

## CHAPTER 352

## MINNESOTA STATE RETIREMENT SYSTEM

|         |  |        |  |
|---------|--|--------|--|
| 352.01  | Definitions.   | 352.22 | Refund or deferred annuities.                    |
| 352.021 | Minnesota state retirement system.                                       | 352.72 | Coverage by more than one retirement system.     |
| 352.03  | Board of directors; executive director.                                  | 352.73 | Supplemental benefit for former state employees. |
| 352.031 | Appeals procedure.   | 352.85 | Military affairs personnel.                      |
| 352.04  | State employees retirement fund, contributions by employee and employer. | 352.92 | Correctional employee contributions.             |
| 352.113 | Permanent disability benefits.   | 352.93 | Retirement annuity.                              |
| 352.115 | Retirement annuity.  | 352.95 | Disability benefits.                             |
| 352.116 | Annuities upon retirement.   | 352.96 | Deferred compensation.                           |
| 352.12  | Refund after death.  |        |  |

**352.01 DEFINITIONS.**

*[For text of subds 1 to 2a, see M.S.1988]*

Subd. 2b. **Excluded employees.** "State employee" does not include:

- (1) elective state officers;
- (2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;
- (3) employees who are eligible for membership in the state teachers retirement association except employees of the department of education who have chosen or may choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;
- (4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;
- (5) officers and enlisted personnel in the national guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;
- (6) election officers;
- (7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;
- (8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;
- (9) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the department of labor and industry;
- (10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;
- (11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;
- (12) employees of the Sibley House Association;
- (13) employees of the Grand Army of the Republic and employees of the ladies of the G.A.R.;
- (14) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;

(15) state troopers;

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

(17) emergency employees in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

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

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

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

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

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

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

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

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

(26) examination monitors employed by departments, agencies, commissions, and boards to conduct examinations required by law;

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

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

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

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

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

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

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

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

(35) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act after March 30, 1978, unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement system

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

(36) off-duty peace officers while employed by the metropolitan transit commission under section 629.40, subdivision 5; and

(37) persons who are employed as full-time firefighters by the department of military affairs and as firefighters are members of the public employees police and fire fund.

*[For text of subds 3 to 7, see M.S.1988]*

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

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

(2) Service by an employee for which on or before July 1, 1961, the employee chose to obtain credit for service by making payments to the fund under Minnesota Statutes 1961, section 352.24.

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

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

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

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

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

(7) Any service covered by a refund repaid as provided in section 352.23 or 352D.05, subdivision 4, except service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system.

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

(9) Service after July 1, 1983, by an employee who is employed on a part-time basis for less than 50 percent of full time, for which the employee is paid salary from

which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited, and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based on the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year. For periods of part-time service that is duplicated service credit, section 356.30, subdivision 1, clauses (i) and (j), govern.

The allowable service determined and credited on a fractional basis shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis must not be used in determining the length of service required for eligibility for benefits.

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

*[For text of subds 12 to 18, see M.S.1988]*

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

*[For text of subds 20 to 24, see M.S.1988]*

**Subd. 25. Normal retirement age.** "Normal retirement age" means age 65 for a person who first became a covered employee before July 1, 1989. For a person who first becomes a covered employee after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.

**History:** 1989 c 209 art 2 s 35; 1989 c 319 art 1 s 2; 1989 c 335 art 3 s 4; art 13 s 1,2

**NOTE:** Subdivision 2b, as amended by Laws 1989, chapter 335, article 3, section 4, is effective January 1, 1992, in all judicial districts except the eighth, except that it is effective to make affected district administration staff, other than district administration staff in the second and fourth judicial districts, state employees on July 1, 1990, and law clerks state employees October 1, 1990. See Laws 1989, chapter 335, article 3, section 58, subdivision 1.

### 352.021 MINNESOTA STATE RETIREMENT SYSTEM.

*[For text of subds 1 to 4, see M.S.1988]*

**Subd. 5. Continuing coverage.** Any state employee who has made contributions to the retirement fund for a period of one year and who, continuing in state service after that year, becomes eligible for membership in the state teachers retirement association as a full-time teacher, as defined in section 354.05, subdivision 2, may continue coverage under the system by filing in its office written notice of election to continue. The election to be covered by the system under this subdivision or section 352.01, subdivision 2b, clause (3), must be made on a form approved by the director within 90 days after appointment to the position. If the option is exercised, the employee is

not thereafter entitled to membership in the teachers retirement association while employed by the state in a position that entitled the employee to make this election.

**History:** 1989 c 319 art 1 s 3

### 352.03 BOARD OF DIRECTORS; EXECUTIVE DIRECTOR.

*[For text of subds 1 to 6, see M.S.1988]*

**Subd. 7. Directors' fiduciary obligation.** The board and the director shall undertake their activities consistent with chapter 356A.

*[For text of subds 8 to 10, see M.S.1988]*

**Subd. 11. Legal adviser, attorney general.** The attorney general shall be the legal adviser of the board and of the director. The board may sue or be sued or petitioned under this section in the name of the board of directors of the system. In actions brought by it or against it, the board shall be represented by the attorney general and, except as provided in section 352.031, subdivision 9, venue of actions shall be in the Ramsey county district court.

*[For text of subd 12, see M.S.1988]*

**Subd. 13.** [Repealed, 1989 c 319 art 1 s 17]

*[For text of subds 14 to 16, see M.S.1988]*

**History:** 1989 c 319 art 1 s 4; art 8 s 10

### 352.031 APPEALS PROCEDURE.

**Subdivision 1. Definitions.** Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the following terms have the meanings given them.

(a) "Board" means the board of directors of the Minnesota state retirement system.

(b) "Documentation" includes, but is not limited to:

- (1) sworn and notarized affidavits made on the personal knowledge of any person;
- (2) official letters or documents;
- (3) documents from the file of the petitioner; and
- (4) other relevant documents that are admissible as evidence in a court of law.

(c) "Executive director" means the executive director of the Minnesota state retirement system.

(d) "Person" includes any state agency or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(e) "Record" means the petition and the documentation that the petitioners submit with the petition; the executive director's answer to the petition and documentation submitted with it; and any documentation the board allows to be submitted at or after the meeting at which the petition is considered.

**Subd. 2. Notice of termination or denial.** If the executive director terminates a benefit or denies an application or a written request of any person claiming a right under chapter 352, other than sections 352.96 and 352.97; chapters 3A, 352B, 352C, and 352D; sections 490.121 to 490.133; or the applicable sections of chapters 355 and 356, the executive director must serve upon that person written notice containing:

(1) the reasons for the termination or denial;

(2) notice that the person may petition the board for a review of the termination or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;

(3) a statement that failure to petition the board within 60 days will preclude the

person from contesting in any other court procedure or administrative hearing, the issues determined by the executive director; and

(4) a copy of this section.

**Subd. 3. Petition for review.** A person who claims a right under subdivision 2 and whose benefit has been terminated or whose application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation.

**Subd. 4. Answer; record for hearing.** Within a reasonable time after receiving a petition, the executive director must serve the petitioner with an answer to the petition with all relevant documentation and with notice of the time and place of the regular or special board meeting at which the board will consider the petition. The documentation need not duplicate the documentation submitted by the petitioner. Not later than ten days before the board meeting at which the petition will be heard, the executive director must, personally or by mail, deliver a copy of the relevant documentation to each board member. Each board member who participates in the decision on the petition must be familiar with all relevant documentation.

**Subd. 5. Hearing.** The board shall hold a timely hearing on a petition for review. The board shall make its decision on a petition solely on the relevant documentation as submitted and the proceedings of the hearing. At the hearing, the petitioner, the petitioner's attorney, and the executive director may state and discuss with the board their positions with respect to the petition. The board may allow further documentation to be placed in the record at or subsequent to the board meeting at which the petition is considered. If the board allows additional documentation into the record at or subsequent to the board meeting, it may make a final determination on the petition at that board meeting only upon the agreement of both the petitioner and the executive director.

**Subd. 6. Termination of benefits.** If the executive director proposes to terminate a benefit that is being paid to any person, before terminating the benefit, the executive director must, in addition to the other procedures prescribed herein, give the person written or oral notice of the proposed termination. The notice must explain the reason for the proposed termination. The person must be given an opportunity, verbally or in writing, to explain why the benefit should not be terminated: if the executive director is unable to contact the person and the executive director determines that a failure to terminate the benefit might result in unauthorized payment by the association, the executive director may terminate the benefit with only a written notice containing the information required by subdivision 2, mailed to the address to which the benefit was last sent and, if that address is a financial institution, to the last known address of the person.

**Subd. 7. Medical advisor action.** If a person petitions the board to reverse or modify a determination by the executive director finding that the petitioner, for medical reasons, does not or has ceased to qualify for a disability benefit, the board may resubmit the matter to the medical advisor for reconsideration, with or without instructions to obtain further medical examinations. The board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical opinion contrary to the opinion of the medical advisor in the record and the medical advisor asserts that the decision was made in accordance with the disability standard in section 352.01, subdivision 17; 352B.10; or 490.121, subdivision 13, the board must follow the determination of the medical advisor. The board may make a determination different from the recommendation of the medical advisor on issues that do not involve a medical opinion.

**Subd. 8. Board findings.** After the board has made a decision on a petition, the

executive director must prepare findings of fact, the board's reasons for its conclusions, and the board's final order for the signature of the chair or other board member as the board, by resolution, may designate. The executive director shall serve the findings, conclusions, and order on the petitioner by certified mail.

**Subd. 9. Appeals.** Within 30 days of receipt of the findings, conclusions, and final order, the petitioner may appeal the board's decision by writ of certiorari to the court of appeals. Failure to appeal to that court within the 30 days precludes the petitioner from later raising, in any court procedure or administrative hearing, those substantive and procedural issues that reasonably should have been raised upon appeal.

**Subd. 10. Referral for administrative hearing.** Notwithstanding sections 14.03; 14.06; and 14.57 to 14.69, a challenge to a determination of the executive director must be conducted exclusively under the procedures in this section. The board in its sole discretion may refer a petition brought under this section to the office of administrative hearings for a contested case hearing under sections 14.57 to 14.69.

**Subd. 11. Petitions without notice.** A person who is not entitled to a review under this section may nevertheless receive review of the decision of the executive director which affects the person's rights by petitioning the board under this section within 60 days of the time the person knew or should have known of the disputed decision.

**History:** 1989 c 319 art 1 s 5

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

*[For text of subd 1, see M.S.1988]*

**Subd. 2. Employee contributions.** The employee contribution to the fund must be equal to 4.34 percent of salary, beginning with the first full pay period after June 30, 1989. These contributions must be made by deduction from salary as provided in subdivision 4.

**Subd. 3. Employer contributions.** The employer contribution to the fund must be equal to 4.51 percent of salary beginning with the first full pay period after June 30, 1989.

*[For text of subds 4 to 12, see M.S.1988]*

**History:** 1989 c 319 art 13 s 3,4

#### **352.113 PERMANENT DISABILITY BENEFITS.**

**Subdivision 1. Age and service requirements.** Any employee covered by the system who is less than normal retirement age who becomes totally and permanently disabled after three or more years of allowable service is entitled to a disability benefit in an amount provided in subdivision 3. If the disabled employee's state service has terminated at any time, the employee must have at least two years of allowable service after last becoming a state employee covered by the system.

*[For text of subds 2 to 11, see M.S.1988]*

**Subd. 12. Retirement status at normal retirement age.** The disability benefit paid to a disabled employee under this section ends when the employee reaches normal retirement age. If the disabled employee is still totally and permanently disabled when the employee reaches normal retirement age, the employee shall be considered to be a retired employee. If the employee had chosen an optional annuity under subdivision 3, the employee shall receive an annuity in accordance with the terms of the optional annuity previously chosen. If the employee had not chosen an optional annuity pursuant to subdivision 3, the employee may then choose to receive either a normal retirement annuity equal in amount to the disability benefit paid before the employee reached normal retirement age or an optional annuity as provided in section 352.116, subdivision 3. The choice of an optional annuity must be made before reaching normal

retirement age. If an optional annuity is chosen, the choice is effective on the date the employee attains normal retirement age and the optional annuity shall begin to accrue the first of the month following the month in which the employee attains this age.

**History:** 1989 c 319 art 13 s 5,6

### 352.115 RETIREMENT ANNUITY.

**Subdivision 1. Age and service requirements.** After separation from state service, any employee (1) who has attained the age of at least 55 years and who is entitled to credit for at least three years allowable service, or (2) who has received credit for at least 30 years allowable service regardless of age, is entitled upon application to a retirement annuity.

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

For each year of allowable service, "average salary" of an employee in determining a retirement annuity means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. Average salary must be based upon all allowable service if this service is less than five years.

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

**Subd. 3. Retirement annuity formula.** (a) This paragraph, in conjunction with section 352.116, subdivision 1, applies to a person who became a covered employee before July 1, 1989, unless paragraph (b), in conjunction with section 352.116, subdivision 1a, produces a higher annuity amount, in which case paragraph (b) will apply. The employee's average salary, as defined in subdivision 2, multiplied by one percent per year of allowable service for the first ten years and 1.5 percent for each later year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

(b) This paragraph applies to a person who first became a covered employee after June 30, 1989, and to any other employee whose annuity amount, when calculated under this paragraph and in conjunction with section 352.116, subdivision 1a, is higher than it is when calculated under paragraph (a), in conjunction with section 352.116, subdivision 1. The employee's average salary, as defined in subdivision 2, multiplied by 1.5 percent for each year of allowable service and pro rata for months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

*[For text of subs 7 to 12, see M.S.1988]*

**History:** 1989 c 319 art 13 s 7-9

### 352.116 ANNUITIES UPON RETIREMENT.

**Subdivision 1. Reduced annuity before normal retirement age.** This subdivision applies only to a person who first became a covered employee before July 1, 1989, and whose annuity is higher when calculated under section 352.115, subdivision 3, paragraph (a), in conjunction with this subdivision than when calculated under section 352.115, subdivision 3, paragraph (b), in conjunction with subdivision 1a.

(a) Any employee who is eligible for a retirement annuity under section 352.115, subdivision 1, and who retires before normal retirement age with credit for at least three but less than 30 years of allowable service shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (a), reduced by



one-quarter of one percent for each month that the employee is under normal retirement age at the time of retirement. An employee who is eligible for a retirement annuity under section 352.115, subdivision 1, and who retires prior to age 62 with credit for at least 30 years of allowable service shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the employee is under age 62 at the time of retirement.

(b) 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 352.115, subdivisions 2 and 3, paragraph (a), without any reduction by reason of early retirement.

**Subd. 1a. Actuarial reduction for early retirement.** This subdivision applies to a person who first became a covered employee after June 30, 1989, and to any other employee whose annuity is higher when calculated under section 352.115, subdivision 3, paragraph (b), in conjunction with this subdivision than when calculated under section 352.115, subdivision 3, paragraph (a), in conjunction with subdivision 1. An employee who retires before the normal retirement age shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

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

**Subd. 3. Optional annuities.** The board shall establish an optional retirement annuity in the form of a joint and survivor annuity. The board may also establish an optional annuity in the form of an annuity payable for a period certain and for life thereafter. In addition, the board may also establish an optional annuity that takes the form of an annuity calculated on the basis of the age of the retired employee at retirement and payable for the period before the retired employee becomes eligible for social security old age retirement benefits in a greater amount than the amount of the annuity calculated under subdivision 2 on the basis of the age of the retired employee at retirement. For each year that the retiring employee is under age 62, up to five percent of the total single life annuity required reserves may be used to accelerate the optional retirement annuity. This greater amount shall be paid until the end of the month in which the retired employee reaches age 62, at which time the annuity shall be reduced. Except as provided in subdivision 3a, the optional forms must be actuarially equivalent to the normal single life annuity forms provided in sections 352.115 and 352.116, whichever applies.

**Subd. 3a. Bounce-back annuity.** (a) If a retired employee or disabilitant selects a joint and survivor annuity option under subdivision 3, the retired employee or disabilitant must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the retired employee or disabilitant. Under this option, no reduction may be made in the annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A retired employee or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single-life annuity is payable to the retired employee or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single-life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A retired employee or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single-life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A retired employee or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is

payable to the retired employee or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have the annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

**Subd. 3b. Bounce-back annuity.** (a) The board of trustees must provide a joint and survivor annuity option to members of the correctional employees and state patrol retirement funds. Under this option, a former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former member or disabilitant of the correctional or state patrol fund who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have their annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

**Subd. 4. Determining actuarial equivalency.** In establishing the procedure for determining the actuarial equivalency of early retirement annuities as required under subdivision 1a or in establishing actuarial equivalent optional retirement annuity forms as required under subdivision 3, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board.

**History:** 1989 c 319 art 1 s 6; art 13 s 10; art 17 s 1

## **352.12 REFUND AFTER DEATH.**

**Subdivision 1. Death before termination of service.** If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest thereon to the date of death at the rate of six percent per annum compounded annually. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of repayment. If the repayment was made in installments, interest must be paid only from the date installment payments began. The designated beneficiary, surviving spouse, or representative of the

estate of an employee who had received a disability benefit is not entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death.

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

*[For text of subds 3 to 5, see M.S.1988]*

**Subd. 6. Death after service termination.** Except as provided in subdivision 1, if a former employee covered by the system dies and has not received an annuity, a retirement allowance, or a disability benefit, a refund must be made to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions. The refund must include interest at the rate of six percent per year compounded annually. The interest must be computed to the first day of the month in which the refund is processed and be based on fiscal year balances.

*[For text of subds 7 to 13, see M.S.1988]*

**History:** 1989 c 319 art 13 s 11-13

### **352.22 REFUND OR DEFERRED ANNUITIES.**

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

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

**Subd. 2a. Certain refund repayments prohibited.** No refunds of contributions made to the metropolitan transit commission-transit operating division employees retirement fund received before July 1, 1978, or for service rendered before July 1, 1978, may be repaid.

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

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

(c) No application for a deferred annuity shall be made more than 60 days before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity shall begin to accrue no earlier than 60 days before the date the application is filed in the office of the system, but not (1) before the date the employee reaches the required age for entitlement to the annuity nor (2) before the day following the termination of state service in a position not covered by the retirement system nor (3) before the day following the termination of employment in a position that requires the employee to be a member of either the public employees retirement association or the teachers retirement association.

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

*[For text of subds 5 to 10, see M.S.1988]*

**History:** 1989 c 319 art 1 s 7,8; art 13 s 14,15

### 352.72 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM.

Subdivision 1. **Entitlement to annuity.** (a) Any person who has been an employee covered by a retirement system listed in paragraph (b) is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals three or more years.

(b) This section applies to the Minnesota state retirement system, the public employees retirement association including the public employees retirement association police and firefighters fund, the teachers retirement association, the state patrol retirement association, or any other public employee retirement system in the state with a similar provision, except as noted in paragraph (c).

(c) This section does not apply to other funds providing benefits for police officers or firefighters.

(d) No portion of the allowable service upon which the retirement annuity from one fund is based shall be again used in the computation for benefits from another fund. No refund may have been taken from any one of these funds since service entitling the employee to coverage under the system or the employee's membership in any of the associations last terminated. The annuity from each fund must be determined by the appropriate provisions of the law except that the requirement that a person must have at least three years allowable service in the respective system or association does not apply for the purposes of this section if the combined service in two or more of these funds equals three or more years.

Subd. 2. **Computation of deferred annuity.** The deferred annuity, if any, accruing under subdivision 1, or section 352.22, subdivision 3, must be computed as provided in section 352.22, subdivision 3, on the basis of allowable service before termination of state service and augmented as provided herein. The required reserves applicable to a deferred annuity or to an annuity for which a former employee was eligible but had not applied or to any deferred segment of an annuity must be determined as of the date the benefit begins to accrue and augmented by interest compounded annually from the first day of the month following the month in which the employee ceased to be a state employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose must be five percent

compounded annually until January 1, 1981, and three percent compounded annually thereafter until January 1 of the year following the year in which the former employee attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually. If a person has more than one period of uninterrupted service, the required reserves related to each period must be augmented by interest under this subdivision. The sum of the augmented required reserves so determined is the present value of the annuity. "Uninterrupted service" for the purpose of this subdivision means periods of covered employment during which the employee has not been separated from state service for more than two years. If a person repays a refund, the service restored by the repayment must be considered continuous with the next period of service for which the employee has credit with this system. The formula percentages used for each period of uninterrupted service must be those applicable to a new employee. The mortality table and interest assumption used to compute the annuity must be those in effect when the employee files application for annuity. This section shall not reduce the annuity otherwise payable under this chapter.

*[For text of subd 4, see M.S.1988]*

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

**History:** 1989 c 319 art 13 s 16-18

### **352.73 SUPPLEMENTAL BENEFIT FOR FORMER STATE EMPLOYEES.**

*[For text of subds 1 and 2, see M.S.1988]*

**Subd. 3.** [Repealed, 1989 c 319 art 1 s 17]

### **352.85 MILITARY AFFAIRS PERSONNEL.**

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

*[For text of subds 2 to 6, see M.S.1988]*

**History:** 1989 c 319 art 13 s 19

### **352.92 CORRECTIONAL EMPLOYEE CONTRIBUTIONS.**

*[For text of subds 1 and 2, see M.S.1988]*

**Subd. 3. Plan administration.** The Minnesota state retirement system shall administer the correctional employees retirement plan established by sections 352.90 to 352.951 in accordance with this chapter and chapters 356 and 356A.

**History:** 1989 c 319 art 8 s 11

### **352.93 RETIREMENT ANNUITY.**

**Subdivision 1. Basis of annuity; when to apply.** After separation from state service, an employee covered under section 352.91 who has reached age 55 years and has credit for at least three years of covered correctional service and regular Minnesota state

retirement system service is entitled upon application to a retirement annuity under this section based only on covered correctional employees' service. Application may be made no earlier than 60 days before the date the employee is eligible to retire by reason of both age and service requirements.

In this section, "average salary" means the average of the monthly salary during the employee's highest five successive years of salary as an employee covered by the Minnesota state retirement system. Average salary must be based upon all allowable service if this service is less than five years.

**Subd. 2. Calculating monthly annuity.** The monthly annuity under this section must be determined by multiplying the average monthly salary by the number of years, or completed months, of covered correctional service by 2.5 percent. However, the monthly annuity must not exceed 75 percent of the average monthly salary.

**Subd. 2a. Early retirement.** Any covered correctional employee who has attained the age of at least 50 and who has at least five years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

**Subd. 3. Payments; duration and amount.** The annuity under this section shall begin to accrue as provided in section 352.115, subdivision 8, and must be paid for an additional 84 full calendar months or to the first of the month following the month in which the employee attains normal retirement age, whichever occurs first, except that payment must not cease before the first of the month following the month in which the employee becomes 62. It must then be reduced to the amount as calculated under section 352.115, except that if this amount, when added to the social security benefit based on state service the employee is eligible to receive at the time, is less than the benefit payable under subdivision 2, the retired employee shall receive an amount that when added to the social security benefit will equal the amount payable under subdivision 2.

When an annuity is reduced under this subdivision, the percentage adjustments, if any, that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity. A former correctional employee employed by the state in a position covered by the regular plan or the unclassified employees retirement program between the age of 58 and normal retirement age shall receive a partial return of correctional contributions at retirement with six percent interest based on the following formula:

|   |   |  |
|---|---|--|
| Employee contributions<br>contributed as a<br>correctional employee<br>in excess of the<br>contributions the<br>employee would have<br>contributed as a<br>regular employee | X | Years and complete<br>months of regular<br>service between<br>age 58 and the<br>normal retirement age<br>.....<br>number of years between<br>age 58 and normal<br>retirement age |
|---|---|--|

*[For text of subd 4, see M.S.1988]*

**History:** 1989 c 319 art 1 s 9; art 13 s 20,21; art 17 s 2,3

### 352.95 DISABILITY BENEFITS.

**Subdivision 1. Job-related disability.** A covered correctional employee less than 55 years old who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that makes the employee physically or mentally unable to perform the duties, is entitled to a disability benefit based on covered correctional service only.

The benefit amount must equal 50 percent of the average salary defined in section 352.93, plus an additional 2-1/2 percent for each year of covered correctional service in excess of 20 years, prorated for completed months.

*[For text of subd 1a, see M.S.1988]*

**Subd. 2. Non-job-related disability.** Any covered correctional employee who, after at least one year of covered correctional service, before reaching the age of 55 becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least 15 years of covered correctional service.

*[For text of subds 3 and 4, see M.S.1988]*

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

*[For text of subds 6 and 7, see M.S.1988]*

**History:** 1989 c 319 art 13 s 23; art 17 s 4,5

**NOTE:** Subdivision 2, was also amended by Laws 1989, chapter 319, article 13, section 22, to read as follows:

"Subd. 2. **Non-job-related disability.** Any covered correctional employee who, after at least three years of covered correctional service, before reaching the age of 55 becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least ten years of covered correctional service."

## **352.96 DEFERRED COMPENSATION.**

*[For text of subds 1 to 2, see M.S.1988]*

**Subd. 3. Executive director to administer section.** This section must be administered by the executive director of the system under subdivision 4. Fiduciary activities of the deferred compensation plan must be undertaken in a manner consistent with chapter 356A. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (2) and (3). All contracts must be approved before execution by the state board of investment. Contracts must provide that all options in subdivision 2 must: be presented in an unbiased manner and in a manner that conforms to rules adopted by the executive director, be reported on a periodic basis to all employees participating in the deferred compensation program, and not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of money invested by state employees under this section. All costs or fees in relation to the options provided under subdivision 2, clause (3), must be paid by the underwriting companies ultimately selected by the state board of investment.

*[For text of subds 4 to 6, see M.S.1988]*

**History:** 1989 c 319 art 8 s 12