

CHAPTER 354

TEACHERS RETIREMENT ACT

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354.05 DEFINITIONS.

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

Subd. 2a. **Exceptions.** Notwithstanding subdivision 2, a person who is first employed as a teacher in the state university system or the state community college system after June 30, 1989, is not a member of the fund except for purposes of social security coverage unless the person is covered by section 354B.02, subdivision 2, and remains a member of the fund for all purposes.

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

Subd. 5. **Member of fund.** The term "member of fund" means every teacher who joins and contributes to the teachers retirement fund as provided in this chapter who has not retired, except a teacher covered by section 354B.02, subdivision 2 or 3, who elects to participate in the individual retirement account plan under chapter 354B.

[For text of subds 6 to 34, see M.S.1988]

Subd. 35. **Salary.** (a) "Salary" means the compensation, upon which member contributions are required and made, that is paid to a teacher before any allowable reductions permitted under the federal Internal Revenue Code of 1986, as amended through December 31, 1988, for employee selected fringe benefits, tax sheltered annuities, deferred compensation, or any combination of these items.

(b) "Salary" does not mean:

- (1) lump sum annual leave payments;
- (2) lump sum sick leave payments;
- (3) payments in lieu of any employer paid group insurance coverage, including the difference between single and family premium rates, that may be paid to a member with single coverage;
- (4) any form of payment made in lieu of any other employer paid fringe benefit or expense;
- (5) any form of severance payments;
- (6) workers' compensation payments; or
- (7) disability insurance payments including self-insured disability payments.

Subd. 35a. **Severance payments.** Severance payments include, but are not limited to:

- (1) payments to an employee to terminate employment;

(2) payments, or that portion of payments, that are not clearly for the performance of services by the employee to the employer;

(3) payments to an administrator or former administrator serving as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment within two years or less of the execution of the agreement for compensation that is significantly different than the most recent contract salary; and

(4) payments under a procedure that allows the employee to designate the time of payment if the payments are made during the period of formula service credit used to compute a benefit or annuity under section 354.44, subdivision 6 or 7; 354.46, subdivision 1 or 2; or 354.48, subdivision 3.

[For text of subd 36, see M.S.1988]

Subd. 37. Termination of teaching service. "Termination of teaching service" means the withdrawal of a member from active teaching service by resignation or the termination of the member's teaching contract by the employer. A member is not considered to have terminated teaching service, if before the effective date of the termination or retirement, the member has entered into a contract to resume teaching service with an employing unit covered by the provisions of this chapter.

Subd. 38. Normal retirement age. "Normal retirement age" means age 65 for a person who first became a member of the fund before July 1, 1989. For a person who first becomes a member of the fund 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 319 art 2 s 4,5; art 13 s 53; art 18 s 1,2

354.06 BOARD OF TRUSTEES; MEMBERSHIP; DUTIES.

Subdivision 1. The management of the fund is vested in a board of eight trustees known as the board of trustees of the teachers retirement fund. It is composed of the following persons: the commissioner of education, the commissioner of finance, the commissioner of commerce, four members of the fund elected by the members of the fund, and one retiree elected by the retirees of the fund. The five elected members of the board of trustees must be chosen by mail ballot in a manner fixed by the board of trustees of the fund. In every odd-numbered year there shall be elected two members of the fund to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every odd-numbered year one retiree of the fund must be elected to the board of trustees for a term of two years commencing on the first of July next succeeding the election. The filing of candidacy for a retiree election must include a petition of endorsement signed by at least ten retirees of the fund. Each election must be completed by June first of each succeeding odd-numbered year. In the case of elective members, any vacancy must be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the fund at the next regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree may be appointed by the board, or elected by the members of the fund as a trustee, if the person is not a member or retiree of the fund in good standing at the time of the appointment or election.

Subd. 1a. Fiduciary duty. It is the duty of the board of trustees and the executive director to undertake their activities consistent with chapter 356A.

[For text of subds 2 to 7, see M.S.1988]

History: 1989 c 319 art 8 s 17

354.07 POWERS OF THE BOARD.

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

Subd. 3. The attorney general shall be legal advisor to the board and the executive
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director. The board may sue or be sued or petitioned under section 354.071 in the name of the board of trustees of the teachers retirement fund. In all actions brought by or against it the board shall be represented by the attorney general. Except as provided in section 354.071, subdivision 9, venue of all actions is in the Ramsey county district court.

[For text of subds 4 to 9, see M.S.1988]

History: 1989 c 319 art 2 s 6

354.071 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.

(a) "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.

(b) "Executive director" means the executive director of the teachers retirement association.

(c) "Person" includes any state institution, school district, or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(d) "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 this chapter or the applicable sections of chapters 136, 355, and 356, the executive director must serve upon that person a written notice. The notice must contain:

(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 and at the time the petition is considered by the board, 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 354.05, subdivision 14, 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 must 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. Petition without notice. A person who is not entitled to notice of a right of review under this section may nevertheless receive review of a 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 2 s 7

354.091 SERVICE CREDIT.

In computing the time of service of a teacher, the length of a legal school year in the district or institution where such service was rendered shall constitute a year under sections 354.05 to 354.10, provided such year is not less than the legal minimum school year of this state. No person shall be allowed credit for more than one year of teaching service for any fiscal year. Commencing July 1, 1961, (1) if a teacher teaches only a fractional part of a day, credit shall be given for a day of teaching service for each five hours taught, and (2) if a teacher teaches at least 170 full days in any fiscal year, credit shall be given for a full year of teaching service, and (3) if a teacher teaches for only a fractional part of the year, credit shall be given for such fractional part of the year as the term of service rendered bears to 170 days. Teaching service performed prior to July 1, 1961, shall be computed pursuant to the law in effect at the time it was rendered.

In no event shall any teacher lose or gain retirement service credit as a result of the employer converting to a four-day work week. If the employer does convert to a four-day work week, the forms for reporting and procedures for determining service credit shall be determined by the executive director with the approval of the board of trustees.

History: 1989 c 319 art 2 s 8

354.092 SABBATICAL LEAVE.

A sabbatical leave for the purpose of this section shall be compensated by a minimum of one-third of the salary the member received for a comparable period during the prior fiscal year. Before the end of the fiscal year during which any sabbatical leave begins, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. Deductions for employee contributions at the applicable rate specified in section 354.42 must be made by the employing unit from salary paid to the member for a sabbatical leave. The member may also make direct payment of employee contributions at the appropriate rates specified in section 354.42 based upon the difference between the salary received for the sabbatical leave and the salary received for a comparable period during the year immediately preceding the leave. This direct payment must be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated and must be without interest. If the employee contributions made under this section are less than the employee contributions made for a comparable period during the year immediately preceding the leave, the allowable and formula service credit of the member shall be prorated according to section 354.05, subdivision 25, clause (3), except that if the member is paid full salary for any sabbatical leave of absence, either past or prospective, the allowable and formula service credit shall not be prorated. A member may not receive more than three years of allowable service credit in any ten consecutive years under this section unless the allowable service credit was paid for by the member before July 1, 1962. For sabbatical leaves that begin after June 30, 1986, the required employer contributions specified in section 354.42 must be paid by the employing unit within 30 days after the association's written notification to the employing unit of the amount due.

History: 1989 c 319 art 2 s 9

354.094 EXTENDED LEAVES OF ABSENCE.

Subdivision 1. Service credit contributions. A member granted an extended leave of absence pursuant to section 125.60 or 136.88 may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave provided the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave which shall not exceed five years. The state shall not pay employer contributions into the fund for any year for which a member is on extended leave. The employee and employer contributions shall be based upon the rates of contribution

prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave shall be made on or before the later of June 30 of each fiscal year for which service credit is received or within 30 days after first notification of the amount due, if requested by the member, is given by the association. No payment is permitted after the following September 30. Payments received after June 30 must include six percent interest from June 30 through the end of the month in which payment is received.

Subd. 1a. Exception for leaves since 1981-1982. Notwithstanding subdivision 1, the following provisions apply to elementary and secondary school and technical institute teachers whose extended leaves begin in the 1981-1982, 1982-1983, or 1983-1984 school year:

(a) A member whose application states the intention to pay employee contributions into the fund, requests state payment of employer contributions, and is approved by the commissioner within the limits of section 125.60, subdivision 7, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which shall not exceed five years;

(b) The state shall pay employer contributions into the fund for a member described in clause (a) for no more than the first three years of the leave, provided the member who is on extended leave pays the employee contribution into the fund by the payment date specified in subdivision 1;

(c) A member whose application is approved as to the member's eligibility under section 125.60, subdivisions 1 and 2, but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and receive allowable service credit as provided in subdivision 1 if the member and the employing school board make the required employer contribution, in any proportion which they may agree upon, by the payment date specified in subdivision 1.

Subd. 1b. Pre-May 16, 1981 leave exception. Notwithstanding subdivision 1, the following provisions apply only to elementary and secondary school and technical institute teachers whose extended leaves began in the 1978-1979, 1979-1980, or 1980-1981 school years:

(a) A member whose period of extended leave began on or before May 15, 1981, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which does not exceed five years;

(b) The state shall pay employer contributions into the fund for a member described in clause (a) for each year of the leave for which the member who is on extended leave pays the employee's contribution into the fund by the payment date specified in subdivision 1.

Subd. 2. Membership; retention. Notwithstanding section 354.49, subdivision 4, clause (3), a member on extended leave whose employee and employer contributions are paid into the fund pursuant to subdivision 1 shall retain membership in the association for as long as the contributions are paid, under the same terms and conditions as if the member had continued to teach in the district, the community college system, or the state university system.

[For text of subds 3 to 6, see M.S.1988]

History: 1989 c 293 s 77,78; 1989 c 329 art 9 s 20,21

354.10 FUND NOT SUBJECT TO ASSIGNMENT OR PROCESS; BENEFICIARIES.

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

Subd. 2. **Automatic deposits.** The board may pay an annuity or benefit to a banking institution, qualified under chapter 48, that is a trustee for a person eligible to receive the annuity or benefit. Upon completion of the proper forms as provided by the executive director, the annuity or benefit amount may be electronically transferred or the annuity or benefit check may be mailed to a banking institution, savings association, or credit union for deposit to the recipient's individual account or joint account with the recipient's spouse. The board shall prescribe the conditions which shall govern these procedures.

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

History: 1989 c 319 art 2 s 10

354.35 OPTIONAL ACCELERATED RETIREMENT ANNUITY BEFORE AGE 65.

Any coordinated member who retires before age 65 may elect to receive an optional accelerated retirement annuity from the association which provides for different annuity amounts over different periods of retirement. The election of this optional accelerated retirement annuity shall be exercised by making an application to the board on a form provided by the board. The optional accelerated retirement annuity shall take the form of an annuity payable for the period before the member attains normal retirement age in a greater amount than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement, but the optional accelerated retirement annuity must be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount must be paid until the retiree reaches normal retirement age and at that time the payment from the association must be reduced. For each year the retiree is under age 65, up to five percent of the total life annuity required reserves may be used to accelerate the optional retirement annuity under this section. The method of computing the optional accelerated retirement annuity provided in this section shall be established by the board of trustees. In establishing the method of computing the optional accelerated retirement annuity, the board of trustees must obtain the written approval of the commission-retained actuary. The written approval must be a part of the permanent records of the board of trustees.

History: 1989 c 319 art 2 s 11; art 13 s 54

354.41 TEACHERS RETIREMENT ASSOCIATION, ELIGIBILITY FOR MEMBERSHIP.

[For text of subd 2, see M.S.1988]

Subd. 3. [Repealed, 1989 c 319 art 2 s 28]

[For text of subds 4 to 9, see M.S.1988]

NOTE: Subdivision 3, was also amended by Laws 1989, chapter 319, article 13, section 55, to read as follows:

"Subd. 3. (1) Each annuitant, age 60 or over, who is drawing an annuity pursuant to Minnesota Statutes 1953, section 135.10 and Minnesota Statutes 1965, sections 354.44 and 354.33 shall have the right to have membership in the fund restored upon resumption of teaching service, for the purpose of having deductions made in accordance with sections 354.42 and 355.48. Upon completion of three years of allowable service, under this subdivision the member shall be entitled to a coordinated annuity provided in section 354.44, subdivision 6. This annuity is in addition to any annuity previously granted under this chapter.

(2) Any annuitant qualifying for membership in the fund under clause (1) may file a written notice with the executive director of the teachers retirement association requesting that deductions provided for in section 354.42 be made from compensation paid for subsequent teaching services. Such notice shall remain in effect until the annuitant requests in writing that this membership be revoked. After July 1, 1967, deductions pursuant to section 355.48 are required for any annuitant eligible for membership in the fund under clause (1). Teaching service rendered by an annuitant for which no deductions were made pursuant to section 354.42, shall not be included in any additional annuity granted pursuant to clause (1).

(3) Teachers retirement deductions made prior to July 1, 1973, from the salary of any annuitant who was qualified for membership in the fund under clause (1) at the time such deductions were made, shall be applicable to the computation of an annuity as provided under clause (1) even if the written notice required in clause (2) has not been filed. The teaching service related to such retirement deductions shall be deemed to be allowable service credit which is applicable to the completion of the three years of allowable service required in clause (2)."

354.42 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.

[For text of subds 2 to 5, see M.S.1988]

Subd. 7. Erroneous salary deductions or direct payments. (a) Any deductions taken from the salary of an employee for the retirement fund in error shall be refunded to the employee upon discovery and verification by the employing unit making the deduction, and the corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another public pension fund enumerated in section 356.30, subdivision 3, the retirement fund must transfer these salary deductions and employer contributions to the appropriate public pension fund without interest.

(c) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check has been returned to the funds of the employing unit making the payment, a refund of the amount deducted, or any portion of it that is required to adjust the salary deductions, shall be made to the employing unit.

(d) Any erroneous direct payments of member paid contributions or erroneous salary deductions that were not refunded in the regular processing of an employing unit's annual summary report shall be refunded to the member with interest computed using the rate and method specified in section 354.49, subdivision 2.

History: 1989 c 319 art 2 s 12

354.44 RETIREMENT BENEFITS.

Subdivision 1. Requirements as to age and service. Any member or former member who ceases or has ceased to render teaching services in any school or institution covered by the provisions of this chapter, and who has attained the age of at least 55 years with not less than three years allowable service, or who has received credit for not less than 30 years allowable service regardless of age, is entitled upon written application to a retirement annuity.

Subd. 1a. Mandatory retirement. Notwithstanding the provisions of sections 43A.11 or 197.455 to 197.48, a member who is serving as a faculty member or administrator under a contract of unlimited tenure or similar arrangement providing for unlimited tenure at an institution of higher education, as defined in section 1201(a) of the federal Higher Education Act of 1965, as amended through January 1, 1987, shall terminate employment at the end of the academic year in which the member reaches the age of 70. For purposes of this subdivision, an academic year shall be deemed to end August 31. No other member shall be subject to a mandatory retirement age provision. A member who terminates employment at any time during the academic year at the end of which the person is at the normal retirement age or older shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at normal retirement age or older pursuant to section 356.32. Nothing contained in this subdivision shall preclude an employing unit covered by this chapter from employing a retired teacher as a substitute or part-time teacher. Any person who has attained normal retirement age, who is employed as a substitute or part-time teacher, and who earns an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403, in any academic year from employment as a substitute or part-time teacher, shall terminate employment for the remainder of that academic year. No person who has attained normal retirement age and who has retired under this chapter may resume membership in the retirement association as a result of subsequent employment as a substitute or part-time teacher.

[For text of subd 2, see M.S.1988]

Subd. 3. Application for retirement. Application for retirement must be made by the member or by someone authorized to act in the member's behalf. Application must be made on a form prescribed by the executive director.

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

Subd. 5. Resumption of teaching service after retirement. Any person who retired under the provisions of this chapter and has thereafter resumed teaching in any employer unit to which this chapter applies is eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during the calendar year immediately following any calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services under United States Code, title 42, section 403. The amount of the reduction must be one-half of the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.

If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

After a person has reached the age of 70, no reemployment income maximum is applicable regardless of the amount of income. For the purpose of this subdivision, income from teaching service includes, but is not limited to:

- (a) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and
- (b) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

Subd. 5a. Exemption for interim superintendent. A person who performs services as an interim superintendent because of the death, disability, termination, or resignation of the previous superintendent is exempt from the earnings limitations and reductions in annuity payments in subdivision 5 for up to 90 working days of service as an interim superintendent. During this period of up to 90 working days, the school board may pay the interim superintendent at any rate, up to the rate paid to the previous superintendent. This exemption applies only if the school board hiring the interim superintendent submits an application for the exemption to the executive director, and the executive director approves the application before the services as interim superintendent begin. The application must certify that the school board has unanimously approved the exemption from the earnings limitations and reductions. The executive director may prescribe a form for the application. A school board may not apply for more than one exemption in a fiscal year. No more than three exemptions may be approved for any person. Only one exemption may be approved for any person in a fiscal year.

Subd. 6. Computation of formula program retirement annuity. (1) The formula retirement annuity hereunder shall be computed in accordance with the applicable provisions of the formulas stated in clause (2) or (4) on the basis of each member's average salary for the period of the member's formula service credit. For the purposes of computing the formula benefits under the formula and variable program, if a combination of these formulas is used, the formula percentages used will be those

percentages in each formula as continued for the respective years of service from one formula to the next.

For all years of formula service credit, "average salary," for the purpose of determining the member's retirement annuity, means the average salary upon which contributions were made and upon which payments were made to increase the salary limitation provided in Minnesota Statutes 1971, section 354.511 for the highest five successive years of formula service credit provided, however, that such "average salary" shall not include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of formula service credit if this service credit is less than five years.

(2) This clause, in conjunction with clause (3), applies to a person who first became a member of the fund before July 1, 1989, unless clause (4), in conjunction with clause (5), produces a higher annuity amount, in which case clause (4) applies. The average salary as defined in clause (1), multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service during first ten	1.0 percent per year	2.0 percent per year
Each year of service thereafter	1.5 percent per year	2.5 percent per year

(3) (i) This clause applies only to a person who first became a member of the fund before July 1, 1989, and whose annuity is higher when calculated under clause (2), in conjunction with this clause than when calculated under clause (4), in conjunction with clause (5).

(ii) Where any member retires prior to normal retirement age under a formula annuity, the member shall be paid a retirement annuity in an amount equal to the normal annuity provided in clause (2) and subdivision 7, 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 credit, the reduction shall be applied only for each month that the member is under age 62.

(iii) Any member 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 clause (2), without any reduction by reason of early retirement.

(4) This clause applies to a member who first became a member of the fund after June 30, 1989, and to any other member whose annuity amount when calculated under this clause and in conjunction with clause (5), is higher than it is when calculated under clause (2), in conjunction with clause (3). The average salary, as defined in clause (1) multiplied by 2.5 percent for each year of service for a basic member and by 1.5 percent for each year of service for a coordinated member shall determine the amount of the retirement annuity to which the member is entitled.

(5) This clause applies to a person who first becomes a member of the fund after June 30, 1989, and to any other member whose annuity is higher when calculated under clause (4) in conjunction with this clause than when calculated under clause (2), in conjunction with clause (3). An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in clause (4) and subdivision 7, 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. 7. Computation of formula and variable program retirement annuity. (a) This paragraph applies to a person who first became a member of the fund before July 1, 1989, unless paragraph (b) produces a higher annuity amount, in which case paragraph (b) applies. The benefits provided in this paragraph are the sum of the benefits provided by the following:

(1) The benefits provided in subdivision 6, clause (2), for formula service credit prior to the effective date of the original election of this subdivision and subsequent to June 30, 1978, unless the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621, and

(2) The benefits for service credit subsequent to the effective date of the formula and variable program but prior to July 1, 1978, and the benefits for service credit subsequent to June 30, 1978, if the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621, shall be the average salary as defined in subdivision 6, clause (1), of any member multiplied by the following percentages per year of formula service credit,

	Coordinated Member	Basic Member
Each year of service during first ten	.5 percent per year	1.0 percent per year
Each year of service thereafter	.75 percent per year	1.25 percent per year, and

(3) The benefits provided in section 354.62, subdivision 5.

(b) This paragraph applies to a person who first became a member of the fund before July 1, 1989, but whose annuity amount, when calculated under this paragraph, is higher than it is when calculated under paragraph (a). The benefits provided in this paragraph are the sum of the benefits provided by the following:

(1) the benefits provided in subdivision 6, clause (4), for formula service credit before the effective date of the original election of this subdivision and subsequent to June 30, 1978, unless the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621;

(2) the benefits for service credit subsequent to the effective date of the formula and variable program but before July 1, 1978, and the benefits for service credit subsequent to June 30, 1978, if the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621, shall be the average salary as defined in subdivision 6, clause (1), of any member multiplied by 1.25 percent for each year of service for a basic member and by 0.75 percent for each year of service for a coordinated member; and

(3) the benefits provided in section 354.62, subdivision 5.

Subd. 8. Annuity payment; evidence of receipt. An annuity or benefit for a given month must be paid during the first week of that month. Evidence of receipt of the check issued or acknowledgment of the amount electronically transferred in payment of an annuity or benefit may be required from the payee on a form prescribed by the executive director. The evidence of receipt form may be required periodically at times specified by the board. In the event the evidence of receipt form is required, future annuities or benefits must be withheld until the form is submitted.

History: 1989 c 319 art 2 s 13-16; art 13 s 56-59

354.45 OPTIONAL RETIREMENT ANNUITIES; UNPAID ANNUITIES, DISPOSITION.

Subdivision 1. Optional annuity forms. The retirement board shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter or the form of a joint and survivor annuity. The board shall also establish an optional annuity which shall take the form of a guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the accumulated deductions and interest accrued to the date of retirement will be paid to the designated beneficiary. Except as provided in subdivision 1a, any optional annuity forms shall be actuarially equivalent to the normal forms provided in section 354.44. In establishing these optional annuity forms, 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.

Subd. 1a. Bounce-back annuity. (a) If a former member or disabilitant selects a

joint and survivor annuity option under subdivision 1, 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.

[For text of subd 2, see M.S.1988]

History: 1989 c 319 art 13 s 60,61

354.46 PAYMENTS AFTER DEATH.

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

Subd. 2. Death while eligible designated beneficiary benefit. The surviving spouse of any member or former member who has attained the age of at least 50 years and has credit for at least three years of allowable service or who has credit for at least 30 years of allowable service irrespective of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit provided pursuant to subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions provided pursuant to section 354.47, subdivision 1, or 354.62, subdivision 5, clause (3), whichever is applicable, the surviving spouse shall be entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity as provided pursuant to section 354.45 and computed pursuant to section 354.44, subdivision 2, 6, or 7, whichever is applicable. 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 354.44, subdivisions 6 and 7, and 354.60 apply to a deferred annuity payable under this section. If the member was a participant in the variable annuity division, the applicable portion of the benefit shall be computed pursuant to section 354.62, subdivision 5, clause (1). The benefit shall be payable for life.

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

History: 1989 c 319 art 13 s 62

354.47 REFUND AFTER DEATH.

Subdivision 1. Death before retirement. (1) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit pursuant to section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death.

(2) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivisions 6 and 7, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, the surviving spouse, or if there is

no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30, 1957, and from July 1, 1957, to the date of death the member's accumulated deductions plus interest at the rate of six percent per annum compounded annually.

(3) The amounts payable in clause (1) or (2) are in addition to the amount payable in section 354.62, subdivision 5, for the member's variable annuity account.

Subd. 2. Benefits of \$1,500 or less. If a member or a former member dies without having a surviving designated beneficiary and the amount to the credit of the decedent is \$1,500 or less, the board of trustees may 90 days after the date of death, in the absence of probate proceedings, make payment to the surviving spouse of the decedent. This payment shall be a bar to recovery of this payment from the association by any other person or persons. Any accrued retirement annuity, disability, or survivor benefit may be paid in the same manner.

History: 1989 c 319 art 2 s 17; art 13 s 63

354.48 PERMANENT DISABILITY BENEFITS.

Subdivision 1. Age, service and salary requirements. A member who is totally and permanently disabled and has at least three years of credited allowable service at the time that the total and permanent disability begins is entitled to a disability benefit based on this allowable service in an amount provided in subdivision 3. If the disabled member's teaching 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 is not entitled to disability benefits.

Subd. 2. Applications. Any person described in subdivision 1, or another person authorized to act on behalf of the person, may make application for a total and permanent disability benefit only within the 18-month period following the termination of teaching service. This benefit accrues from the day following the commencement of disability or the day following the last day for which salary is paid, whichever is later, but may not begin to accrue more than 90 days before the date the application is filed with the board. If salary is being received for either annual or sick leave during the period, payments accrue from the day following the last day for which this salary is paid.

Subd. 3. Computation of benefits. (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, clauses (1) and (2), is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest on the amount computed as though the teacher were at normal retirement age at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974, and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, shall have the disability benefit computed under this clause or clause (2), whichever is larger.

The benefit granted shall be determined by the following:

- (a) the amount of the accumulated deductions;
- (b) interest actually earned on these accumulated deductions to the date the benefit begins to accrue;
- (c) interest for the years from the date the benefit begins to accrue to the date the member attains normal retirement age at the rate of three percent;
- (d) annuity purchase rates based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 4d.

In addition, a supplementary monthly benefit shall be paid to basic members only in accordance with the following table:

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

(2) The disability benefit granted to members covered under section 354.44, subdivision 6 or 7, shall be computed in the same manner as the annuity provided in section 354.44, subdivision 6 or 7, whichever is applicable. The disability benefit shall be the formula annuity without the reduction for each month the member is under normal retirement age when the benefit begins to accrue.

(3) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

[For text of subds 3a to 9, see M.S.1988]

Subd. 10. Retirement status at normal retirement age. No person shall be entitled to receive both a disability benefit and a retirement annuity provided by this chapter. The disability benefit paid to a person hereunder shall terminate at the end of the month in which the person attains normal retirement age. If the person is still totally and permanently disabled at the beginning of the month next following the month in which 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 elect to receive either a straight life retirement annuity computed pursuant to section 354.44 or a straight life retirement annuity equal to the disability benefit paid prior to the date on which the person attained the age of 65 years, whichever amount is greater, or elect to receive an optional annuity as provided in section 354.45, subdivision 1. 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 the 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 2 s 18,19; art 13 s 64-66

354.49 REFUND.

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

Subd. 2. Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, shall receive a refund in an amount equal to the accumulated deductions credited to the account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of six percent per annum compounded annually plus any variable annuity account accumulations payable pursuant to section 354.62, subdivision 5, clause (4). For the purpose of this subdivision, interest shall be computed on fiscal year end balances to the first day of the month in which the refund is issued.

Subd. 3. Any person who has attained normal retirement age with less than three years of credited allowable service shall be entitled to receive a refund in an amount equal to the person's accumulated deductions plus interest in lieu of a proportionate annuity pursuant to section 356.32 except those covered under the provisions of section 354.44, subdivision 6 or 7, in which case the refund shall be an amount equal to the accumulated deductions credited to the person's account as of June 30, 1957, and after July 1, 1957, the accumulated deductions plus interest at the rate of six percent compounded annually.

[For text of subds 4 and 5, see M.S.1988]

History: 1989 c 319 art 13 s 67,68

354.50 TERMINATION OF SERVICE CREDITS.

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

Subd. 5. Notwithstanding section 354.62, subdivision 5, clause (4), a member who received a refund of variable account accumulations may repay this refund to the member's formula account under this section.

History: 1989 c 319 art 9 s 2

354.531 [Repealed, 1989 c 319 art 2 s 28]

354.532 [Repealed, 1989 c 319 art 2 s 28]

354.55 OPTIONS TO CERTAIN MEMBERS.

[For text of subds 2 and 3, see M.S.1988]

Subd. 5. [Repealed, 1989 c 319 art 2 s 28]

[For text of subds 6 and 10, see M.S.1988]

Subd. 11. **Deferred annuity; augmentation.** Any person covered under section 354.44, subdivisions 6 and 7, who ceases to render teaching service may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. Eligibility for an annuity under this subdivision shall be governed pursuant to section 354.44, subdivision 1, or 354.60.

The amount of the deferred retirement annuity shall be determined by section 354.44, subdivisions 6 and 7, and augmented as provided in this subdivision. The required reserves related to that portion of the annuity which had accrued when the member ceased to render teaching service shall be augmented by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There shall be no augmentation if this period is less than three months or if this period commences prior to July 1, 1971. The rates of interest used for this purpose shall be five percent compounded annually commencing July 1, 1971, until January 1, 1981, and three percent compounded annually 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 compounded annually. If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and 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 basis for purchasing the deferred annuity. If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with this fund. If a person does not render teaching service in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of the resumption of teaching service shall be those

applicable to new members. The mortality table and interest assumption used to compute the annuity shall be the applicable mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption under section 356.215 in effect when the member retires. A period of uninterrupted service for the purposes of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

The provisions of this subdivision shall not apply to variable account accumulations as defined in section 354.05, subdivision 23.

In no case shall the annuity payable under this subdivision be less than the amount of annuity payable pursuant to section 354.44, subdivisions 6 and 7.

The requirements and provisions for retirement before normal retirement age contained in section 354.44, subdivision 6, clause (3) or (5), shall also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

The augmentation provided by this subdivision shall not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

[For text of subds 12 to 19, see M.S.1988]

History: 1989 c 319 art 13 s 69

354.56 [Repealed, 1989 c 319 art 2 s 28]

354.60 SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.

Any person who has been a member of the Minnesota state retirement system or the public employees retirement association including the public employees retirement association police and fire fund or the teachers retirement association or the Minnesota state patrol retirement association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all three 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 three funds since the person's membership in that association has terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that an annuitant have at least three years' membership service or three years of allowable service in the respective association 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.

History: 1989 c 319 art 13 s 70

354.62 PARTICIPATION IN MINNESOTA VARIABLE ANNUITY INVESTMENT FUND.

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

Subd. 2. Individual election. Each member of the teachers retirement association may elect to participate in the variable annuity division by filing a written notice with the board of trustees on forms provided by the board.

(1) Employee variable annuity contributions to the variable annuity division shall be pursuant to the option available in section 354.44, subdivision 7, the employee variable annuity contributions shall be an amount equal to one-half of the employee rates specified in section 354.42, subdivision 2.

(2) Employer variable annuity contributions shall be an amount equal to the employee variable annuity contributions provided in clause (1). The deficiency in equal employer variable annuity contributions which shall exist prior to July 1, 1975, shall be recovered from the additional employer contributions made prior to July 1, 1975, pursuant to section 354.42, subdivision 5.

(3) There shall be provided for members participating in the variable annuity division a separate account for each member which will show the member's variable account accumulations as defined in section 354.05, subdivision 23. The board shall establish such other accounts in the variable annuity division as it deems necessary for the operation of this provision.

(4) After June 30, 1974, there shall be no new participants in this program.

(5) Any active member currently participating in the variable annuity division may elect to cease participation in the variable annuity division effective the July 1 following the filing of a written notice with the board of trustees on forms provided by the board. If this election is made, all future contributions will go to the formula program.

(6) Effective May 16, 1989, all active and inactive members with variable account accumulations must have their formula service credit covered by the full formula program percentages specified in section 354.44, subdivision 6. Each active and inactive member's variable account accumulations must be transferred to the member's formula account and this amount must become part of the member's accumulated deductions. An equal employer contribution amount must be transferred to the regular fund of the association. These transfers must include any employee and employer contributions made after June 30, 1988.

[For text of subds 3 to 6, see M.S.1988]

Subd. 7. Transfer. Effective June 30, 1989, all persons receiving benefits from the variable annuity reserve account must have the full amount of their required reserves transferred to the Minnesota postretirement investment fund. Benefit payments from the Minnesota postretirement investment fund must be in the same amount as benefit payments from the variable annuity reserve account but any future increases on these amounts must be based on the increases applicable to the Minnesota postretirement investment fund as determined under section 11A.18. The first increase must be paid January 1, 1990. The additional required reserves, including the required reserves for the first increase, that must be transferred from the variable annuity fund to the Minnesota postretirement investment fund must be transferred from the turnover account of the variable annuity fund. After this transfer of additional required reserves, any remaining balance in the turnover account of the variable annuity fund must be transferred to the regular fund of the association.

History: 1989 c 319 art 9 s 3,4

354.65 ADMINISTRATIVE EXPENSES.

Necessary and reasonable administrative expenses incurred by the teachers retirement association must be prorated and allocated to the teachers retirement fund, and the organization's participation in both the Minnesota variable annuity investment fund and the Minnesota supplemental investment fund in accordance with policies and procedures established by the board of trustees of the teachers retirement association.

History: 1989 c 319 art 2 s 20

354.66 QUALIFIED PART-TIME TEACHERS; PARTICIPATION IN FUND.

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

Subd. 2. A teacher in the public elementary schools, secondary schools, or technical institutes or in the community college system or the state university system of the state who has 20 years or more of allowable service in the fund or 20 years or

more of full-time teaching service in Minnesota public elementary schools, secondary schools, or technical institutes or in the community college system or the state university system, or a teacher in the community college system or state university system who has attained at least age 55 and has ten years or more of full-time teaching service, may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part-time teaching position.

[For text of subd 3, see M.S.1988]

Subd. 4. Retirement contributions. Notwithstanding any provision to the contrary in this chapter relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher assigned to a part-time position pursuant to this section shall continue to make employee contributions to and to accrue allowable service credit in the retirement fund during the period of part-time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full-time basis provided that, prior to June 30 each year, or within 30 days after notification by the association of the amount due, whichever is later, the member and the employing board make that portion of the required employer contribution to the retirement fund, in any proportion which they may agree upon, that is based on the difference between the amount of compensation that would have been paid if the teacher had been employed on a full-time basis and the amount of compensation actually received by the teacher for the services rendered in the part-time assignment. The employing unit shall make that portion of the required employer contributions to the retirement fund on behalf of the teacher that is based on the amount of compensation actually received by the teacher for the services rendered in the part-time assignment in the manner described in section 354.43, subdivision 3. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354.42. Full accrual of allowable service credit and employee contributions for part-time teaching service pursuant to this section and section 354A.094 shall not continue for a period longer than ten years.

[For text of subds 5 to 11, see M.S.1988]

History: 1989 c 329 art 9 s 22; art 18 s 3