

CHAPTER 3A

LEGISLATOR'S RETIREMENT

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| <p>3A.01 Definitions.</p> <p>3A.011 Administration of plan.</p> <p>3A.02 Retirement allowance.</p> <p>3A.03 Contributions.</p> <p>3A.031 Payments in lieu of member contributions in certain instances.</p> <p>3A.04 Survivor benefit.</p> <p>3A.05 Application for survivor benefit.</p> <p>3A.06 Resignation from retirement systems.</p> | <p>3A.07 Application.</p> <p>3A.09 Membership in P.E.R.A.</p> <p>3A.10 One term of service being a certain time.</p> <p>3A.11 Participation in Minnesota postretirement investment fund.</p> <p>3A.12 Coverage by more than one retirement system or association.</p> |
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3A.01 DEFINITIONS.

Subdivision 1. **Purposes.** The terms defined in this section for the purposes of this chapter shall be given the meanings ascribed to them.

Subd. 2. **Dependent child.** "Dependent child" means any natural or adopted child of a deceased member of the legislature or former legislator who is under the age of 18, or who is under the age of 22 and is a full-time student, and who in either case is unmarried and was actually dependent for more than one-half of support upon the member or former legislator for a period of at least 90 days immediately prior to the death of the member or former legislator. It also includes any child of the member of the legislature or former legislator conceived during the lifetime of the member or former legislator and born after the death of the member or former legislator, who shall qualify as a dependent child from the date of birth.

Subd. 3. **Member of the legislature.** "Member of the legislature" means a member of the house of representatives or the senate of the state of Minnesota who has subscribed to the oath of office.

Subd. 4. **Retirement.** "Retirement" means the time after a former legislator is entitled to a retirement allowance. "Former legislator" means a legislator who has ceased to be a member of the legislature for any reason, including, but not limited to, expiration of the term for which a member of the legislature was elected, or death of such member.

Subd. 5. [Repealed, 1971 c 928 s 11]

Subd. 6. **Director.** "Director" means the executive director of the Minnesota state retirement system.

Subd. 6a. **Salary.** "Salary" means the regular compensation payable under law to legislators and paid to the person for service as a legislator. The term includes the monthly compensation paid to the legislator, and the per diem payments paid during a regular or special session to the legislator. The term does not include per diem payments paid other than during the regular or special session, additional compensation attributable to a leadership position under section 3.099, subdivision 3, living expense payments under section 3.101, and special session living expense payments under section 3.103.

Subd. 7. **Average monthly salary.** "Average monthly salary" means the average of the member's highest five successive years of salary received as a member of the legislature and upon which the member has made contributions under section 3A.03, subdivision 1, payments for past service under section 3A.02, subdivision 2, or payments in lieu of contributions under section 3A.031.

Subd. 8. **Normal retirement age.** "Normal retirement age" means the age of 60 years with regard to any member of the legislature whose service terminates prior to the beginning of the 1981 legislative session, and the age of 62 years with regard to any member of the legislature whose service terminates after the beginning of the 1981 session.

History: 1965 c 896 s 1; 1974 c 445 s 1; 1975 c 368 s 1,2; 1978 c 796 s 1,2; 1981 c 224 s 2,3,274; 1989 c 319 art 16 s 1,2

3A.011 ADMINISTRATION OF PLAN.

The Minnesota state retirement system shall administer the legislators retirement plan in accordance with chapter 356A.

History: 1989 c 319 art 8 s 1

3A.02 RETIREMENT ALLOWANCE.

Subdivision 1. Qualifications. (a) A former legislator is entitled, upon written application to the director, to receive a retirement allowance monthly, if the person:

(1) has served at least six full years, without regard to the application of section 3A.10, subdivision 2, or has served during all or part of four regular sessions as a member of the legislature, which service need not be continuous;

(2) has attained the normal retirement age;

(3) has retired as a member of the legislature; and

(4) has made all contributions provided for in section 3A.03, has made payments for past service under subdivision 2, or has made payments in lieu of contributions under section 3A.031.

(b) For service rendered before the beginning of the 1979 legislative session, but not to exceed eight years of service, the retirement allowance is an amount equal to five percent per year of service of that member's average monthly salary. For service in excess of eight years rendered before the beginning of the 1979 legislative session, and for service rendered after the beginning of the 1979 legislative session, the retirement allowance is an amount equal to 2-1/2 percent per year of service of that member's average monthly salary.

(c) The retirement allowance accrues beginning with the first day of the month of receipt of the application and for the remainder of the former legislator's life, if the former legislator is not serving as a member of the legislature or as a constitutional officer or commissioner as defined in section 352C.021, subdivisions 2 and 3.

(d) Any member who has served during all or part of four regular sessions is considered to have served eight years as a member of the legislature.

(e) The retirement allowance ceases with the last payment that accrued to the retired legislator during the retired legislator's lifetime, except that the surviving spouse, if any, is entitled to the retirement allowance for the calendar month in which the retired legislator died.

Subd. 1a. [Repealed, 1973 c 653 s 47]

Subd. 1b. Reduced retirement allowance. Upon separation from service after the beginning of the 1981 legislative session, a former member of the legislature who has attained the age of at least 60 years and who is otherwise qualified in accordance with subdivision 1 is entitled upon making written application on forms supplied by the director to a retirement allowance in an amount equal to the retirement allowance specified in subdivision 1 reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the former member of the legislature deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the date the annuity begins to accrue until age 62.

Subd. 2. Payment for past service. Any member of the legislature who is a member on July 1, 1965 or thereafter, may, notwithstanding the provisions of subdivision 1, clause (1), receive credit for service rendered as a member of the legislature prior to July 1, 1965, and the pension based thereon provided that the member pays to the director for credit to the member's account an amount equal to nine percent of all salary received for all periods of service rendered as a member of the legislature, even if such periods are not continuous and exceed ten years in duration. Such payment may be made at any time after the commencement of any regular session of the legislature in which the member serves.

Subd. 3. Appropriation. The amounts required for payment of retirement allow-

ances provided by this section are appropriated annually to the director from the participation in the Minnesota postretirement investment fund and shall be paid monthly to the recipients entitled thereto.

Subd. 4. Deferred annuities augmentation. The deferred annuity of any former legislator shall be augmented as provided herein. The required reserves applicable to the deferred annuity, determined as of the date the benefit begins to accrue using an appropriate mortality table and an interest assumption of five percent, shall be augmented from the first of the month following termination of service, or July 1, 1973, whichever is later, to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum compounded annually until January 1 of the year in which the former legislator attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually.

History: 1965 c 896 s 2; 1967 c 877 s 1,2; 1969 c 155 s 1; 1969 c 399 s 1; 1969 c 1115 s 1; 1971 c 928 s 1,2; 1973 c 653 s 1-3; 1974 c 445 s 2-4; 1975 c 368 s 3-5; 1977 c 35 s 12; 1978 c 796 s 3-6; 1980 c 607 art 14 s 45 subd 2; 1981 c 224 s 4; 1986 c 444; 1989 c 319 art 16 s 3-5

3A.03 CONTRIBUTIONS.

Subdivision 1. Percentage. Every member of the legislature shall contribute nine percent of total salary, by payroll deduction, to be paid into the state treasury and deposited in the general fund. It shall be the duty of the director to record the periodic contributions of each member of the legislature and credit such contribution to the member's account.

Subd. 2. Refund. (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a member of the legislature is entitled to receive upon application to the director a refund of all contributions credited to the member's account with interest at an annual rate of six percent compounded annually.

(2) The refund of contributions as provided in clause (1) terminates all rights of a former member of the legislature or survivors of the former member under this chapter. Should the former member of the legislature again be a member of the legislature after having taken a refund as provided above, the member shall be considered a new member. However, a new member may reinstate the rights and credit for service forfeited, provided the new member repays all refunds taken plus interest at an annual rate of 8.5 percent compounded annually.

(3) No person shall be required to apply for or accept a refund.

History: 1965 c 896 s 3; 1969 c 399 s 1; 1971 c 928 s 3; 1973 c 653 s 4; 1974 c 445 s 5,6; 1975 c 368 s 6; 1978 c 796 s 7; 1980 c 614 s 37; 1981 c 224 s 274; 1983 c 286 s 1; 1984 c 564 s 3; 1986 c 444; 1990 c 570 art 12 s 1; 1992 c 598 art 1 s 1

NOTE: The amendment to subdivision 2, by Laws 1992, chapter 598, article 1, section 1, is effective May 1, 1994. See Laws 1992, chapter 598, article 1, section 14.

3A.031 PAYMENTS IN LIEU OF MEMBER CONTRIBUTIONS IN CERTAIN INSTANCES.

A member may make a payment in lieu of member contributions on all or a portion of the member's per diem payments that were paid during the regular and special sessions after December 31, 1988, and before July 1, 1989. The amount of the payment is nine percent of the regular or special session per diem payments paid during the applicable period, plus interest at the annual rate of six percent, compounded annually, from the date the per diem payment was made to the date on which the payment in lieu of member contributions is made.

History: 1989 c 319 art 16 s 6

NOTE: This section, as added by Laws 1989, chapter 319, article 16, section 6, is repealed July 1, 1994. See Laws 1989, chapter 319, article 16, section 8.

3A.04 SURVIVOR BENEFIT.

Subdivision 1. Surviving spouse. Upon the death of a member of the legislature while serving as a member, or upon the death of a former legislator who has rendered at least the number of years of service as required by section 3A.02, subdivision 1, clause (1), and who was not receiving a retirement allowance, the surviving spouse shall be entitled to receive a survivor benefit in the amount of one-half of the retirement allowance of the member of the legislature or former legislator computed as though the member or former legislator had attained at least the normal retirement age on the date of death and based upon the average monthly salary as of the date of death or as of the date of termination, whichever is applicable, and the allowable service of the member or the former legislator or eight years, whichever is greater. The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied from the first day of the month next following the date of termination of service as a member of the legislature to the month of death. Upon the death of a former legislator who was receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the allowance being paid to the former legislator. The surviving spouse benefit shall be paid during the lifetime of the surviving spouse.

Subd. 1a. Increase in survivor benefits. Survivor benefits provided in subdivision 1 authorized and in effect on June 3, 1977, shall be increased by 25 percent, effective retroactively to January 1, 1974, or the date the survivor benefit became payable, whichever is later.

Subd. 2. Dependent children. Upon the death of a member of the legislature while serving as a member, or upon the death of a former member of the legislature who has rendered at least the number of years of service as required by section 3A.02, subdivision 1, clause (1) and who was not receiving a retirement allowance, each dependent child of the member or former legislator shall be entitled to receive a survivor benefit in the following amount: First dependent child, a monthly allowance which equals 25 percent of the monthly retirement allowance of the member of the legislature or former legislator computed as though the member or former legislator had attained at least the normal retirement age on the date of death and based upon the average monthly salary as of the date of death or as of the date of termination, whichever is applicable, and the allowable service or eight years whichever is greater; for each additional dependent child, a monthly allowance which equals 12-1/2 percent of the monthly retirement allowance of the member or former legislator computed as in the case of the first child; but the total amount paid to the surviving spouse and dependent children shall not exceed in any one month 100 percent of the monthly retirement allowance of the member or former legislator computed as in the case of the first child. The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied from the first day of the month next following the date of termination of service as a member of the legislature to the month of death. Upon the death of a former legislator who was receiving a retirement allowance, the surviving dependent child shall be entitled to the applicable percentage specified above of the amount of the allowance which was paid to the former legislator for the month immediately prior to the date of death. The payments for dependent children shall be made to the surviving spouse or the guardian of the estate of the dependent children, if there is one.

Subd. 3. Payment. The surviving spouse's and dependent children's survivor benefits payable under this section shall be paid by the director monthly in the same manner as retirement allowances are authorized to be paid by this chapter.

Subd. 4. Refunds to estate. Upon the death of a member of the legislature or former legislator who was not receiving a retirement allowance without a surviving spouse and without any dependent children, regardless of when the death occurred, the estate of the member or former legislator, upon application of the representative of the estate, shall be entitled to a refund of contributions of the deceased member of the legislature or former legislator.

History: 1965 c 896 s 4; 1967 c 877 s 3,4; 1969 c 399 s 1; 1969 c 1115 s 2,3; 1971 c 928 s 4-6; 1973 c 653 s 5,6; 1974 c 445 s 7,8; 1975 c 368 s 7,8; 1977 c 429 s 1-3; 1978 c 796 s 8,9; 1980 c 614 s 38,39; 1981 c 224 s 5-8,274; 1991 c 269 art 2 s 1

3A.05 APPLICATION FOR SURVIVOR BENEFIT.

Applications for survivor benefits pursuant to section 3A.04 shall be filed with the director by the surviving spouse and dependent children entitled to benefits pursuant to section 3A.04, or by the guardian of the estate, if there is one, of the dependent children. Survivor benefits shall accrue as of the first day of the month following the death of the member of the legislature or former legislator and payments shall commence as of the first of the month next following the filing of the application, and shall be retroactive to the date the benefit accrues; provided, however, that no payment shall be retroactive for more than 12 months prior to the month the application is filed with the director.

History: 1965 c 896 s 5; 1971 c 928 s 7; 1974 c 445 s 9; 1975 c 368 s 9; 1981 c 224 s 9

3A.06 RESIGNATION FROM RETIREMENT SYSTEMS.

A member of the legislature who is a member of the Minnesota state retirement system, the public employees retirement association, the state teachers retirement fund, or other retirement association or fund authorized by law for employees in public employment, may resign as such a member at any time from and after May 27, 1965, notwithstanding any provision of any other law to the contrary, and shall receive a refundment of contributions as otherwise provided by law.

History: 1965 c 896 s 6; 1971 c 25 s 5; 1986 c 444

3A.07 APPLICATION.

This chapter applies to members of the legislature in service upon July 1, 1965, or thereafter, who otherwise meet the requirements of this chapter.

History: 1965 c 896 s 7; 1981 c 224 s 274

3A.08 [Repealed, 1979 c 303 art 3 s 41]**3A.09 MEMBERSHIP IN P.E.R.A.**

Any person who becomes a member of the legislature and who, on the date of becoming a member of the legislature, is a member of the public employees retirement association may elect, within six months of the date of becoming a member of the legislature, to remain a member of the public employees retirement association and shall not be required to make any contributions pursuant to section 3A.03. No person who is a member of the legislature shall belong to the public employees retirement association for service as a member of the legislature and make contributions pursuant to section 3A.03 or accrue rights pursuant to this chapter at the same time. A member of the legislature who is not a member of the public employees retirement association on the date the person becomes a member of the legislature, shall have contributions deducted from salary for all pay periods after the date the person becomes a member of the legislature. A member of the legislature may belong to the public employees retirement association for service performed other than as a member of the legislature and continue to accrue rights pursuant to this chapter and make contributions as required by section 3A.03.

History: 1965 c 896 s 9; 1967 c 877 s 5; 1969 c 155 s 2; 1981 c 224 s 10

3A.10 ONE TERM OF SERVICE BEING A CERTAIN TIME.

Subdivision 1. Term. In the case of a member of the house of representatives one full term of office shall be considered two full years service notwithstanding the fact that the oath of office may be taken on different days each biennium. In the case of a member of the senate, one full term of office shall be considered four full years service notwithstanding the fact that the oath of office may be taken on different days at the start of each term. For purposes of this chapter, a legislative term shall be deemed to commence on January 1st and to end on December 31st.

Subd. 2. Completing unexpired term. In the case of a member of either house of the legislature who is elected to serve the remainder of an unexpired term or who is seated and subscribes to the oath of office after the day appointed by law for the opening of the legislature, the member shall be considered to have served the number of years which would have been served had the oath of office been taken on the day appointed for the commencement of the full term of office.

History: 1965 c 896 s 10; 1967 c 877 s 6; 1975 c 368 s 10; 1986 c 444

3A.11 PARTICIPATION IN MINNESOTA POSTRETIREMENT INVESTMENT FUND.

Subdivision 1. Transfer of reserves. The reserves necessary to fund the retirement allowance granted pursuant to section 3A.02 to a former legislator upon retirement shall be appropriated from the general fund to the director and shall be transferred by the director to the Minnesota postretirement investment fund as of the last business day of the month in which the retirement allowance begins to accrue in accord with section 11A.18. The amount of the transfer shall be determined by or determined under a procedure specified by the actuary retained by the legislative commission on pensions and retirement, in accord with the appropriate mortality table adopted by the board of directors of the Minnesota state retirement system based on the experience of the plan as recommended by the commission-retained actuary and the interest rate assumption specified in section 356.215, subdivision 4d.

Subd. 2. Payment adjustments. Annuities and benefits shall be adjusted in accord with the provisions of section 11A.18.

Subd. 3. [Repealed, 1980 c 614 s 191]

Subd. 4. Automatic increases; exception. Notwithstanding section 356.18 increases in benefit payments pursuant to this section will be made automatically unless the intended recipient files written notice with the director requesting that the increase shall not be made.

History: 1973 c 653 s 7; 1974 c 445 s 10,11; 1980 c 607 art 14 s 45 subd 2, s 46; 1981 c 224 s 11,12; 1983 c 286 s 2; 1Sp1985 c 7 s 35; 1987 c 259 s 2

3A.12 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.

Subdivision 1. Entitlement to annuity. Any legislator who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and fire fund, or the teachers retirement association, or the Minneapolis employees retirement fund, or the state patrol retirement fund, 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 or firefighters, shall be entitled when qualified to an annuity from each fund if the total allowable service for which the legislator has credit in all funds or in any two of these funds totals ten or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ten years allowable service in the respective system or association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ten or more years. The augmentation of deferred annuities provided in section 3A.02, subdivision 4, shall apply to the annuities accruing hereunder.

Subd. 2. Refund repayment. Any former legislator who has received a refund as provided in section 3A.03, subdivision 2, who is a currently contributing member of a retirement fund specified in subdivision 1, may repay the refund as provided in section 3A.03, subdivision 2. Any member of the legislature who has received a refund from any of the funds specified in subdivision 1, may repay the refund to the respective

fund under such terms and conditions consistent with the law governing such fund if the law governing such fund permits the repayment of refunds. If the total amount to be repaid, including principal and interest exceeds \$2,000, repayment may be made in three equal installments over a period of 18 months, with interest accrued during the period of repayment added to the final installment.

History: 1975 c 368 s 11; 1977 c 429 s 63; 1981 c 37 s 2; 1981 c 224 s 13; 1981 c 298 s 11; 1986 c 444