 1955 c 815 s 12]

353.21 [Repealed, 1957 c 935 s 27]

353.26 Subdivision 1. [Repealed, 1973 c 753 s 85]

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

Subd. 4. [Repealed, 1959 c 650 s 57]

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

353.27 PUBLIC EMPLOYEES RETIREMENT FUND.

Subdivision 1. **Income; disbursements.** There is a special fund known as the "public employees retirement fund," the "retirement fund," or the "fund," which shall include all the assets of the association. This fund shall be credited with all contributions, all interest and all other income authorized by law. From this fund there is appropriated the payments authorized by this chapter in the amounts and at such time provided herein, including the expenses of administering the fund, and including the proper share of the Minnesota postretirement investment fund.

Subd. 2. **Employee contribution.** The employee contribution shall be an amount (a) for a "basic member" equal to eight percent of total salary; and (b) for a "coordinated member" equal to four percent of total salary. These contributions shall be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the total salary received from all sources.

Subd. 3. **Employer contribution.** The employer contribution shall be an amount equal to the employee contribution under subdivision 2. This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Subd. 3a. **Additional employer contribution.** An additional employer contribution shall be made equal to (a) 2-1/2 percent of the total salary of each "basic member"; and (b) one-quarter of one percent of the total salary of each "coordinated member." These contributions shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Subd. 4. **Employers reporting requirements; contributions; member status.** The head of each department is hereby directed to cause employee contributions to be deducted from the salary of each member and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries, and at the same time to issue or approve one voucher for the aggregate amount of the employer contributions and the additional employer contributions for the same period of employment as that covered by the employee contributions, and to cause the same to be received not later than 20 days thereafter in the office of the association. The head of each department shall, for each pay period in which employee contributions are deducted, submit to the association a salary deduction report, in the form prescribed by the executive director, showing (a) the legal names and the association membership numbers, listed in alphabetical order, of all members; (b) the legal names of all new public employees and the effective dates of appointment; (c) the amount of each salary deduction; (d) the amount of salary from which each deduction was made; (e) effective dates of all terminations of public service on account of members and if such terminations were caused by death or retirement, there shall be inserted after such date the applicable word, "death" or "retirement"; (f) effective dates of all temporary layoffs and leaves of absence and if such leaves are sick leaves, there shall be inserted after such date the words, "sick leave"; and (g) the beginning and ending dates of the payroll period covered. Additionally, reports of contributions shall be accompanied by a membership enrollment form for each new employee in the form prescribed by the executive director, and it shall be the responsibility of department heads to obtain such enrollment forms from new employees to be submitted to the association within 30

days following the date of employment. The employers shall furnish such additional reports on magnetic media or other form of report as may be requested by the association executive director.

Subd. 5. [Repealed, 1973 c 753 s 85].

Subd. 6. [Repealed, 1971 c 106 s 40]

Subd. 7. **Adjustment for erroneous receipts or disbursements.** (1) **Erroneous deductions.** Any deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association shall be refunded to the employee; and the employer contribution and the additional employer contribution, if any, for the erroneous employee contribution shall be refunded to the employer, provided, however, the association and the state social security agency may make proper adjustments of moneys taken as employee and employer deductions.

(2) **Erroneous disbursement.** 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 refund 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.

Subd. 8. **District court reporters; salary deductions.** Deductions from the salary of a district court reporter in a judicial district consisting of two or more counties shall be made by the auditor of the county in which the bond and official oath of such district court reporter are filed, from the portion of salary paid by such county.

Subd. 9. **Fee officers; contributions; obligations of employers.** Any appointed or elected officer of a governmental subdivision who was or is a "public employee" within the meaning of section 353.01 and was or is a member of the fund and whose salary was or is paid in whole or in part from revenue derived by fees and assessments, shall pay employee contribution in the amount, at the time, and in the manner provided in subdivisions 2 and 4. This subdivision shall not apply to district court reporters. The employer contribution as provided in subdivision 3, and the additional employer contribution as provided in subdivision 3a, and section 353.36, subdivision 2a, with respect to such service shall be paid by the governmental subdivision. This subdivision shall have both retroactive and prospective application as to all such members; and every employing governmental subdivision is deemed liable, retroactively and prospectively, for all employer and additional employer contributions for every such member in its employ. Delinquencies under this section shall be governed in all respects by section 353.28.

Subd. 10. **Employers; furnish copies of payroll abstracts.** The head of each department is required to furnish the executive director with a carbon or duplicate copy of the departmental payroll abstracts for the last pay period during the months of January and July, respectively, in each year. It shall be the duty of said executive director to check the copies of all such payroll abstracts against the membership records of the association to ascertain whether or not any omissions have been made by any department head in the reporting of any new public employees for membership.

Subd. 11. **Employers; required to furnish requested information.** All governmental subdivisions shall furnish promptly such other information relative to the employment status of all employees or former employees, including but not limited to payroll abstracts pertaining to all past and present employees, as may be requested by the association or its executive director, including schedules of salaries applicable to various categories of employment. In the event payroll abstract records have been lost or destroyed, for whatever reason or in whatever manner, so that such schedules of salaries cannot be furnished therefrom, the employing governmental subdivision, in lieu thereof, shall furnish to the association an estimate of the earnings of any employee or former employee for any period as may be requested by the association or its executive director. Should the association receive such schedules of estimated earnings, the executive director is hereby authorized to use the same as a basis for making whatever computations might be necessary for determining obligations of the employee and employer to the retirement fund. If estimates are not furnished by the employer

pursuant to the request of the association or its executive director, the association may estimate the obligations of the employee and employer to the retirement fund based upon such records as are in its possession. Where payroll abstracts have been lost or destroyed, the governmental agency need not furnish any information pertaining to employment prior to July 1, 1963. The association shall make no estimate of any obligation of any employee, former employee, or employer covering employment prior to July 1, 1963.

Subd. 12. Omitted salary deductions; obligations. In the case of omission of required deductions from salary of an employee, past due for a period of 60 days or less, the head of the department shall deduct from the employee's next salary payment and forthwith remit to the executive director the amount of the employee contribution delinquency, with cumulative interest thereon at the rate of six percent per annum, compounded annually, from the date or dates each delinquent employee contribution was first payable, such interest to be paid by the employer. To the extent that any such omitted required deductions are not paid by the employee, they shall constitute a liability of the governmental subdivision which failed to make said required deductions, with interest thereon as hereinbefore specified. After July 1, 1973, any such omitted required deductions, past due for a period in excess of 60 days, shall become the sole obligation of the governmental subdivision from the time such deductions were first payable, together with interest thereon as hereinbefore specified. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a, with interest thereon at the rate of six percent compounded annually from the date they were first payable, shall be paid from the proceeds of a tax levy made pursuant to section 353.28, or from other funds available to the employer. Unless otherwise indicated, this subdivision shall have both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due hereunder. No action for the recovery of delinquent employee and employer contributions or interest thereon shall be commenced after the expiration of three calendar years next following the calendar year in which the contributions were omitted.

Subd. 13. Certain warrants canceled. Any warrant payable from the retirement fund remaining unpaid for a period of six years, shall be canceled into the retirement fund and not into the general fund.

History: 1957 c 935 s 7; 1959 c 650 s 12,37,58; 1961 c 744 s 1; Ex1961 c 50 s 1; 1963 c 641 s 18; 1965 c 714 s 1-3; 1965 c 880 s 3; Ex1967 c 53 s 1-3; 1969 c 267 s 2; 1969 c 940 s 5; 1971 c 106 s 16,17; 1973 c 35 s 55; 1973 c 753 s 27-33; 1974 c 229 s 12,13; 1975 c 102 s 6; 1976 c 329 s 20; 1977 c 429 s 24; 1980 c 607 art 14 s 45 subd 2; 1981 c 180 s 6; 1982 c 404 s 5; 1983 c 73 s 1,2; 1983 c 286 s 7; 1984 c 564 s 21; 1Sp1985 c 7 s 13; 1986 c 444

353.271 PARTICIPATION IN MINNESOTA POSTRETIREMENT INVESTMENT FUND.

Subdivision 1. Authorization. The public employees retirement association, including the police and fire fund, is hereby authorized to participate in the Minnesota postretirement investment fund. There shall be one general participation in the Minnesota postretirement investment fund for all purposes by the public employees retirement association.

Subd. 2. Valuation of assets; adjustment of benefits. (1) For members retiring, the required reserves determined using the postretirement interest assumption specified in section 356.215, subdivision 4d, shall be transferred to the Minnesota postretirement investment fund as of the date of retirement.

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

(3) Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

History: 1969 c 399 s 1; 1969 c 999 s 4; 1971 c 414 s 9; 1973 c 753 s 34,35; 1980 c 607 art 14 s 45 subd 2; s 46; 1Sp1985 c 7 s 14

353.272 [Repealed, 1981 c 180 s 18]

353.28 FINANCING OF EMPLOYER CONTRIBUTIONS.

Subdivision 1. Each governmental subdivision shall secure its employer contributions and its additional employer contributions and shall pay these contributions to the retirement fund out of moneys collected from taxes or other revenue of the governmental subdivision, as its obligation for all members employed by such subdivision and these contributions shall be charged as administrative costs.

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

Subd. 4. [Repealed, 1973 c 753 s 85]

Subd. 5. Any amount which becomes due and payable pursuant to this section or section 353.27, subdivision 4 shall bear compound interest at the rate of six percent per year from the date due until the date paid, with a minimum charge of \$5.

Subd. 6. If the governmental subdivision fails to pay amounts due under this chapter, the executive director shall certify those amounts to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due in a timely fashion, the executive director shall certify amounts to the county auditor for collection. The county auditor shall collect such amounts out of the revenue of the governmental subdivision, or shall add them to the levy of the governmental subdivision and make payment directly to the association. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected and apportioned.

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation upon the power of a county, city, town, or school district to levy taxes, the governmental subdivision concerned, if it is other than a school district, may levy taxes in excess of the limitation in such amount as is necessary to meet its obligations under this section. The expenditures authorized to be made under this chapter by any municipality are not included in computing the cost of government as defined in any home rule charter of any municipality which employs members covered by the retirement fund.

Subd. 9. [Repealed, 1973 c 753 s 85]

Subd. 10. [Repealed, 1973 c 753 s 85]

Subd. 11. [Repealed, 1971 c 106 s 40]

History: 1957 c 935 s 8; 1959 c 650 s 45,46,58; 1961 c 744 s 2; Ex1961 c 50 s 2; Ex1967 c 59 s 1; 1969 c 267 s 3; 1971 c 106 s 18; Ex1971 c 31 art 20 s 11; 1973 c 123 art 5 s 7; 1973 c 753 s 37,38; 1975 c 102 s 6; 1981 c 180 s 7; 1981 c 224 s 81,82; 1983 c 73 s 3

353.29 RETIREMENT ANNUITY UPON SEPARATION FROM PUBLIC SERVICE.

Subdivision 1. **Age and allowable service requirements.** Upon separation from public service any person who has attained the age of at least 65 years and who received credit for not less than ten years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Subd. 2. **Average salary.** In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of a member's highest salary upon which employee contributions were paid for any five successive years of allowable service, based on dates of salary periods as listed on salary deduction reports.

Subd. 3. **Retirement annuity formula.** The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and thereafter by 2.5 percent per year of allowable service and completed months less than a full year for the "basic member", and one percent for each year of allowable

service for the first ten years and thereafter by 1.5 percent per year of allowable service and completed months less than a full year for the "coordinated member," shall determine the amount of the "normal" retirement annuity.

Subd. 4. **Application for annuity.** Application for a retirement annuity may be made by a member or by a person authorized to act on behalf of the member. Every application for retirement shall be made in writing on a form prescribed by the executive director and shall be substantiated in writing by proof of the age of the member.

Subd. 5. [Repealed, 1959 c 650 s 57]

Subd. 6. **Retirement before eligibility for social security benefits.** Any member who retires before becoming eligible for social security retirement benefits may elect to receive a retirement annuity from the association in an amount greater than the annuity computed on the basis of age at retirement, provided in subdivisions 2 and 3. This option shall be exercised by making application to the board of trustees. This greater amount shall be the actuarial equivalent of the normal retirement annuity computed on the basis of age at retirement. This greater amount shall be paid until the annuitant reaches the age of 62, at which time the payment from the association shall be reduced. The method of computing an annuity under this subdivision shall be determined by an approved actuary.

Subd. 7. **Annuities; accrual.** Except as to elected public officials, all retirement annuities granted under the provisions of this chapter shall commence with the first day of the first calendar month next succeeding the date of termination of public service and shall be paid in equal monthly installments, but no payment shall accrue beyond the end of the month, in which entitlement to such annuity has terminated. If the annuitant dies prior to negotiating the check for the month in which death occurs, payment will be made to the surviving spouse or if none to the designated beneficiary or if none to the estate. Any annuity granted to an elective public official shall accrue on the day following expiration of the public office held or right thereto, and the annuity for that month shall be prorated accordingly. No annuity, once granted, shall be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive for more than three months prior to that month in which application therefor shall be filed with the association.

Subd. 8. **Annuities; payment; evidence of receipt.** Payment of any annuity or benefit for a given month shall be mailed by the association to the annuitant, recipient of a disability benefit, or survivor, during the first week of that month. Evidence of receipt of warrants issued by the association in payment of an annuity or benefit shall be submitted by the payee thereof to the association periodically at times specified by the board of trustees, together with a written declaration that the annuitant or recipient of a disability benefit has or has not returned to public service; that the surviving dependent spouse has or has not remarried; and shall be furnished on forms provided by the executive director thereof, before the association shall pay to the annuitant, disability recipient, or survivor for the next ensuing month, the annuity or benefit to which the person otherwise may be entitled.

History: 1957 c 935 s 9; 1959 c 650 s 13-16; 1963 c 639 s 1; 1965 c 714 s 4; 1965 c 880 s 4; Ex1967 c 53 s 4; 1971 c 106 s 19-21; 1973 c 753 s 39-42; 1974 c 229 s 14; 1975 c 102 s 6, 11, 12; 1976 c 329 s 21; 1977 c 429 s 25, 26; 1978 c 471 s 2, 3; 1979 c 216 s 8, 9; 1981 c 180 s 8; 1981 c 224 s 83; 1983 c 73 s 4, 5; 1986 c 444

353.30 ANNUITIES UPON RETIREMENT.

Subdivision 1. Upon separation from public service any person who has attained the age of at least 58 years but not more than 65 years and who received credit for not less than 20 years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, reduced by one-quarter of one percent for each month that the member is under age 65 at the time of retirement.

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Subd. 1a. Any person whose attained age plus credited allowable service totals 90 years is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, without any reduction in annuity by reason of such early retirement.

Subd. 1b. MS 1980 [Repealed, 1982 c 519 s 4]

Subd. 1b. Any person with 30 years or more of allowable service credit, who elects early retirement under subdivision 1, shall receive an annuity reduced by one-quarter of one percent for each month that the member is under age 62 at the time of retirement.

Subd. 1c. Any person who has received credit for at least 30 years of allowable service or any person who has attained the age of at least 55 years but not more than 65 years, and who received credit for at least ten years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, reduced by one-quarter of one percent for each month that the member is under age 65 at the time of retirement, except that for any member who has 30 or more years of allowable service the reduction shall be applied only for each month that the member is under age 62 at the time of retirement.

Subd. 2. [Repealed, 1971 c 106 s 40]

Subd. 3. The board of trustees shall establish optional annuities which shall take the form of a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the forms provided in section 353.29 and this section. In establishing those optional forms the board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board. A member or former member may select an optional form of annuity in lieu of accepting any other form of annuity which might otherwise be available.

Subd. 4. Any monthly payments to which any person may be entitled under this chapter may be reduced in amount upon application of the person entitled thereto to the association, provided that such person shall first relinquish in writing all claim to that part of the full monthly payment which is the difference between the monthly payment which that person would be otherwise entitled to receive and the monthly payment which that person will receive. The reduced monthly payment shall be payment in full of all amounts due under this chapter for the month for which the payment is made and acceptance of the reduced monthly payment releases the retirement association from all obligation to pay to such person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which such person would otherwise have received. Upon application of the person who is entitled to such monthly payment, it may be increased prospectively to not more than the amount to which such person would have been entitled had no portion thereof been waived.

History: 1957 c 935 s 10; 1959 c 650 s 17, 18, 58; 1971 c 106 s 22; 1973 c 753 s 43-45; 1976 c 329 s 22; 1978 c 796 s 29-31; 1981 c 224 s 84; 1982 c 519 s 1-3; 1983 c 286 s 8; 1984 c 564 s 22; 1986 c 444

353.31 SURVIVOR BENEFITS.

Subdivision 1. **Benefits for surviving spouse and dependent children; before retirement.** Upon the death of a basic member before retirement or upon the death of a basic member who was disabled and receiving disability benefits pursuant to section 353.33 at the time of death who has had at least 18 months of credited allowable service, the surviving spouse and dependent children of the member, as defined in section 353.01, subdivisions 15 and 20, shall be entitled to receive the monthly benefit provided below:

- | | |
|----------------------|---|
| (a) Surviving spouse | 50 percent of the member's
monthly average salary in
effect over the last full
six months of allowable |
|----------------------|---|

- (b) Each dependent child
- service preceding the month
in which death occurred
10 percent of the member's
monthly average salary in
effect over the last full
six months of allowable
service preceding the month
in which death occurred

Payments for the benefit of any dependent child, as defined in section 353.01, subdivision 15, shall be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit for a family shall not exceed \$1,000, and the minimum benefit per family shall not be less than 50 percent of the basic member's specified average monthly salary, subject to the aforementioned maximum. The surviving spouse benefit shall terminate upon the remarriage of the spouse, and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

Any survivor of a basic member whose average salary was less than \$75 per month shall not be entitled to the benefits provided in this subdivision. Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to section 353.32, subdivision 1a.

Except for any benefits provided pursuant to section 353.32, subdivisions 1 and 1a, there are no survivor benefits payable to the surviving spouse or dependent children of a deceased coordinated member.

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

Subd. 4. [Repealed, 1973 c 753 s 85]

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. **Accrual of benefits.** All benefits under this section and survivor benefits otherwise provided in this chapter when payable to persons qualifying therefor shall accrue on the first day following the death of a "basic member" or the first day of the month following the death of an annuitant or disabilitant. No payment may be made retroactively for more than 12 months prior to that month in which the application is filed, and no benefit shall accrue beyond the end of the month in which entitlement to such benefits has terminated.

Subd. 9. Every claim or demand for a survivor benefit or spouse's annuity shall be initiated by written application in the manner and form prescribed by the executive director, filed in the office of the retirement association, showing compliance with the statutory conditions qualifying the applicant for such survivor benefit or spouse's annuity.

Subd. 10. [Repealed, 1973 c 753 s 85]

Subd. 11. [Repealed, 1977 c 429 s 65]

History: 1957 c 935 s 11; 1959 c 646 s 1; 1959 c 650 s 19,20,47; 1959 c 651 s 1; 1961 c 467 s 1-4; Ex1961 c 79 s 1; 1963 c 641 s 19-21; 1965 c 880 s 5; Ex1967 c 26 s 2; 1969 c 858 s 1; 1969 c 940 s 6; 1971 c 106 s 23-25; 1973 c 753 s 46,47; 1974 c 229 s 15; 1975 c 102 s 13; 1977 c 429 s 27; 1978 c 471 s 4; 1978 c 796 s 32; 1979 c 216 s 10; 1981 c 180 s 9; 1981 c 224 s 85,86; 1982 c 578 art 1 s 4; 1984 c 564 s 23

353.32 REFUNDS AFTER DEATH OF MEMBER OR FORMER MEMBER.

Subdivision 1. **Before retirement.** If a member or former member who terminated public service dies before retirement or before receiving any retirement annuity and no other payment of any kind is or may become payable to any person, a refund shall be

paid to the designated beneficiary or, if there be none, to the surviving spouse, or, if none, to the legal representative of the decedent's estate. Such refund shall be in an amount equal to accumulated deductions plus interest thereon at the rate of five percent per annum compounded annually less the sum of any disability or survivor benefits, if any, that may have been paid by the fund; provided that a survivor who has a right to benefits pursuant to section 353.31 may waive such benefits in writing, except such benefits for a dependent child under the age of 18 years may only be waived pursuant to an order of the district court.

Subd. 1a. Surviving spouse optional annuity. If a member or former member who has attained the age of at least 50 years and has credit for not less than ten years of allowable service, or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in subdivision 1, or survivor benefits otherwise payable pursuant to section 353.31, an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for had the member 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 353.29, subdivisions 2 and 3; and 353.30, subdivisions 1, 1a, 1b and 1c. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to the annuity has terminated. 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 annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. Any member may specify in writing that this subdivision shall not apply and that payment shall be made only to the designated beneficiary, as otherwise provided by this chapter.

Subd. 2. After retirement. If a former member dies after retirement and no payment of any kind is or may become payable to any person, including any deferred benefit or annuity, there shall be paid to the same succession of payees set forth in subdivision 1, a refund of accumulated deductions, less the total payments of all kinds made by the fund to the former member during the former member's lifetime or to any authorized person after death, without interest.

Subd. 3. Optional survivor annuities; designated beneficiary. If a former member selected an optional annuity by the terms of which an optional survivor's annuity was paid to a survivor after the former member's death, upon the death of the survivor there shall be paid to the former member's designated beneficiary a refund of accumulated deductions less the total payments of all kinds made by the fund to the former member during the former member's lifetime or to any authorized person after death. If said beneficiary should die before making application for such refund, the same shall be paid to the legal representative of the estate of the former member.

Subd. 4. Lack, or death, of beneficiary. If a member or former member dies without having designated a beneficiary or if the beneficiary should die before making application for refund, and if there is no surviving spouse, and if the legal representative of such member or former member does not apply for refund within five years from the date of death of the member or former member, the accumulated deductions to the member or former member's credit at the time of death shall be disposed of in the manner provided in section 353.34, subdivision 6.

Subd. 5. \$1,500 or less, limited. If a member or former member 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 decedent, and the amount of the refund is \$1,500 or less, the board of trustees may 90 days after the date of death in the absence of probate proceedings, make payment to the surviving spouse of the said decedent, or,

if none, to the next of kin under the laws of descent of the state of Minnesota. Such payment shall be a bar to recovery by any other person or persons. Any retirement annuity, disability or survivor benefit which shall have accrued at the time of death of an annuitant, disabilitant or survivor may be paid in like manner.

Subd. 6. [Repealed, 1963 c 641 s 38]

Subd. 7. [Repealed, 1978 c 796 s 46]

Subd. 8. [Repealed, 1971 c 106 s 40]

Subd. 9. **Payment to a minor.** If a member or former member dies having named as beneficiary a person who is a minor at the time of the application for refund, the board may make payment (a) directly to the minor, (b) to any person who has legally qualified and is acting as guardian of the minor's person or property in any jurisdiction, or (c) to either parent of the minor or to any adult person with whom the minor may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised the board in writing that the amount will be held or used in trust for the benefit of such minor. Any annuity or disability benefit payable at the time of death of an annuitant or recipient of a disability benefit, which is payable to a beneficiary who is a minor, may be paid in the same manner. Such payment shall be a bar to recovery by any other person or persons.

History: 1957 c 935 s 12; 1959 c 646 s 2; 1959 c 650 s 42,48,58; 1963 c 641 s 22-24; 1969 c 940 s 7-9; 1971 c 106 s 26-28; 1973 c 35 s 56; 1973 c 753 s 48-52; 1974 c 229 s 16,17; 1975 c 102 s 14; 1977 c 429 s 28; 1978 c 471 s 5; 1978 c 796 s 33,34; 1979 c 216 s 11-13; 1981 c 180 s 10; 1981 c 224 s 87; 1983 c 73 s 6; 1984 c 564 s 24,25; 1986 c 444; 1986 c 458 s 12

353.33 TOTAL AND PERMANENT DISABILITY BENEFITS.

Subdivision 1. **Age, service and salary requirements.** Any member who becomes totally and permanently disabled before age 65 and after ten years of allowable service or after age 50 but before age 65 with five years of allowable service, whichever is sooner, shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's public service has terminated at any time, at least five of the required ten years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to a disability benefit. No repayment of a refund otherwise authorized pursuant to section 353.34 and no purchase of prior service or payment made in lieu of salary deductions otherwise authorized pursuant to section 353.01, subdivision 16, 353.017, subdivision 4, or 353.36, subdivision 2 may be made after the occurrence of the disability for which an application pursuant to this section is filed.

Subd. 2. **Applications; accrual of benefits.** Every claim or demand for a total and permanent disability benefit shall be initiated by written application in the manner and form prescribed by the executive director, filed in the office of the retirement association, showing compliance with the statutory conditions qualifying the applicant for a total and permanent disability benefit. A member or former member who became totally and permanently disabled during a period of membership may file application for total and permanent disability benefits within three years next following termination of public service, but not thereafter. This benefit shall begin to accrue the day following the commencement of disability, 90 days preceding the filing of the application, or, if annual or sick leave is paid for more than the said 90 day period, from the date salary ceased whichever is later. No payment shall accrue beyond the end of the month in which entitlement has terminated. If the disabilitant dies prior to negotiating the check for the month in which death occurs, payment will be made to the surviving spouse, or if none, to the designated beneficiary, or if none, to the estate.

Subd. 3. **Computation of benefits.** This disability benefit is an amount equal to the normal annuity payable to a member who has reached 65 with the same number of years of allowable service and the same average salary, as provided in section 353.29, subdivisions 2 and 3. A "basic member" shall receive in addition a supplementary monthly benefit computed in accordance with the following table:

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Age when Disabled	Supplementary benefit
Under 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

If the disability benefits provided in this subdivision exceed the average salary as defined in section 353.29, subdivision 2, the disability benefits shall be reduced to an amount equal to said average salary.

Subd. 3a. Optional annuity election. A disabled member may elect to receive the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity shall be made prior to the commencement of payment of the disability benefit. The optional annuity shall begin to accrue on the same date as provided for the disability benefit.

Subd. 4. Procedure to determine eligibility. The applicant shall provide medical evidence to support the application for total and permanent disability. The medical advisor shall verify the medical evidence and, if necessary for disability determination, suggest referral of applicant to specialized medical consultants. The association shall also obtain from the employer, certification of the member's past public service, dates of paid sick leave and vacation beyond the last working day and whether or not sick leave or annual leave has been allowed. If upon consideration of the medical reports received and the recommendations of the medical advisor, it is determined that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant the person a disability benefit. The fact that an employee is placed on leave of absence without compensation because of disability shall not bar the person from receiving a disability benefit.

Subd. 5. Benefits paid under workers' compensation law. Disability benefits paid shall be reimbursed and future benefits shall be reduced by any amounts received or receivable, including temporary total, permanent total, temporary partial or permanent partial benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant.

Subd. 6. Continuing eligibility for benefits. The eligibility for continuation of disability benefits shall be determined by the association, which has authority to require periodic examinations and evaluations of disabled members as frequently as deemed necessary. If a member is found to be no longer totally and permanently disabled and is reinstated to the payroll, payments shall be made for no more than 60 days.

Subd. 6a. Medical adviser. The state commissioner of health or such other licensed physician on the staff of the state commissioner of health as the commissioner may designate shall be the medical adviser of the executive director.

Subd. 6b. Duties of the medical adviser. The medical adviser shall designate licensed physicians to examine applicants for disability benefits. The medical adviser shall pass upon all medical reports based upon such examinations required to determine whether applicants are totally and permanently disabled as defined in section 353.01, subdivision 19, or disabled as defined in section 353.656, shall investigate all health and medical statements and certificates by or on behalf of said applicants in connection with disability benefits, and shall report in writing to the executive director conclusions and recommendations on all matters referred for advice.

Subd. 7. Partial re-employment. Should such disabled person resume a gainful

occupation from which earnings are less than the salary at the date of disability or the salary currently paid for similar positions, the board 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 higher, 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 person who is receiving a disability benefit as provided in this subdivision.

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

Subd. 9. Return to public service. Any person receiving a disability benefit who is restored to active public service except persons receiving benefits as provided in subdivision 7, shall have deductions taken for the retirement fund and upon subsequent retirement have the retirement annuity payable based upon all allowable service including that upon which the disability benefits were based.

Subd. 10. [Repealed, 1973 c 753 s 85].

Subd. 11. Retirement status at age 65. No person shall be entitled to receive disability benefits and a retirement annuity at the same time. The disability benefits paid to a person hereunder shall terminate when the person reaches age 65. If the person is still totally and permanently disabled when the person attains the age of 65 years, the person shall be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to subdivision 3a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 3a, may at the option of the person either elect to receive either a normal retirement annuity as provided in section 353.29 or normal retirement annuity equal to the disability benefit paid before the person reached age 65, whichever amount is greater, or elect to receive an optional annuity as provided in section 353.30, subdivision 3. Any disabled person who becomes age 65 shall have the annuity computed in accordance with the law in effect upon attainment of age 65. Election of an optional annuity shall be made prior to the person attaining the age of 65 years. If an optional annuity is elected, the election shall be effective on the date on which the person attains the age of 65 years and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains the age of 65 years.

History: 1957 c 935 s 13; 1959 c 650 s 21,41; 1961 c 595 s 2; 1963 c 641 s 25; 1965 c 880 s 6; 1967 c 711 s 1; Ex 1967 c 37 s 2,3; 1969 c 940 s 10; 1971 c 106 s 29,30; 1973 c 753 s 53-56; 1975 c 102 s 15-17; 1975 c 359 s 23; 1976 c 329 s 23-25; 1977 c 305 s 45; 1977 c 429 s 29,30; 1978 c 471 s 6; 1978 c 796 s 35; 1979 c 216 s 14; 1981 c 68 s 21,22; 1981 c 180 s 11-13; 1981 c 224 s 88; 1983 c 73 s 7; 1983 c 85 s 1; 1984 c 564 s 26; 1986 c 444

353.34 TERMINATION OF PUBLIC SERVICE.

Subdivision 1. Refund or deferred annuity. Any member who ceases to be a public employee by reason of termination of public service, or who is on a continuous layoff for more than 120 calendar days, shall be entitled to a refund of accumulated deductions as provided in subdivision 2, or to a deferred annuity as provided in subdivision 3. Application for a refund may not be made prior to date of termination of public service, or the expiration of 120 days of layoff, and a refund shall be paid within 120 days following receipt of application, provided applicant has not again become a public employee required to be covered by the association.

Subd. 2. Refund with interest. Except as provided in subdivision 1, any person who ceases to be a public employee shall receive a refund in an amount equal to accumulated deductions with interest to the first day of the month in which the refund is processed at the rate of five percent per annum compounded annually based on fiscal year balances.

Subd. 3. Deferred annuity; eligibility; computation. Any person with at least ten years of allowable service when termination of public service occurs shall have the option of leaving the accumulated deductions in the fund and thereby be entitled to a deferred retirement annuity commencing at age 65 or for a deferred early retirement annuity pursuant to section 353.30, subdivisions 1, 1a, 1b or 1c. The deferred annuity shall be computed in the manner provided in section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public service and shall be augmented as provided in section 353.71, subdivision 2. Any person qualified to apply for a deferred retirement annuity may revoke this option at any time prior to the commencement of deferred annuity payments by making application for a refund. The person shall be entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

Subd. 3a. Deferred annuity; certain hospital employees. Any member employed by a public hospital, as defined in section 355.71, subdivision 3, who has at least five years of allowable service credit on the date the public hospital is taken over by a private corporation or organization, may elect to receive a deferred annuity pursuant to subdivision 3 notwithstanding the length of service requirement contained therein.

Subd. 3b. Deferred annuity; certain former municipal court judges. Any person who qualified for membership in the association solely because of service as a municipal court judge, whose service as a municipal court judge was terminated by Laws 1971, chapter 951, section 9, and who elected to leave accumulated deductions in the fund to qualify for a deferred annuity, may receive a deferred early retirement annuity under section 353.30, subdivision 1, 1a, 1b, or 1c, notwithstanding the law in effect on the date of termination of public service.

Subd. 4. [Repealed, 1971 c 106 s 40]

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

Subd. 6. Additions to fund. The board of trustees may credit to the fund any moneys received in the form of contributions, donations, gifts, appropriations, bequests, or otherwise.

History: 1957 c 935 s 14; 1959 c 650 s 22-24,49; 1963 c 641 s 26-29; 1969 c 940 s 11; 1971 c 106 s 31; 1971 c 412 s 1; 1973 c 753 s 57-59; 1975 c 102 s 6; 1976 c 329 s 26; 1978 c 796 s 36; 1979 c 216 s 15; 1981 c 224 s 89; 1983 c 58 s 1; 1983 c 73 s 8; 1984 c 564 s 27; 1984 c 574 s 10; 1985 c 261 s 4; 1986 c 444

353.35 CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.

When any former member accepts a refund all existing service credits and all rights and benefits to which the person was entitled prior to the acceptance of such refund shall terminate and shall not again be restored until the person acquires not less than 18 months allowable service credit subsequent to taking the last refund and repays all refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at six percent per annum compounded annually. If more than one refund has been taken, all refunds must be repaid by the person with interest at six percent per annum compounded annually. All refunds must be repaid within three months of the last date of termination of public service.

History: 1957 c 935 s 15; 1959 c 650 s 38; 1963 c 641 s 30; 1971 c 106 s 32; 1973 c 753 s 60; 1976 c 329 s 27; 1979 c 216 s 16; 1982 c 404 s 6; 1986 c 444

353.36 PURCHASES OF PRIOR SERVICE CREDIT.

Subdivision 1. [Repealed, 1971 c 106 s 40]

Subd. 2. Employee contributions; interest; matching payment. A member who has at least one year of allowable service with the association, whose public service terminated before July 1, 1982, and who has prior public service on which salary deductions were not taken for the retirement fund and who does not have the required

minimum number of years of allowable service credit to qualify for an annuity, may apply for an annuity if otherwise qualified, and within 90 days thereafter purchase whatever period of the member's prior public service which is necessary to bring the member's total allowable service credit to the minimum, provided that the most recent period of prior uncredited public service shall be purchased first. The member may gain allowable service credit by paying the applicable percentage of the salary covered under the law in effect at the time that the prior public service was performed. If the member is a basic member, the applicable percentage is eight percent, and if the member is a coordinated member, the applicable percentage is four percent. An amount equal to the employer and employer additional contributions specified in section 353.27, subdivisions 3 and 3a, plus interest on the total amount representing employee, employer and employer additional contributions at the rate of six percent per annum compounded annually from the date first payable to the date payment is made, shall also be paid. The employer, at its sole discretion, may agree to pay the amount representing the employer and employer additional contributions pursuant to subdivision 2a. An annuity shall accrue as provided in section 353.29, subdivision 7, but no annuity shall be paid until the applicant's payment is made in full for the prior public service. If payment is not made within such 90 days, the application for retirement shall be void.

Subd. 2a. **Matching payment; employer may assume.** Any employer may certify to the association that it assumes the matching payment under subdivision 2 with respect to all persons who exercise the option provided in subdivision 2 and pay such amount pursuant to section 353.28.

Subd. 2b. **Purchases of prior service credit; limited.** After June 30, 1973, no person shall be allowed to purchase prior public service credit, except as provided in subdivision 2.

Subd. 2c. **Refund of additional payments made on total salary.** Any member who elected to pay additional contributions and interest based on total salary received in excess of prior salary limitations may make application to the board of trustees for return of the total amount so paid, but not less than the total amount of such contributions and interest; provided, however, said amount shall be so returned without interest thereon. Any member who accepts a refund hereunder shall thereby relinquish all contributory credit with respect to payments which were made on total salary. No matching amount paid by the employer, or assumed by the employer pursuant to certification, shall be repaid.

Subd. 2d. [Repealed, 1977 c 429 s 65]

Subd. 3. [Repealed, 1971 c 106 s 40]

Subd. 4. [Repealed, 1965 c 715 s 4]

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. [Repealed, 1973 c 753 s 85]

Subd. 9. [Repealed, 1973 c 753 s 85]

Subd. 10. [Repealed, 1973 c 753 s 85]

History: 1957 c 935 s 16; 1959 c 650 s 25,58; 1965 c 715 s 1-3; 1967 c 687 s 1; 1969 c 999 s 3; 1971 c 106 s 33; 1973 c 753 s 61,62; 1974 c 229 s 18; 1977 c 429 s 31; 1978 c 796 s 37; 1981 c 224 s 90; 1982 c 404 s 7

353.37 PUBLIC RE-EMPLOYMENT OF ANNUITANT.

Subdivision 1. **Effect on annuity.** The annuity of a person otherwise eligible therefor under this chapter shall be suspended if the person reenters and for as long as the person remains in public service as a nonelective employee of a governmental subdivision, if earned compensation for the reemployment service equals or exceeds 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 United States Code, title 42, section 403, in any calendar year. In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The suspension of the annuity shall commence as of the first of the month in which the maximum permitted compensation is exceeded as herein provided, but shall only apply to those months in which the annuitant is actually employed in nonelective service in a position covered by this chapter. Any annuitant of the association who is elected to public office after retirement shall be entitled to hold such office and receive the annuity otherwise payable from the public employees retirement association. Upon proper showing by an annuitant that the reason for the suspension of the annuity payments no longer exists, the monthly annuity payments shall be resumed. Public service performed by an annuitant subsequent to retirement under this chapter shall not increase or decrease the amount of any annuity when payment of the annuity is resumed. The annuitant shall not be required to make any further contributions to the retirement fund by reason of this subsequent public service.

Subd. 1a. [Repealed, 1981 c 180 s 18]

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

History: 1957 c 935 s 17; 1959 c 650 s 26,58; Ex1961 c 87 s 1; 1963 c 641 s 31; 1963 c 853 s 1,2; 1967 c 711 s 2; 1971 c 412 s 2; 1973 c 753 s 63; 1975 c 102 s 18; 1977 c 429 s 32; 1980 c 342 s 7; 1981 c 224 s 91

353.38 [Repealed, 1984 c 564 s 51]

353.39 [Repealed, 1973 c 753 s 85]

353.40 [Repealed, 1974 c 229 s 25]

353.41 [Repealed, 1959 c 650 s 57]

353.42 [Repealed, 1963 c 641 s 38]

353.43 [Repealed, 1959 c 650 s 57]

353.44 Subdivision 1. [Repealed, 1973 c 753 s 85]

Subd. 2. [Repealed, 1963 c 641 s 38]

353.45 [Repealed, 1973 c 753 s 85]

353.46 SAVINGS CLAUSES.

Subdivision 1. [Repealed, 1981 c 180 s 18]

Subd. 1a. **Purchase of allowable service; annuity.** A person who purchased allowable service in the public employees retirement association for a period of time including June 30, 1957, but was not in fact a member of the association on June 30, 1957, shall not be entitled to receive retirement annuity computed under Minnesota Statutes 1971, section 353.46, subdivision 1. This section shall have retroactive application to any such person receiving or found eligible by the district court to receive benefits calculated under Minnesota Statutes 1971, section 353.46, subdivision 1.

Subd. 2. The right of a deferred annuitant or other former member to receive an annuity under the law in effect at the time such person terminated public service is herein preserved; provided, however, the provisions of section 353.71, subdivision 2, as amended by Laws 1973, chapter 753 shall apply to a deferred annuitant or other former member who first begins receiving an annuity after July 1, 1973.

Subd. 3. [Repealed, 1977 c 429 s 65]

Subd. 4. Except as provided in section 353.84, the rights of a survivor of a former member, where such former member died prior to June 30, 1973, shall be determined by the law in effect when such former member died even though a benefit is not payable until after June 30, 1973.

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Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. **Computation of benefits for certain coordinated members.** Any coordinated member who prior to July 1, 1979 was a member of the coordinated program of the Minneapolis municipal employees retirement fund and who prior to July 1, 1978 was a member of the basic program of the Minneapolis municipal employees retirement fund shall:

(1) be entitled to receive a retirement annuity when otherwise qualified, the calculation of which shall utilize the formula accrual rates specified in section 422A.15, subdivision 1, for that portion of credited service which was rendered prior to July 1, 1978, and the formula accrual rates specified in section 353.29, subdivision 3, for the remainder of credited service, both applied to the average salary as specified in section 353.29, subdivision 2. The formula accrual rates to be used in calculating the retirement annuity shall recognize the service after July 1, 1978 as a member of the coordinated program of the Minneapolis municipal employees retirement fund and after July 1, 1979 as a member of the public employees retirement association as a continuation of service rendered prior to July 1, 1978. The annuity amount attributable to service as a member of the basic program of the Minneapolis municipal employees retirement fund shall be payable by the Minneapolis employees retirement fund and the annuity amount attributable to all other service shall be payable by the public employees retirement association;

(2) retain eligibility when otherwise qualified for a disability benefit from the Minneapolis employees retirement fund until July 1, 1982, notwithstanding coverage by the public employees retirement association, if the member has or would, without the transfer of retirement coverage from the basic program of the Minneapolis municipal employees retirement fund to the coordinated program of the Minneapolis municipal employees retirement fund or from the coordinated program of the Minneapolis municipal employees retirement fund to the public employees retirement fund, have sufficient credited service prior to January 1, 1983, to meet the minimum service requirements for a disability benefit pursuant to section 422A.18. The disability benefit amount attributable to service as a member of the basic program of the Minneapolis municipal employees retirement fund shall be payable by the Minneapolis employees retirement fund and the disability benefit amount attributable to all other service shall be payable by the public employees retirement association.

History: 1957 c 935 s 26; 1959 c 650 s 27; Ex1961 c 87 s 2; 1965 c 814 s 1,3; 1971 c 106 s 36; 1973 c 753 s 65-68; 1975 c 102 s 19; 1977 c 4 29 s 33; 1981 c 224 s 93,94; 1981 c 298 s 11

353.51 [Repealed, 1973 c 753 s 85]

353.52 [Repealed, 1973 c 753 s 85]

353.53 [Repealed, 1973 c 753 s 85]

353.54 [Repealed, 1973 c 753 s 85]

353.55 [Repealed, 1973 c 753 s 85]

353.56 [Repealed, 1973 c 753 s 85]

353.57 [Repealed, 1973 c 753 s 85]

353.58 [Repealed, 1973 c 753 s 85]

353.59 [Repealed, 1973 c 753 s 85]

353.591 [Repealed, 1973 c 753 s 85]

353.60 [Repealed, 1973 c 753 s 85]

353.61 [Repealed, 1973 c 753 s 85]

353.62 [Repealed, 1971 c 106 s 40]

353.63 POLICY.

It is the recognized policy of the state that special consideration should be given to employees of governmental subdivisions who devote their time and skills to protect-

ing the property and personal safety of others. Since this work is hazardous, special provisions are hereby made for retirement pensions, disability benefits and survivors benefits based on the particular dangers inherent in these occupations. The benefits provided in sections 353.63 to 353.68 are more costly than similar benefits for other public employees since they are computed on the basis of a shorter working lifetime taking into account experience which has been universally recognized. This extra cost should be borne by the employee and employer alike at the ratio of 40 percent employee contributions and 60 percent employer contributions.

History: 1959 c 650 s 31

353.64 MEMBERSHIP; QUALIFICATIONS; POLICE OFFICER, FIREFIGHTER.

Subdivision 1. Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or firefighter, shall as long as the person remains in either position, be deemed to continue membership in the fund. Any person who was employed by a governmental subdivision as a police officer and was a member of the police and fire fund on July 1, 1978 by virtue of being a police officer as defined by this section on that date shall be entitled, if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date, to continue membership in the fund whether or not that person has the power of arrest by warrant after that date. Any other employee serving on a full-time basis as a police officer or firefighter on or after July 1, 1961, shall become a member of the public employees police and fire fund. Any employee serving on less than a full-time basis as a police officer shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a police officer. Any employee serving on less than a full-time basis as a firefighter, other than a volunteer firefighter, shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a firefighter. Any police officer or firefighter who by virtue of that employment is required to contribute to any other pension, relief, or retirement fund established for the benefit of officers or employees of a governmental subdivision other than a volunteer firefighters relief association to which sections 69.771 to 69.776 apply shall not be a member of this fund.

Subd. 2. Before a governing body may declare a position to be that of a police officer, the duties of the person so employed shall, as a minimum, include services as an officer of a designated police department or sheriff's office or person in charge of a designated police department or sheriff's office who is engaged in the hazards of protecting the safety and property of others and who has the power to arrest by warrant.

Subd. 3. Before a governing body may declare a position to be that of a firefighter, the duties of the person so employed shall, as a minimum, include services as an employee of a designated fire company or person in charge of a designated fire company or companies who is engaged in the hazards of fire fighting.

Subd. 4. A copy of the resolution of the governing body declaring a position to be that of police officer or firefighter shall be filed with the board of trustees and shall be irrevocable.

Subd. 5. [Repealed, 1977 c 429 s 65]

Subd. 6. Any person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act shall be excluded from membership in the police and fire fund from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account

of that person from revenue sources other than funds provided under the federal Comprehensive Training and Employment Act, or the person agrees in writing to make the required employer contributions in addition to the required employee contribution.

Subd. 7. Pension coverage for certain public safety employees of the metropolitan airports commission. Any person first employed as either a full time firefighter or a full time police officer by the metropolitan airports commission after June 30, 1978, who is not eligible for coverage under the agreement signed between the state and the secretary of the federal department of health and human services making the provisions of the federal old age, survivors and disability insurance act applicable to municipal employees because that position is excluded from application pursuant to Title 42, United States Code, Sections 418 (d) (5) (A) and 418 (d) (8) (D) and section 355.07, shall not be a member of the Minneapolis employees retirement fund but shall be a member of the public employees police and fire fund and shall be deemed to be a firefighter or a police officer within the meaning of this section. The metropolitan airports commission shall make the employer contribution required pursuant to section 353.65, subdivision 3, with respect to each of its firefighters or police officers covered by the public employees police and fire fund and shall meet the employers recording and reporting requirements set forth in section 353.65, subdivision 4.

History: 1959 c 650 s 32; 1961 c 743 s 1; 1963 c 641 s 34; 1978 c 720 s 7; 1979 c 216 s 17; 1979 c 262 s 2; 1981 c 180 s 14,15; 1981 c 224 s 95; 1981 c 298 s 11; 1982 c 404 s 8

353.65 CONTRIBUTIONS.

Subdivision 1. There is a special fund known as the "public employees police and fire fund." In that fund there shall be deposited employee contributions, employer contributions and other amounts authorized by law including all employee and employer contributions of members transferred.

Subd. 2. The employee contribution shall be an amount equal to eight percent of the total salary of every member. This contribution shall be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds; such member's employee contribution shall be based on the total salary received from all sources. If the member is a firefighter employed on less than a full-time basis, the member's total salary shall not include any reimbursement payments for fire calls.

Subd. 3. The employer contribution shall be an amount equal to 12 percent of the total salary of every member. This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

Subd. 4. The head of each department of the various governmental subdivisions is hereby directed to cause employee contributions to be deducted in the manner and subject to the terms provided in section 353.27, subdivision 4.

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. All contributions shall be credited to the fund and all interest and other income of the fund shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said fund and the annuities herein provided upon retirement shall be paid from said fund.

History: 1959 c 650 s 33; 1965 c 714 s 6-8; Ex1967 c 53 s 6-8; 1971 c 297 s 5; 1973 c 753 s 69,70; 1979 c 216 s 18

353.651 RETIREMENT ANNUITY UPON SEPARATION FROM PUBLIC SERVICE.

Subdivision 1. Age and allowable service requirements. Upon separation from public service, any police officer or firefighter member who has attained the age of at least 55 years and who received credit for not less than ten years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Subd. 2. **Average salary.** In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a police officer or firefighter upon which employee contributions were paid for any five successive years of allowable service.

Subd. 3. **Retirement annuity formula.** The average salary as defined in subdivision 2, multiplied by 2-1/2 percent per year of allowable service for the first 25 years and two percent per year of allowable service thereafter, shall determine the amount of the normal retirement annuity. If the member has earned allowable service for performing services other than those of a police officer or firefighter, the annuity representing such service shall be computed in accordance with sections 353.29 and 353.30.

History: 1973 c 753 s 71; 1974 c 229 s 19; 1977 c 429 s 34; 1984 c 564 s 28

353.654 [Repealed, 1973 c 753 s 85]

353.655 [Repealed, 1973 c 753 s 85]

353.656 DISABILITY BENEFITS.

Subdivision 1. **In line of duty; computation of benefits.** Any member of the police and fire fund less than 55 years of age, who shall become disabled and physically unfit to perform duties as a police officer or firefighter subsequent to June 30, 1973, 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 member physically or mentally unable to perform duties as a police officer or firefighter, shall receive disability benefits during the period of such disability. The benefits shall be in an amount equal to 50 percent of the "average salary" pursuant to subdivision 3 plus an additional 2-1/2 percent of said average salary for each year of service in excess of 20 years but not exceeding 25 years and two percent for each year thereafter. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit shall be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Subd. 1a. **Optional annuity election.** A disabled member of the police and fire fund may elect to receive the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit. The optional annuity shall begin to accrue on the same date as provided for the disability benefit.

Subd. 2. **Benefits paid under workers' compensation law.** If a member, as described in subdivision 1, is injured under circumstances which entitle the member to receive benefits under the workers' compensation law, the member shall receive the same benefits as provided in subdivision 1, with disability benefits paid reimbursed and future benefits reduced by all periodic or lump sum amounts paid to the member under the workers' compensation law, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant.

Subd. 3. After June 30, 1973, any member who becomes disabled after not less than five years of allowable service, before reaching the age of 55, because of sickness or injury occurring while not on duty as a police officer or firefighter, and by reason thereof the member is unable to perform duties as a police officer or firefighter, shall be entitled to receive a disability benefit. The benefit shall be in the same amount and paid in the same manner as if the member were 55 years of age at the date of disability and the benefit were paid pursuant to section 353.651. Should disability under this clause occur after five but in less than ten years allowable service, the disability benefit shall be the same as though the member had at least ten years service.

Subd. 4. No member shall receive any disability benefit payment when there remains to the member's credit unused annual leave or sick leave or under any other circumstances, when during the period of disability there has been no impairment of salary and should such member resume a gainful occupation with earnings less than the salary earned at the date of disability or the salary currently paid for similar positions,

the association shall continue the disability benefit in an amount which when added to such earnings does not exceed the salary earned 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 allowed.

Subd. 5. No disability benefit payment shall be made except upon adequate proof furnished to the association of the existence of such disability, and during the time when any such benefits are being paid, the association shall have the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed.

Subd. 6. **Retirement status at age 55.** All disability benefits payable under this section shall terminate when the disabled firefighter or police officer becomes 55 years of age. If the person is still disabled when the person attains the age of 55 years, the person shall be deemed to be a retired member and, if the person 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 person had not elected an optional annuity pursuant to subdivision 1a, may then elect to receive either a normal retirement annuity computed pursuant to section 353.651, or an optional annuity as provided in section 353.30, subdivision 3. Any disabled person who becomes age 55 shall have the annuity computed in accordance with the law in effect upon attainment of age 55. Election of an optional annuity shall be made prior to the person attaining the age of 55 years. If an optional annuity is elected, the election shall be effective on the date on which the person attains the age of 55 years and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains the age of 55 years.

History: 1971 c 297 s 3; 1973 c 753 s 72-74; 1975 c 102 s 20,21; 1975 c 359 s 23; 1976 c 329 s 28; 1977 c 429 s 63; 1978 c 796 s 38; 1979 c 216 s 19; 1981 c 68 s 23,24; 1981 c 180 s 16; 1981 c 224 s 96; 1983 c 85 s 2; 1Sp1985 c 7 s 15; 1986 c 444

353.657 SURVIVOR BENEFITS.

Subdivision 1. In the event any member of the police and fire fund shall die from any cause, the association shall grant survivor benefits to any surviving spouse who was residing with the member at the time of death and who was married to the member for a period of at least one year, and to a dependent child or children, unmarried and under the age of 18 years. The spouse and child or children shall be entitled to monthly benefits as provided in the following subdivisions.

Subd. 2. The spouse, for life or until remarriage, shall receive a monthly benefit equal to 30 percent of the member's average monthly salary earned as a police officer or firefighter on which employee contributions were paid over the last full six months of allowable service preceding death.

Subd. 2a. If a member who has attained the age of at least 50 years and has credit for not less than ten years allowable service dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, or survivor benefits otherwise payable pursuant to subdivisions 1 and 2, an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. 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. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to such annuity has terminated. 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 annuities paid and payable

to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter.

Subd. 3. Each dependent child, until the child reaches the age of 18 years, shall receive a monthly benefit equal to ten percent of the member's average monthly salary earned as a police officer or firefighter on which employee contributions were paid over the last full six months of allowable service preceding death. Payments for the benefit of any qualified dependent child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of the child or to any adult person with whom the child may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised the board in writing that the amount will be held or used in trust for the benefit of the child. The maximum monthly benefit for any one family shall not exceed an amount equal to 50 percent of the member's specified average monthly salary, and the minimum benefit per family shall not be less than 30 percent of the member's specified average monthly salary.

Subd. 4. If the member shall die under circumstances which entitle a surviving spouse and dependent children to receive benefits under the workers' compensation law, the amounts so received by them shall not be deducted from the benefits payable under this section.

History: 1971 c 297 s 4; 1973 c 753 s 75-77; 1974 c 229 s 20; 1975 c 102 s 22; 1975 c 359 s 23; 1978 c 471 s 7; 1978 c 796 s 39; 1980 c 607 art 15 s 3; 1981 c 180 s 17; 1982 c 404 s 9; 1Sp1985 c 7 s 16; 1986 c 444; 1986 c 458 s 13

353.66 [Repealed, 1973 c 753 s 85]

353.661 UNIVERSITY OF MINNESOTA PEACE OFFICERS; PENSION AND RETIREMENT COVERAGE.

Subdivision 1. **Transfer of pension coverage for existing employees.** Notwithstanding any provisions of law to the contrary, as of July 1, 1978, all active peace officers employed by the University of Minnesota at any campus or facility of the university shall cease to be members of the University of Minnesota police department retirement plan and fund and shall cease to have any accrual of service credit, rights, or benefits under that plan. From and after July 1, 1978, any active peace officer shall be a member of the public employees police and fire fund, shall be considered a police officer for purposes of this chapter if otherwise meeting the requirements of section 353.64, and shall have any past service as a peace officer with the University of Minnesota credited as allowable service by the public employees police and fire fund for purposes of section 353.01, subdivision 16.

Subd. 2. **Pension coverage for new peace officers.** All persons first employed by the University of Minnesota at any campus or facility of the university and appointed by the board of regents as peace officers after July 1, 1978, shall be members of the public employees police and fire fund and shall be considered police officers for purposes of section 353.64, subdivisions 1 and 2.

Subd. 3. **Transfer of existing recipients of pension and other retirement benefits.** As of July 1, 1978, the accrued liability for all retirement annuities, disability benefits, survivorship annuities and survivor of deceased active employee benefits paid or payable by the University of Minnesota police department retirement plan and fund shall be transferred to the public employees police and fire fund and shall no longer be the liability of the University of Minnesota police department retirement plan and fund. The required reserves for retirement annuities in effect as of June 30, 1978, including future automatic survivor benefits for survivors of deceased former retirement annuitants attributable to those annuities, and the required reserves for benefits of survivor of deceased former retirement annuitants in effect as of June 30, 1978 shall be determined using a five percent interest assumption and the applicable public employees police and fire fund mortality table and shall be transferred by the public

employees police and fire fund 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 on July 1, 1978 shall be considered the "originally determined benefit" for purposes of further adjustments pursuant to section 11A.18. For persons receiving benefits as survivors of deceased former retirement annuitants, the benefit shall be considered as having commenced on the date on which the retirement annuitant began receiving the retirement annuity.

History: 1978 c 774 s 1; 1980 c 607 art 14 s 42,45 subd 2; 1Sp1981 c 4 art 1 s 164

353.662 ADDITIONAL EMPLOYER OBLIGATION TO AMORTIZE UNFUNDED ACCRUED LIABILITIES.

In order to amortize the additional unfunded accrued liability incurred by the public employees police and fire fund as a result of the consolidation of the University of Minnesota police department plan and fund, and to place the University of Minnesota on an equivalent basis with the other public employing units having employees covered by the public employees police and fire fund, the University of Minnesota shall make an annual contribution to the public employees police and fire fund in addition to the employer contribution specified in section 353.65, subdivision 3. The additional contribution shall be a level annual dollar amount of \$82,904, payable at the beginning of each fiscal year, commencing July 1, 1978 and payable for a period of ten years; provided however that upon request of the board of regents of the University of Minnesota, the board of trustees of the public employees retirement association may specify an alternative procedure of periodic payments.

History: 1978 c 774 s 3

353.663 GENERAL ADMINISTRATION.

The provisions of this chapter shall govern in all instances where not inconsistent with the provisions of Laws 1978, chapter 774.

History: 1978 c 774 s 4

353.67 APPLICATION FOR ANNUITY.

Application for retirement annuity may be made by a member or by someone authorized to act in behalf of the member.

History: 1959 c 650 s 35; 1965 c 880 s 9; 1986 c 444

353.68 SCOPE AND APPLICATION.

Subdivision 1. The general provisions of this chapter apply to all police officers and firefighters who are members of the police and fire fund and also to all governmental subdivisions employing such members except where otherwise specifically provided in sections 353.63 to 353.68.

Subd. 2. [Repealed, 1973 c 753 s 85]

Subd. 3. [Repealed, 1973 c 753 s 85]

Subd. 4. The deferred annuity of section 353.34, subdivision 3, as it applies to members of the police and fire fund shall commence at age 55 and shall be computed in the manner provided in section 353.651 on the basis of the law in effect on the date of termination of public service and shall be augmented as provided in section 353.71, subdivision 2.

Subd. 5. [Repealed, 1973 c 753 s 85]

Subd. 6. [Repealed, 1973 c 753 s 85]

Subd. 7. [Repealed, 1973 c 753 s 85]

Subd. 8. [Repealed, 1973 c 753 s 85]

Subd. 9. [Repealed, 1973 c 753 s 85]

History: 1959 c 650 s 36; 1961 c 743 s 3; 1963 c 639 s 2; 1963 c 641 s 35-37; 1963

c 659 s 1; 1965 c 814 s 2; Ex1967 c 37 s 4; 1969 c 940 s 15; 1971 c 412 s 3; 1973 c 753 s 78

353.69 OFFICERS OR EMPLOYEES OF NONCOVERED MUNICIPALITIES; OPTIONAL MEMBERSHIP.

Any former member who is an elected official or an employee of a municipality not covered by the public employees retirement association, has the option to continue membership in the association for any period of service with the municipality. Except for the repayment of refunds pursuant to section 353.35, this option applies to future service only. Any person desiring to exercise this option shall file application with the association. No such person shall be entitled to allowable service credit under this chapter, if for the same period of service that person receives credit with any other public retirement or pension plan maintained by the municipality.

History: *1959 c 650 s 56; 1965 c 714 s 10; Ex1967 c 53 s 10; 1971 c 106 s 39; 1973 c 753 s 79; 1986 c 444*

353.70 [Repealed, 1963 c 641 s 38]

353.71 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM; DEFERRED ANNUITY; AUGMENTATION.

Subdivision 1. Eligibility. Any person who has been a member of the public employees retirement association, or the Minnesota state retirement system, or the teachers retirement association, or any other public retirement system in the state of Minnesota having a like provision, except a fund providing benefits for police officers or firefighters governed by sections 69.77 or 69.771 to 69.776, shall be entitled when qualified to an annuity from each fund if the 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 the person has not taken a refund from any one of these funds since the person's membership in that association or system 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 of allowable service in the respective association or system 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. Deferred annuity computation; augmentation. The deferred annuity, if any, accruing under subdivision 1, or sections 353.34, subdivision 3, and 353.68, subdivision 4, shall be computed in the manner provided in said sections, on the basis of allowable service prior to termination of public service and augmented as provided herein. The required reserves applicable to a deferred annuity, or to an annuity for which a former member was eligible but had not applied, or to any deferred segment of an annuity shall be determined as of the date the annuity begins to accrue and shall be augmented from the first day of the month following the month in which the former member ceased to be a public employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum 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 public service for more than two years. If a person repays a refund, the service restored thereby shall be considered as continuous with the next period of service for which the employee has credit with this association. The formula percentages used for each period of uninterrupted service shall be those as would be applicable to a new employee. This section shall not reduce the annuity

otherwise payable under this chapter. This subdivision shall apply to deferred annuitants of record on July 1, 1971 and to employees who thereafter become deferred annuitants; it shall also apply from July 1, 1971 to former members who make application for an annuity after July 1, 1973.

Subd. 3. Deferred annuity; postponed payment. No deferred annuity shall commence to be paid from the public employees retirement fund during the time the former member is working and accruing service credit as a member of any public retirement system referred to in subdivision 1.

Subd. 4. Repayment of refund. Any person who has received a refund from the public employees retirement fund and who is a member of any public retirement system referred to in subdivision 1, may repay such refund to the public employees retirement fund as provided in section 353.35.

Subd. 5. Early retirement. The requirements and provisions for retirement prior to age 65 contained in section 353.30, shall also apply to a person fulfilling such requirements with a combination of service as provided in subdivision 1.

History: 1963 c 641 s 2; 1969 c 940 s 16-18; 1971 c 412 s 4-7; 1973 c 35 s 58; 1973 c 753 s 80,82,83; 1974 c 229 s 21; 1975 c 102 s 23; 1977 c 429 s 63; 1978 c 796 s 40; 1979 c 216 s 20; 1981 c 224 s 97; 1Sp1981 c 4 art 1 s 165

NOTE: See also sections 352.72 and 354.60.

353.74 CERTAIN SURVIVOR BENEFITS.

The surviving spouse of a former member of the public employees retirement association for not less than 18 years who was separated from the association by becoming a member of the judicial branch of the state government shall receive the same benefits as if the former member was a member of the public employees retirement association on the date of death. This section shall only apply when neither the former member nor a survivor have received any refundment of the accumulated salary deduction of the former member.

History: 1963 c 520 s 1; 1986 c 444

353.75 CERTAIN RETIREMENT ANNUITY BENEFITS.

Any public employee who retired on or after December 31, 1964, and who (1) has attained the age of 65 years, and who (2) had more than 22 years of continuous service in that employee's first public employment, (3) had more than five years of subsequent continuous service in public employment before retirement, (4) and has made contributions to the public employees retirement fund during all public employment, and who (5) has not withdrawn any contributions to the public employees retirement fund, is entitled to receive a retirement annuity from May 14, 1965, based upon the sum total of such periods of public employment in like manner as if the public employment had been continuous.

History: 1965 c 432 s 1; 1986 c 444

- 353.76 MS 1969 [Special]
- 353.77 MS 1969 [Special]
- 353.78 MS 1969 [Special]
- 353.79 MS 1969 [Special]
- 353.80 MS 1969 [Special]
- 353.81 MS 1969 [Special]
- 353.82 MS 1969 [Special]

353.83 ADDITIONAL PAYMENTS TO CERTAIN ANNUITANTS.

Payments of retirement annuities pursuant to this chapter, to annuitants who (a) retired prior to July 1, 1962, (b) had at least 20 years of allowable service credit in the public employees retirement association upon their termination of public employment,

and (c) receive annuities of less than \$200 per month shall, retroactive to July 1, 1967, be supplemented by additional payments by the public employees retirement association from moneys in the general fund of the state of Minnesota in the amount of \$15 per month, provided that such annuitants have not previously qualified for the additional payments pursuant to this section, and provided further that in no case shall the annuities plus the additional payments exceed \$200 per month. These additional payments shall be made in the same manner and at the same time retirement annuities are paid and shall be included in the warrants on which the annuities are so paid. The supplemental payment herein provided shall be excluded from the computation of any monthly survivor benefit or optional annuity which may become due and payable to any person following the death of an annuitant who, during life, received a benefit pursuant to this section. If an annuitant entitled to receive additional payment under this section should die before such retroactive payment is received, payment shall be made upon demand to the designated beneficiary in an amount equal to the accumulated benefit from July 1, 1967, to the date of death, without interest.

History: 1967 c 688 s 1; 1969 c 399 s 1; 1969 c 998 s 1; 1980 c 614 s 141; 1986 c 444

353.84 INCREASE IN BENEFITS.

All survivors and disabilitants who were receiving benefits on June 30, 1973, shall receive from the appropriate special fund, a 25 percent increase in such benefits accruing from January 1, 1974; provided, that survivors of members who died prior to July 1, 1973 and will not become eligible to receive benefits until after June 30, 1973, shall receive the 25 percent increase in such benefits when the benefits begin to accrue. Such increases shall not be affected by any maximum limitations otherwise provided in this chapter.

Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made.

History: 1973 c 753 s 84

353.85 OPTIONAL BENEFITS TO SURVIVORS OF MEMBERS WHO DIED AFTER JUNE 15, 1973.

A qualified survivor of a "basic" member or a member of the police and fire fund where such member died after June 15, 1973 and was entitled to salary or vacation pay after June 30, 1973 shall in lieu of all other association survivor benefits be entitled to the survivor benefits payable under the law in effect on July 1, 1973.

History: 1974 c 229 s 22