

CHAPTER 353

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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353.01 DEFINITIONS.

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

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

- (1) elected or appointed officers and employees of elected officers;
- (2) persons who elect to remain members under section 480.181, subdivision 2;
- (3) officers and employees of the public employees retirement association;
- (4) employees of the league of Minnesota cities;
- (5) employees of the association of metropolitan municipalities;
- (6) officers and employees of public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions;
- (7) employees of a school district who receive separate salaries for driving their own buses;
- (8) employees of the association of Minnesota counties;
- (9) employees of the metropolitan intercounty association;
- (10) employees of the Minnesota municipal utilities association;
- (11) employees of the Minnesota association of townships when the board of the association, at its option, certifies to the executive director that its employees are to be included for purposes of retirement coverage, in which case coverage of all employees of the association is permanent;
- (12) employees of the metropolitan airports commission if employment initially commenced after June 30, 1979;
- (13) employees of the Minneapolis employees retirement fund if employment initially commenced after June 30, 1979;
- (14) employees of the range association of municipalities and schools;
- (15) employees of the soil and water conservation districts;
- (16) employees of a county historical society who are county employees;
- (17) employees of a county historical society located in the county whom the county, at its option, certifies to the executive director to be county employees for purposes of retirement coverage under this chapter, which status must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society and is not excluded under subdivision 2b;
- (18) employees of an economic development authority created or operating under sections 469.090 to 469.108;

(19) employees of the department of military affairs of the state of Minnesota who are full-time firefighters; and

(20) employees who became members before July 1, 1988, based on the total salary of positions held in more than one governmental subdivision.

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

(1) persons who are employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate personnel who perform services in charitable, penal, or correctional institutions of a governmental subdivision;

(5) members of boards, commissions, bands, and others who serve a governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months, unless it involves employment for a probationary period that is part of a permanent position. Immediately following the expiration of a six-month period of employment, if the employee continues in public service and earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee in accordance with section 353.27, subdivision 4. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and part-time positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;

(7) part-time employees who receive monthly compensation from one governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from one governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service. Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund, or any police or firefighters relief association that has consolidated with the public

employees retirement association but whose members have not elected coverage by the public employees police and fire fund as provided in sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist residents and interns who are serving in a degree or residency program in public hospitals and students who are serving in an internship or residency program sponsored by an accredited educational institution;

(15) appointed or elected officers who are paid entirely on a fee basis and who were not members on June 30, 1971;

(16) persons who hold a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute;

(17) persons exempt from licensure under section 125.031;

(18) persons employed by the Minneapolis community development agency;

(19) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel; and

(20) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

Subd. 2c. [Repealed, 1989 c 319 art 3 s 26]

[For text of subs 3 to 8, see M.S.1988]

Subd. 10. **Salary.** "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees. Fees paid to district court reporters are not considered a salary. Lump sum annual or lump sum sick leave payments, severance payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, are not deemed to be salary. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid

the premiums are considered salary, and, after all sick leave has been used, the payment is not considered salary. Workers' compensation payments are not considered salary. Except as provided in sections 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivisions 35 and 36, is not considered salary. For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

[For text of subd 11, see M.S.1988]

Subd. 11a. Termination of public service. An officer or employee who terminates employment but within 30 days returns to employment in the same governmental subdivision or begins employment in another position otherwise excluded from membership is considered a member from the beginning of the reemployment unless the total period covered by all periods of employment is less than six months or the amount earned does not exceed the dollar limitations in subdivision 2b, clause (7).

[For text of subs 12 to 33, see M.S.1988]

Subd. 35. Volunteer ambulance service personnel. "Volunteer ambulance service personnel," for purposes of this chapter, are basic and advanced life support emergency medical service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity.

Subd. 36. Volunteer firefighter. For purposes of this chapter, a person is considered a "volunteer firefighter" for all service for which the person receives credit in an association or fund operating under chapter 424A.

Subd. 37. Normal retirement age. "Normal retirement age" means age 65 for a person who first became a public employee before July 1, 1989. For a person who first becomes a public 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 36; 1989 c 319 art 3 s 1-6; art 5 s 1; art 13 s 29; 1989 c 335 art 3 s 5

NOTE: Subdivision 2a, as amended by Laws 1989, chapter 335, article 3, section 5, 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.

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 is 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 must be public employees and members of the association. For seven days beginning October 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 October 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. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement. A candidate who:

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

(2) 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, shall 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 shall 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 is void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund is January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes must be so designed and the ballots counted in a manner that ensures that each vote is secret.

The secretary of state shall supervise the elections. The board of trustees and the executive director shall undertake their activities consistent with chapter 356A.

[For text of subds 1a to 5, see M.S.1988]

History: 1989 c 319 art 8 s 16

353.27 PUBLIC EMPLOYEES RETIREMENT FUND.

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

Subd. 2. Employee contribution. The employee contribution shall be an amount (a) for a "basic member" equal to 8.23 percent of total salary; and (b) for a "coordinated member" equal to 4.23 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.

[For text of subds 3 to 11, see M.S.1988]

Subd. 12. Omitted salary deductions; obligations. In the case of omission of required deductions from salary of an employee, the department head shall immediately, upon discovery, report the employee for membership and require employee deductions be made in accordance with subdivision 4. Omitted employee deductions due for the 60-day period preceding enrollment must be deducted from the employee's next salary payment and remitted to the association. The employer shall pay any remaining omitted employee deductions past due and any omitted employer contributions, plus cumulative interest at the rate of six percent a year, compounded annually, from the date or dates each omitted employee contribution was first payable. Any amount due from the employer must be paid from the proceeds of a tax levy made under section

353.28 or from other funds available to the employer. An employer shall not hold an employee liable for omitted employee deductions due for more than the 60-day period preceding enrollment nor attempt to recover from the employee those employee deductions paid by the employer. Neither an employer nor an employee is responsible to pay omitted employee deductions when an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at the rate of six percent compounded annually from the date the contributions were first payable. This subdivision has both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due under it. The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. No payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for recovery commences on the date of the mailing of any written correspondence from the association requesting information from the governmental subdivision upon which to determine whether or not omitted deductions occurred.

[For text of subds 12a and 13, see M.S.1988]

History: 1989 c 319 art 3 s 7; art 13 s 30

353.28 FINANCING OF EMPLOYER CONTRIBUTIONS.

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

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 for the next five calendar days, and compound interest at the rate of ten percent per year for amounts past due in excess of five calendar days until the date payment is actually received in the office of the association, with a minimum charge of \$10. Interest for past due payments of excess police state aid under section 69.031, subdivision 5, must be charged at a rate of six percent compounded annually.

Subd. 6. If the governmental subdivision fails to pay amounts due under this chapter or fails to make payments of excess police state aid to the public employees police and fire fund under section 69.031, subdivision 5, 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.

[For text of subd 8, see M.S.1988]

History: 1989 c 319 art 3 s 8,9

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 normal retirement age and who received credit for not less than three 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. Average salary must be based upon all allowable service if this service is less than five years. The average salary may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability, unless the average salary is higher, including this period.

Subd. 3. Retirement annuity formula. (a) This paragraph, in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c, applies to any member who first became a public employee before July 1, 1989, unless paragraph (b), in conjunction with section 353.30, subdivision 5, produces a higher annuity amount, in which case paragraph (b) will apply. 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.

(b) This paragraph applies to a member who first became a public employee after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with section 353.30, subdivision 5, is higher than it is when calculated under paragraph (a), in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c. The average salary, as defined in subdivision 2, multiplied by 2.5 percent for each year of allowable service and completed months less than a full year for a basic member and 1.5 percent per year of allowable service and completed months less than a full year for a 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 by written proof of the member's age and identity. No application for a retirement annuity may be considered complete until all necessary supporting documents are received by the executive director.

[For text of subd 6, see M.S.1988]

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 a complete application is received by the executive director as provided in subdivision 4.

[For text of subd 8, see M.S.1988]

History: 1989 c 319 art 3 s 10,11; art 13 s 31-33

353.30 ANNUITIES UPON RETIREMENT.

Subdivision 1. Upon separation from public service, any person who first became a public employee before July 1, 1989, and who has attained the age of at least 58 years but not more than normal retirement age 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, paragraph (a), reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement.

Subd. 1a. Any person who first became a public employee before July 1, 1989, and 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, paragraph (a), without any reduction in annuity by reason of such early retirement.

Subd. 1b. Any person who first became a public employee before July 1, 1989, with 30 years or more of allowable service credit, who elects early retirement under subdivision 1, shall receive an annuity in an amount equal to the normal annuity provided under section 353.29, subdivisions 2 and 3, paragraph (a), 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 first became a public employee before July 1, 1989, and who has received credit for at least 30 years of allowable service or who has attained the age of at least 55 years but not normal retirement age, and has received credit for at least three 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, paragraph (a), reduced by one-quarter of one percent for each month that the member is under normal retirement age 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. 3. **Optional retirement annuity forms.** The board of trustees shall establish optional annuities which shall take the form of a joint and survivor annuity. Except as provided in subdivision 3a, the optional annuity forms shall be actuarially equivalent to the forms provided in section 353.29 and subdivisions 1, 1a, 1b, 1c, and 5. In establishing those optional forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of 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. 3a. **Bounce-back annuity.** (a) If a former member or disabilitant selects a joint and survivor annuity option under subdivision 3, the 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 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. 3b. **Bounce-back annuity.** (a) The board of trustees must provide a joint and survivor annuity option to members of the police and fire fund. 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 police and fire 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. 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 the 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 the person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which the 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 the person would have been entitled had no portion thereof been waived.

Subd. 5. **Actuarial reduction for early retirement.** This subdivision applies to a member who first became a public employee after June 30, 1989, and to any other member whose annuity is higher when calculated under section 353.29, subdivision 3, paragraph (b), in conjunction with this subdivision than when calculated under section 353.29, subdivision 3, paragraph (a), in conjunction with subdivision 1, 1a, 1b, or 1c. An employee who retires before normal retirement age shall be paid the retirement annuity provided in section 353.29, subdivision 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.

History: 1989 c 319 art 17 s 11; 1989 c 319 art 13 s 34

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

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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 six 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 at least age 50 and has credit for not less than three 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 begins to accrue in accordance with section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest provided in subdivision 1, or survivor benefits otherwise payable under section 353.31, an annuity equal to the 100 percent joint and survivor annuity that 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 must be computed as provided in sections 353.29, subdivisions 2 and 3; and 353.30, subdivisions 1, 1a, 1b, 1c, and 5. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter.

[For text of subs 2 to 9, see M.S.1988]

History: 1989 c 319 art 13 s 35,36

353.33 TOTAL AND PERMANENT DISABILITY BENEFITS.

Subdivision 1. Age, service, and salary requirements. Any member who becomes totally and permanently disabled before normal retirement age and after three years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. If the disabled person's public service has terminated at any time, at least two of the required three 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. A repayment of a refund may be made before the effective date of disability benefits under subdivision 2. 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 must be initiated by written application in the manner and form prescribed by the executive director showing compliance with the statutory conditions qualifying the applicant for a total and permanent disability benefit and filed with the executive director. 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. An applicant for total and permanent disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for total and permanent disability benefits. The retirement annuity application is void upon the determination of the entitlement for disability benefits by the executive director. If disability benefits are denied, the retirement annuity application must be initiated and processed.

Subd. 3. Computation of benefits. This disability benefit is an amount equal to the normal annuity payable to a member who has reached normal retirement age 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:

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.

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

Subd. 5. Benefits paid under workers' compensation law. Disability benefits paid shall be coordinated with any amounts received or receivable under workers' compensation law, such as temporary total, permanent total, temporary partial, permanent partial, or economic recovery compensation 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. If the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater, the disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

[For text of subds 5a and 5b, see M.S.1988]

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. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation program if the executive director determines that the disabled person may be able to return to a gainful occupation. 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.

[For text of subds 6a and 6b, see M.S.1988]

Subd. 7. Partial reemployment. If, following a work or non-work-related injury or illness, a disabled person resumes 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 that, when added to the earnings and workers' compensation benefit, 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 does not exceed the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with section 11A.18, subdivision 10. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

[For text of subds 8 and 9, see M.S.1988]

Subd. 11. Retirement status at normal retirement age. 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 normal retirement age. If the person is still totally and permanently disabled when the person attains the normal retirement age, 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 normal retirement age, whichever amount is greater, or elect to receive an optional annuity as provided in section 353.30, subdivision 3. Any disabled person who attains normal retirement age shall have the annuity computed in accordance with the law in effect upon attainment of that age. Election of an optional annuity shall be made prior to the person attaining the normal retirement age. If an optional annuity is elected, the election shall be effective on the date on which the person attains normal retirement age and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains that age.

History: 1989 c 319 art 3 s 12-16; art 13 s 37-39

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. An active member of a fund enumerated in section 356.30, subdivision 3, clause (7), (8), or (14), who terminates public service in any of those funds and becomes a member of another fund enumerated in those clauses may receive a refund of employee contributions plus five percent interest compounded annually from the fund in which the member terminated service. 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 the 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 six percent per annum compounded annually based on fiscal year balances.

Subd. 3. Deferred annuity; eligibility; computation. A member with at least three years of allowable service when termination of public service occurs has the option of leaving the accumulated deductions in the fund and being entitled to a deferred retirement annuity commencing at normal retirement age or to a deferred early retirement annuity under section 353.30, subdivision 1, 1a, 1b, 1c, or 5. The deferred annuity must be computed under section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public service and must be augmented as provided in section 353.71, subdivision 2. A former member qualified to apply for a deferred retirement annuity may revoke this option at any time before the commencement of deferred annuity payments by making application for a refund. The person is 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 three 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.

[For text of subs 3b to 7, see M.S.1988]

History: 1989 c 319 art 3 s 17; art 13 s 40-42

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 the refund shall terminate and shall not again be restored until the person acquires not less than 18 months allowable service credit after 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, the person may repay all refunds or only the refund for the fund in which the person had most recently been a member, 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: 1989 c 319 art 3 s 18

353.64 MEMBERSHIP; QUALIFICATIONS; POLICE OFFICER, FIREFIGHTER.

Subdivision 1. Police and fire fund membership. 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 person who was employed by a governmental subdivision as a police officer or a firefighter, whichever applies, was an active member of the local police or salaried firefighters relief association located in that governmental subdivision by virtue of that employment as of the effective date of the consolidation as authorized by sections 353A.01 to 353A.10, and has elected coverage by the public employees police and fire fund benefit plan, shall be considered to be a member of the police and fire fund after that date if employed by the same governmental subdivision in a position in the same department in which the person was employed on 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 stating that the employee should be covered by the police and fire fund 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 shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund 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 employed by a governmental subdivision who by virtue of that employment is required by law to be a member of and to contribute to any police or firefighter relief association governed by section 69.77 which has not consolidated with the public employees police and fire fund and any police officer or firefighter of a relief association that has consolidated with the association for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10 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 must, as a minimum, include employment 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 whose primary job it is to enforce the law, who is licensed by the Minnesota board of peace officer standards and training under sections 626.84 to 626.855, who is engaged in the hazards of protecting the safety and property of others, and who has the power to arrest by warrant. A police officer who is periodically assigned to employment duties not within the scope of this subdivision may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a police officer, is adopted by the governing body of the department, and is promptly submitted to the executive director.

Subd. 3. Before a governing body may declare a position to be that of a firefighter, the duties of the person so employed must, 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. A firefighter who is periodically assigned to employment duties outside the scope of firefighting may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a firefighter, is adopted by the governing body of the company or companies, and is promptly submitted to the executive director.

[For text of subds 4 to 8, see M.S.1988]

Subd. 9. **Pension coverage for certain sheriffs' association employees.** A former member of the association who is an employee of the Minnesota sheriffs' association may elect to be a police and fire fund member with respect to service with the sheriffs' association, if written election to be covered is delivered to the board within 60 days after July 1, 1989, or within 60 days after commencement of employment, whichever is later.

Employee and employer contributions for past service are the obligation of the employee, except that the Minnesota sheriffs' association may pay the employer contributions. The employer shall, in any event, deduct necessary future contributions from the employee's salary and remit all contributions to the association as required by this chapter.

Persons who become association members under this section shall not be eligible for election to the board of trustees.

History: 1989 c 319 art 3 s 19-21; art 11 s 1

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 other than the excess contribution established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3), and other amounts authorized by law including all employee and employer contributions of members transferred. Within the public employees police and fire fund are accounts for each municipality known as the "local relief association consolidation accounts," which are governed by section 353A.09.

[For text of subs 2 to 4, see M.S.1988]

Subd. 6. All contributions other than the excess contribution established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3) 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.

Subd. 7. The public employees insurance reserve holding account is established in the public employees retirement association. Excess contributions established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3) must be deposited in the account. These contributions and all investment earnings associated with them must be regularly transferred to the insurance trust fund established by section 43A.316, subdivision 9.

History: 1989 c 319 art 6 s 3-5

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 three 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. Average salary must be based upon all allowable service if this service is less than five years.

The average salary may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability unless the average salary is higher, including this period.

Subd. 3. **Retirement annuity formula.** The average salary as defined in subdivision 2, multiplied by 2-1/2 percent per year of allowable service 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.

Subd. 4. **Early retirement.** Any police officer or firefighter member 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 3, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity from the day the annuity begins to accrue until the member attains age 55.

History: 1989 c 319 art 13 s 43,44; art 17 s 12,13

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. 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.

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

Subd. 3. Nonduty disability benefit. Any member who becomes disabled after not less than one year 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 of that sickness or injury 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. If a disability under this subdivision occurs after one but in less than 15 years of allowable service, the disability benefit shall be the same as though the member had at least 15 years service. For any member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

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. Should the 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 workers' compensation benefits and actual earnings does not exceed the salary earned at the date of disability or the salary currently paid for similar positions, whichever is higher. In no event may the disability benefit exceed the disability benefit originally allowed. In the event that the total amount is higher, the executive director shall reduce the disability benefit by the amount of the excess.

[For text of subds 5 to 7, see M.S.1988]

History: 1989 c 319 art 3 s 22; art 17 s 14,15

353.657 SURVIVOR BENEFITS.

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

Subd. 2. The spouse, for life or until remarriage, shall receive a monthly benefit equal to 50 percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred.

Subd. 2a. Death while eligible survivor benefit. If a member or former member who has attained the age of at least 50 years and has credit for not less than three years allowable service or who has credit for at least 30 years of allowable service, regardless of age attained, 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

a death while eligible survivor benefit. The benefit shall be 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. The benefit must be 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. For a member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

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 full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred. A dependent child shall receive this benefit until age 23, so long as the child submits evidence of full-time enrollment in an accredited post-secondary educational institution for at least five of the 12 months immediately preceding the month for which benefits are sought. Payments for the benefit of any qualified dependent child 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 70 percent of the member's specified average monthly salary, and the minimum benefit per family shall not be less than 50 percent of the member's specified average monthly salary.

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

History: 1989 c 319 art 13 s 45; art 17 s 16,17

353.661 [Repealed, 1989 c 319 art 3 s 26]

353.662 [Repealed, 1989 c 319 art 3 s 26]

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 three 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 three 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 three 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 at the rate of three percent thereafter until January 1 of the year following the year in which the former member attains age 55. From that date to the effective date of retirement, the rate is five 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.

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

Subd. 5. Early retirement. The requirements and provisions for retirement prior to normal retirement age 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: 1989 c 319 art 13 s 46-48

353.86 VOLUNTEER AMBULANCE SERVICE PERSONNEL; PARTICIPATION; ELECTION; LIMITATION; AND COMPENSATION.

Subdivision 1. Participation. Volunteer ambulance service personnel, as defined in section 353.01, subdivision 35, who are or become members of and participants in the public employees retirement fund or the public employees police and fire fund and make contributions to either of those funds based on compensation for service other than volunteer ambulance service may elect to participate in that same fund with respect to compensation received for volunteer ambulance service, provided that the volunteer ambulance service is not credited to another public or private pension plan including the public employees retirement plan established by chapter 353D and provided further that the volunteer ambulance service is rendered for the same governmental unit for which the nonvolunteer ambulance service is rendered.

Subd. 2. Election. Volunteer ambulance service personnel to whom subdivision 1 applies may exercise the election authorized under subdivision 1 within the earlier of the one-year period beginning on July 1, 1989, and extending through June 30, 1990, or the one-year period commencing on the first day of the first month following the start of employment in a position covered by the public employees retirement fund or the

public employees police and fire fund. The election must be exercised by filing a written notice on a form prescribed by the executive director of the association.

Subd. 3. Limitation. Volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 and their governmental employers are not required to pay omitted deductions and contributions under section 353.27, subdivision 12, for volunteer ambulance service rendered before July 1, 1989.

Subd. 4. Compensation. Notwithstanding section 353.01, subdivision 10, compensation received for service rendered by volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 shall be considered salary.

History: 1989 c 319 art 3 s 23

353.87 VOLUNTEER FIREFIGHTERS; PARTICIPATION; LIMITATION; AND REFUND.

Subdivision 1. Participation. Except as provided in subdivision 2, a volunteer firefighter, as defined in section 353.01, subdivision 36, who, on June 30, 1989, was a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and was making contributions to either of those funds based, at least in part, on compensation for services performed as a volunteer firefighter shall continue as a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and compensation for services performed as a volunteer firefighter shall be considered salary.

Subd. 2. Option. A volunteer firefighter to whom subdivision 1 applies has the option to terminate membership and future participation in the public employees retirement fund or the public employees police and fire fund upon filing of a written notice of intention to terminate participation. Notice must be given on a form prescribed by the executive director of the association and must be filed in the offices of the association not later than June 30, 1990.

Subd. 3. Limitation. No volunteer firefighter to whom subdivision 1 applies or the governmental employer of the volunteer firefighter is required to make back contributions to the public employees retirement association for volunteer firefighter services rendered before July 1, 1989, notwithstanding the provisions of section 353.27, subdivision 12.

Subd. 4. Refund. Upon timely filing of a valid notice of termination of participation in accordance with subdivision 2, a volunteer firefighter to whom subdivision 1 applies must be given a refund of all past employee contributions made on account of volunteer firefighter service with five percent interest compounded annually.

Subd. 5. Further option. A volunteer firefighter, as defined in section 353.01, subdivision 36, who is or becomes a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and makes contributions to either of those funds based on compensation for services other than services as a volunteer firefighter shall have the option of making contributions to the same fund for service performed as a volunteer firefighter with compensation received for those volunteer firefighter services considered salary, provided that the volunteer firefighter is not a participant in, or covered under, a local volunteer firefighter plan and notwithstanding the fact that the volunteer firefighter service is performed for one governmental unit and the nonvolunteer firefighter service is performed for another governmental unit.

History: 1989 c 319 art 3 s 24