

CHAPTER 353D

PUBLIC EMPLOYEES DEFINED CONTRIBUTION
PLAN

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353D.01 PUBLIC EMPLOYEES DEFINED CONTRIBUTION PLAN.

Subdivision 1. Establishment. The public employees defined contribution plan is administered by the public employees retirement association under supervision of the association board of trustees. To assist it in governing the operations of the plan, the board may appoint an advisory committee of not more than nine members who are representative of the employers and employees who participate in the plan.

Subd. 2. Eligibility. Except as provided in section 353D.11, eligibility to participate in the defined contribution plan is open to an elected local government official of a governmental subdivision who elects to participate in the plan and who, for the elected service rendered to a governmental subdivision, is not a member of the public employees retirement association within the meaning of section 353.01, subdivision 7, and to 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 that elects to participate.

For purposes of this chapter, an elected local government official includes a person appointed to fill a vacancy in an elective office. Service as an elected local government official only includes service for the governmental subdivision for which the official was elected by the public-at-large. Service as an elected local government official ceases and eligibility to participate terminates when the person ceases to be an elected official. An elected local government official does not include an elected county sheriff.

Except as provided in section 353D.11, elected local government officials and first response personnel and emergency medical service personnel who are currently covered by a public or private pension plan because of their employment or provision of services are not eligible to participate in the public employees defined contribution plan.

A former participant is a person who has ceased to be an elected local government official or an emergency medical service employee and who has not withdrawn the value of an individual account.

History: 1987 c 372 art 5 s 1; 1990 c 570 art 8 s 2; 1991 c 291 art 19 s 2,11; 1991 c 341 s 35; 1992 c 432 art 2 s 36

353D.02 ELECTION OF COVERAGE.

Eligible elected local government officials may elect to participate in the defined contribution plan after being elected or appointed to elective public office by filing a membership application on a form prescribed by the executive director of the association authorizing contributions to be deducted from the elected official's salary. Participation begins on the first day of the pay period for which the contributions were deducted or, if pay period coverage dates are not provided, the date on which the membership application or contributions are received in the office of the association, whichever is received first, provided further that the membership application is received by

the association within 60 days of the receipt of the contributions. If the membership application is not received, the elected official is not a participant in the plan and may request a refund under section 353D.04, subdivision 2. An election to participate in the plan is irrevocable during incumbency.

Each public ambulance service or privately operated ambulance service with eligible personnel that receives an operating subsidy from a governmental entity may elect to participate in the plan. If a service elects to participate, its eligible personnel may elect to participate or to decline to participate. An individual's election must be made within 30 days of the service's election to participate or 30 days of the date on which the individual was employed by the service or began to provide service for it, whichever date is later. An election by a service or an individual is irrevocable.

History: 1987 c 372 art 5 s 2; 1990 c 570 art 8 s 3; 1991 c 291 art 19 s 3,11; 1991 c 341 s 36; 1992 c 432 art 2 s 37

353D.021 [Never effective]

NOTE: See Laws 1991, chapter 291, article 19, section 11.

353D.03 FUNDING OF PLAN.

(a) An eligible elected local government official who elects to participate in the public employees defined contribution plan shall contribute an amount equal to five percent of salary as defined in section 353.01, subdivision 10. A participating elected local government official's governmental subdivision shall contribute a matching amount.

(b) A public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate in the plan shall fund benefits for its qualified personnel who individually elect to participate. Personnel who are paid for their services may elect to make member contributions in an amount not to exceed the service's contribution on their behalf. Ambulance service contributions on behalf of salaried employees must be a fixed percentage of salary. An ambulance service making contributions for volunteer or largely uncompensated personnel may assign a unit value for each call or each period of alert duty for the purpose of calculating ambulance service contributions.

(c) Former participants in the defined contribution plan under this chapter shall not contribute to the plan except under section 353D.12.

History: 1987 c 372 art 5 s 3; 1990 c 570 art 8 s 4; 1991 c 291 art 19 s 5,11; 1992 c 432 art 2 s 38

353D.031 [Never effective]

NOTE: See Laws 1991, chapter 291, article 19, section 11.

353D.04 CONTRIBUTIONS AND DEDUCTIONS IN ERROR.

Subdivision 1. Contributions. (a) Contributions made by or on behalf of a participating elected local government official must be remitted to the public employees retirement association and credited to the individual account established for the participant.

(b) Ambulance service contributions must be remitted on a regular basis to the association together with any member contributions paid or withheld. Those contributions must be credited to the individual account of each participating member.

Subd. 2. Deductions in error. Deductions taken totally or partially in error by the employer from the salary of an elected official and contributions made by the employer may be refunded upon request to the elected official and the employer.

(a) In the case of a total refund, the association shall refund the value of an elected official's account, including investment earnings, the accumulated employee deductions, accumulated employer contributions, less administrative expenses under section 353D.05, subdivision 3.

(b) In the case of a partial refund, the association shall refund the amount of the

actual error, without interest, less the administrative expenses under section 353D.05, subdivision 3, from the employer share.

History: 1987 c 372 art 5 s 4; 1990 c 570 art 8 s 5; 1991 c 341 s 37; 1992 c 432 art 2 s 39

353D.05 INVESTMENT OF FUNDS.

Subdivision 1. **Investment.** Employing unit contributions, after the deduction of an amount for administrative expenses, and individual participant contributions must be remitted to the state board of investment for investment in the Minnesota supplemental investment fund established by section 11A.17.

Subd. 2. **Investment options.** (a) A participant may elect to purchase shares in the income share account, the growth share account, the money market account, the bond market account, the fixed interest account, or the common stock index account established by section 11A.17, or a combination of those accounts. The participant may elect to purchase shares in a combination of those accounts by specifying the percentage of the total contributions to be used to purchase shares in each of the accounts.

(b) A participant or a former participant may indicate in writing a choice of options for subsequent purchases of shares. After a choice is made, until the participant or former participant makes a different written indication, the executive director of the association shall purchase shares in the supplemental investment account or accounts specified by the participant. If no initial option is indicated by a participant or the specifications made by the participant exceeds 100 percent to be invested in more than one account, the executive director shall invest all contributions made by or on behalf of a participant in the income share account. If the specifications are less than 100 percent, the executive director shall invest the remaining percentage in the income share account. A choice of investment options is effective the first of the month following the date of receipt of the signed written choice of options.

(c) One month before the start of a new guaranteed investment contract, a participant or former participant may elect to transfer all or a portion of the participant's or former participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the fixed interest account. Upon expiration of a guaranteed investment contract, the participant's or former participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the fixed interest account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for a benefit payment under section 353D.07.

(d) A participant or former participant may also change the investment options selected for all or a portion of the individual's previously purchased shares in accounts other than the guaranteed return account. A change under this paragraph is effective the first of the month following the date of receipt of a signed written choice of options.

(e) The change or selection of an investment option or the transfer of all or a portion of the deceased or former participant's shares in the income share, growth share, common stock index, bond market, money market, or guaranteed investment accounts must not be made following death of the participant or former participant.

Subd. 3. **Administrative expenses.** The executive director of the association shall annually set an amount to recover the costs of the association in administering the public employees defined contribution plan. If the amount recovered under section 11A.17 does not meet the annual costs of administering the defined contribution plan, the executive director may assess an additional amount up to two percent of the employer and employee contributions.

History: 1987 c 372 art 5 s 5; 1988 c 453 s 11; 1988 c 709 art 5 s 34; 1990 c 570 art 8 s 6,7; 1991 c 291 art 19 s 7,11; 1991 c 341 s 38; 1992 c 432 art 2 s 40; 1992 c 539 s 13,14

NOTE: Subdivision 3 was also amended by Laws 1992, chapter 432, section 41, to read as follows:

"Subd. 3. **Administrative expenses.** The public employees retirement association may deduct an amount to defray the

expenses of the association in administering the plan. The amount must be set annually by the executive director of the association, and if the amount recovered under section 11A.17 does not meet the annual expenses of administering the plan, the association may assess an additional amount up to three percent of the employer and employee contributions."

353D.051 [Never effective]

NOTE: See Laws 1991, chapter 291, article 19, section 11.

353D.06 REPORTING.

The executive director of the public employees retirement association shall prescribe the reporting forms required from employing units and the election forms required from participants. Reporting forms must contain names, identification numbers, amount of contribution by and on behalf of each participant, and such other data as is required to keep an accurate record of the account value of each participant.

History: 1987 c 372 art 5 s 6; 1990 c 570 art 8 s 8; 1991 c 291 art 19 s 9,11

353D.07 BENEFITS.

Subdivision 1. Type of plan; uniformity. (a) The plan is a defined contribution plan the benefits from which are payable upon termination of service, retirement, disability, or death. The amount of benefits is determined by the value of accumulated contributions plus a proportionate share of investment income of the fund credited to each individual account.

(b) In the case of ambulance service personnel, eligibility standards must be uniform among all ambulance service personnel of an ambulance service electing to participate.

Subd. 2. Payment of benefits. Withdrawal of a benefit based on individual participant contributions and employer contributions plus accrued investment income is payable upon the death or termination of a participant. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Subd. 3. Form of benefit. A retirement benefit is payable in a lump sum equal to the value of a participant's account at the date of withdrawal. As an alternative to a lump-sum distribution, the participant may choose to have the association transfer the total account value for the purchase of an annuity payable at a designated age to an insurance company of the participant's choice that is licensed to do business in the state.

Subd. 4. Disability of participant. If an active participant becomes permanently and totally disabled as defined in section 353.01, subdivision 19, that participant may withdraw from the account in equal monthly installments an amount, designated by the participant in increments of \$100 but not to exceed ten times the joint employer and employee contribution for the month preceding disability. The option must be exercised by filing an application on a form prescribed by the executive director. Payments begin on the first day of the month following the month in which the disability occurred. Payments end when the participant's disabled status ends or the account balance is exhausted, whichever occurs first.

Subd. 5. [Repealed, 1988 c 709 art 5 s 42]

Subd. 5. Death of a participant. If an active participant dies, the total value of the account must be paid in a lump sum to the designated beneficiary or, if none, the heirs at law of the decedent.

History: 1987 c 372 art 5 s 7; 1988 c 709 art 5 s 35-37; 1990 c 570 art 8 s 9; 1991 c 341 s 39,40; 1992 c 432 art 2 s 42,43

353D.08 PORTABILITY.

Participating ambulance service personnel who change employment or membership among participating ambulance services shall continue participation in the plan if termination from one participating ambulance service and commencement in another participating ambulance service occurs within 30 days.

History: 1987 c 372 art 5 s 8; 1988 c 709 art 5 s 38; 1990 c 570 art 8 s 10

353D.09 TAX QUALIFICATION.

The public employees retirement association shall adopt rules necessary for administration of the plan. The proposed plan shall be formulated and adopted in accordance with applicable restrictions and standards of the Internal Revenue Code and rulings and regulations of the Internal Revenue Service in order to assure the tax exempt status of the plan as a qualified pension plan. Contributions may be accepted only after approval by the Internal Revenue Service.

History: 1987 c 372 art 5 s 9; 1990 c 570 art 8 s 11

353D.091 [Never effective]

NOTE: See Laws 1991, chapter 291, article 19, section 11.

353D.10 NOT CONSIDERED A LOCAL PLAN.

The plan is not a local governmental pension plan or fund for purposes of section 356.25.

History: 1987 c 372 art 5 s 10

353D.11 CURRENT ELECTED PUBLIC OFFICERS.

Subdivision 1. Exercise of option. As of July 1, 1990, an elected local government official, who with respect to elected service is participating in, and covered by, the general employees defined benefit plan administered by the public employees retirement association under chapter 353, may elect to participate in the public employees defined contribution plan and terminate further participation in, and coverage under, the defined benefit plan. The necessary election must be made before June 30, 1991.

Subd. 2. Refund or deferred annuity. An elected public officer who, with respect to elected service is participating in, and covered by, the general employees defined benefit plan administered by the public employees retirement association under chapter 353 and who, with respect to future elected service, elects to participate in the public employees defined contribution plan, is deemed to have terminated public service for purposes of the return of the accumulated employee deductions with interest or the deferred annuity allowed under section 353.34. The termination of public service is deemed to occur as of the first day of the month following the month in which the election is made to participate in the public employees defined contribution plan and any refund of accumulated employee deductions with interest or future deferred annuity is governed by the law in effect on that day.

History: 1990 c 570 art 8 s 12

353D.12 CONTRIBUTIONS FOR PRIOR ELECTED SERVICE.

Subdivision 1. Eligibility; contributions. An elected local government official who participates in the defined contribution plan under this chapter may make contributions to the plan for the service as an elected public officer rendered before June 30, 1991, that was not covered by a public or private employer contributory pension plan, including a plan administered by the public employees retirement association under chapter 353. An elected local government official may make contributions for prior elected service to the defined contribution plan even if eligibility criteria for the defined benefit plan under chapter 353 were not met at the time service was rendered. The association shall not accept contributions for prior elected service from a former elected official after the end of the tax year in which the elected official ceases to hold office. Employer contributions on behalf of the former elected official must be made to the association no later than 30 days after April 15 following the end of the tax year under section 415 of the federal Internal Revenue Code, as amended. Employee contributions must be made to the association no later than 30 days after the close of the limitation year under section 415 of the federal Internal Revenue Code, as amended.

Subd. 2. Amount of prior service contributions. (a) The employee purchase amount is that amount that the participating elected local government official specifies, but

combined with subdivision 6 may not exceed in total the amount of the employee and employer contributions that would have been payable under section 353.27, subdivisions 2, 3, and 3a, based on the actual salary or compensation of the elected local government official from public sources during the prior service and based on the rates in effect during the prior service, plus interest at an annual compound rate of six percent.

(b) In any year, the purchase amount to be paid in is subject to the limitation for defined contribution plans under section 415(c) of the federal Internal Revenue Code, as amended, or comparable contribution limitation set forth in the federal Internal Revenue Code, and applicable regulations and revenue rulings, remaining after subtracting the funding amounts under section 353D.03, paragraph (a), for that year.

Subd. 3. Installment payments. The purchase amount may be made in annual installments but may not exceed, combined with subdivision 6, in any installment the limitation set forth in subdivision 2, paragraph (a), or in total the limitation set forth in subdivision 2, paragraph (a).

Subd. 4. Authorized rollovers. To the extent allowed by federal law, the employee purchase amount may be made with funds distributed from: (1) a plan qualified under section 401(a) of the federal Internal Revenue Code, as amended; (2) an annuity qualified under section 403(a) of the federal Internal Revenue Code, as amended; (3) an individual retirement account used solely to receive a nontaxable rollover from that type of plan or annuity; (4) the state deferred compensation plan authorized under section 352.96 and qualified under section 457 of the federal Internal Revenue Code, as amended; or (5) another tax qualified plan or annuity that authorizes rollovers. The participating elected local government official shall supply sufficient written documentation that the transfer amounts are eligible for tax-free rollover treatment. An authorized tax-free rollover, plus any other purchase amount payments under this section, including subdivision 6, may not exceed the limitation in subdivision 2, paragraph (a). Notwithstanding any provision of state law or rule to the contrary, to the extent permitted under federal law, the employee purchase amount may be transferred from the state deferred compensation plan before the employee terminates public employment.

Subd. 5. Prior service and compensation documentation. The participating elected local government official shall supply sufficient documentation of the person's prior uncredited service and compensation for which the purchase payment is made.

Subd. 6. Employing unit payment. The employing unit of the participating elected local government official shall pay the amount of the employer contributions that could have been payable under section 353.27, subdivisions 3 and 3a, based on the actual salary or compensation of the elected local government official from public sources during the prior service, plus interest at an annual compound rate of six percent. This amount combined with any employee purchase amount and any contributions under section 353D.03, paragraph (a), must in any year comply with the limitation set forth in subdivision 2, paragraph (a).

History: 1990 c 570 art 8 s 13; 1991 c 341 s 41; 1992 c 432 art 2 s 44