

## CHAPTER 352

## MINNESOTA STATE RETIREMENT SYSTEM

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**352.01 DEFINITIONS.**

*[For text of subds 1 and 2, see M.S.1992]*

Subd. 2a. **Included employees.** (a) "State employee" includes:

- (1) employees of the Minnesota historical society;
  - (2) employees of the state horticultural society;
  - (3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;
  - (4) employees of the Minnesota crop improvement association;
  - (5) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;
  - (6) employees of the state universities employed under the university activities program;
  - (7) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in clause (8) of subdivision 2b;
  - (8) employees of the armory building commission;
  - (9) permanent employees of the legislature and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;
  - (10) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;
  - (11) employees of the Minnesota safety council;
  - (12) employees of the transit operating division of the metropolitan transit commission and any employees on authorized leave of absence from the transit operating division who are employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division;
  - (13) employees of the metropolitan council, metropolitan parks and open space commission, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan sports facilities commission or the metropolitan mosquito control commission unless excluded or covered by another public pension fund or plan under section 473.141, subdivision 12, or 473.415, subdivision 3;
  - (14) judges of the tax court; and
  - (15) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization.
- (b) Employees specified in paragraph (a), clause (15), are included employees

under paragraph (a) providing that employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

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

- (1) elective state officers;
- (2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;
- (3) employees who are eligible for membership in the state teachers retirement association except employees of the department of education who have chosen or may choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;
- (4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;
- (5) officers and enlisted personnel in the national guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;
- (6) election officers;
- (7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;
- (8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;
- (9) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the department of labor and industry;
- (10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;
- (11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;
- (12) employees of the Sibley House Association;
- (13) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited from serving more than three years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;
- (14) state troopers;
- (15) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons employed at any time by the state fair administration for special events held on the fairgrounds;
- (16) emergency employees in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;
- (17) persons described in section 352B.01, subdivision 2, clauses (2) to (5);
- (18) temporary employees in the classified service, temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and seasonal help in the classified service employed by the department of revenue;
- (19) trainee employees, except those listed in subdivision 2a, clause (10);
- (20) persons whose compensation is paid on a fee basis;

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

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

(23) chaplains and nuns who are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

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

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

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

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

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

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

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

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

(32) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act after March 30, 1978, unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution;

(33) off-duty peace officers while employed by the metropolitan transit commission under section 629.40, subdivision 5, or comparable statutory authority;

(34) persons who are employed as full-time police officers by the metropolitan transit commission and as police officers are members of the public employees police and fire fund;

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

(36) foreign citizens with a work permit of less than three years, or an H-1b/JV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date the extension is granted, in which case they are eligible for coverage from the date extended.

*[For text of subds 3 to 5, see M.S.1992]*

Subd. 7. [Repealed, 1993 c 307 art 7 s 1]

*[For text of subds 11 to 13, see M.S.1992]*

Subd. 13a. **Reduced salary during period of workers' compensation.** An employee on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence, may make payment to the fund for the difference between salary received, if any, and the salary the employee would normally receive if not on leave of absence during the period. The employee shall pay an amount equal to the employee and employer contribution rate under section 352.04, subdivisions 2 and 3, on the differential salary amount for the period of the leave of absence.

The employing department, at its option, may pay the employer amount on behalf of its employees. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from leave of absence.

*[For text of subds 15 to 25, see M.S.1992]*

Subd. 26. **Dependent child.** "Dependent child" means a biological or adopted child of a deceased employee who has not reached the age of 20 and is dependent upon the employee for more than one-half of the child's support at the time of the employee's death. It also means a child of the member conceived during the member's lifetime and born after the member's death.

**History:** 1993 c 307 art 1 s 3,4; art 3 s 1; 1993 c 336 art 6 s 1

### 352.03 BOARD OF DIRECTORS; EXECUTIVE DIRECTOR.

*[For text of subds 1 to 2, see M.S.1992]*

Subd. 4. **Duties and powers of board of directors.** The board shall:

- (1) elect a chair;
- (2) appoint an executive director;
- (3) establish rules to administer this chapter and chapters 3A, 352B, 352C, 352D, and 490 and transact the business of the system, subject to the limitations of law;
- (4) consider and dispose of, or take any other action the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system;
- (5) advise the director on any matters relating to the system and carrying out functions and purposes of this chapter. The board's advice shall control; and
- (6) oversee the administration of the state deferred compensation plan established in section 352.96.

The director and assistant director must be in the unclassified service but appointees may be selected from civil service lists if desired. The salary of the executive director must be as provided by section 15A.081, subdivision 1. The salary of the assistant director must be set in accordance with section 43A.18, subdivision 3.

Subd. 4a. **Additional duties of the board.** The board may consider, review, and make recommendations regarding the financial and other needs of retired employees and may disseminate appropriate retirement information to the retired employee. Notwithstanding laws to the contrary, the board, at its discretion, may supply the names and addresses of retirees who were employed by the University of Minnesota at the time of termination to the University of Minnesota and state agencies for retirees who were employed by the specific state agency at the time of termination. The board, at its discretion, may supply names and addresses of state and university retirees to an

organization that has been in existence for at least ten years and represents over 5,000 retired state and university employees. The names and addresses of each retiree can only be given to this organization once within 60 days of the effective date of the annuity. The board shall require the retiree organization, University of Minnesota, or applicable state agency to reimburse the fund for any administrative expense of providing the list. The list remains the property of the Minnesota state retirement system and may not be subsequently sold, conveyed, given, or otherwise transferred by the retiree organization, the University of Minnesota, or the state agency to a third party. Periodically, retirees must be given an opportunity to specify that their name and address not be distributed under this section.

*[For text of subd 5, see M.S.1992]*

**Subd. 6. Duties and powers of executive director.** The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director with the approval of the board;
- (5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;
- (6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;
- (7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. The contracts are not subject to competitive bidding under chapter 16B. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission and to the legislative auditor at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;
- (8) with the advice and consent of the board provide in-service training for the employees of the system;
- (9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;
- (10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board request the state board of investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and annual budgets to the board and with the approval of the board submit the budgets to the department of finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

*[For text of subds 7 to 15, see M.S.1992]*

**Subd. 16. Data processing services.** Notwithstanding chapter 16B, or any law to the contrary, the executive director of the system may use the services of the department of administration, information services division, for electronic data processing and related services or may contract for all or a part of the services.

**History:** 1993 c 13 art 1 s 38; 1993 c 307 art 1 s 5; art 2 s 2; art 3 s 2

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

*[For text of subds 1 to 5, see M.S.1992]*

**Subd. 6. Quasi-state agencies; employer contributions.** For those of their employees who are covered by the system, the state horticultural society, the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, the Minnesota crop improvement association, the Minnesota historical society, the armory building commission, the Minnesota safety council, the Metropolitan council and any of its statutory boards, the employer of persons described in section 352.01, subdivision 2a, paragraph (a), clause (15), and any other agency employing employees covered by this system, respectively, shall also pay into the retirement fund the amount required by subdivision 3.

*[For text of subd 8, see M.S.1992]*

**Subd. 9. Erroneous deductions, canceled warrants.** (a) Deductions taken from the salary of an employee for the retirement fund in error must, upon discovery and verification by the department making the deduction, be refunded to the employee.

(b) If a deduction for the retirement fund is taken from a salary warrant or check, and the check is canceled or the amount of the warrant or check returned to the funds of the department making the payment, the sum deducted, or the part of it required to adjust the deductions, must be refunded to the department or institution if the department applies for the refund on a form furnished by the director. The department's payments must likewise be refunded to the department.

(c) Employee deductions and employer contributions taken in error may be directly transferred, without interest, to another Minnesota public employee retirement fund listed in section 356.30, subdivision 3, by which the employee is actually covered.

*[For text of subds 11 and 12, see M.S.1992]*

**History:** 1993 c 307 art 1 s 6,7

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

*[For text of subd 1, see M.S.1992]*

**Subd. 2. Application; accrual of benefits.** An employee making claim for a total and permanent disability benefit, or someone acting on behalf of the employee upon proof of authority satisfactory to the director, shall file a written application for benefits in the office of the system. The application must be in a form and manner prescribed by the executive director. The benefit shall begin to accrue the day following the start of disability or the day following the last day paid, whichever is later, but not earlier than 180 days before the date the application is filed with the director.

*[For text of subd 3, see M.S.1992]*

**Subd. 4. Medical examinations; authorization for payment of benefit.** An applicant shall provide medical evidence to support an application for total and permanent disability. The director shall have the employee examined by at least one additional licensed physician designated by the medical adviser. The physicians shall make written reports to the director concerning the employee's disability including medical opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17. The director shall also obtain written certification from the employer stating whether the employment has ceased or whether the employee is on sick leave of absence because of a disability that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer. The medical adviser shall consider the reports of the physicians and any other evidence supplied by the employee or other interested parties. If the medical adviser finds the employee totally and permanently disabled, the adviser shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled. The director shall then determine if the disability occurred within 180 days of filing the application, while still in the employment of the state, and the propriety of authorizing payment of a disability benefit as provided in this section. A terminated employee may apply for a disability benefit within 180 days of termination as long as the disability occurred while in the employment of the state. The fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit. Unless payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached normal retirement age as provided in this section, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving; in that event the surviving spouse is entitled to the disability benefit for the calendar month in which the disabled employee died.

*[For text of subd 6, see M.S.1992]*

**Subd. 7. Partial reemployment.** If the disabled employee resumes a gainful occupation from which earnings are less than the employee's salary at the date of disability or the salary currently paid for similar positions, the director shall continue the disability benefit in an amount which when added to earnings does not exceed the salary at the date of disability, provided the disability benefit in this case does not exceed the disability benefit originally allowed. Deductions for the retirement fund must not be taken from the salary of a disabled employee who is receiving a disability benefit as provided in this subdivision.

*[For text of subds 8 to 12, see M.S.1992]*

**History:** 1993 c 307 art 1 s 8-10

### **352.115 RETIREMENT ANNUITY.**

*[For text of subds 1 to 7, see M.S.1992]*

**Subd. 8. Accrual of annuity.** State employees shall apply for an annuity. The application must not be made more than 90 days before the time the employee is eligible

to retire by reason of both age and service requirements. If the director determines an applicant for annuity has fulfilled the legal requirements for an annuity, the director shall authorize the annuity payment in accordance with this chapter and payment must be made as authorized. An annuity shall begin to accrue no earlier than 180 days before the date the application is filed with the director, but not before the day following the termination of state service or before the day the employee is eligible to retire by reason of both age and service requirements. The retirement annuity shall cease with the last payment which had accrued during the lifetime of the retired employee unless an optional annuity provided in section 352.116, subdivision 3, had been selected and had become payable. The joint and last survivor annuity shall cease with the last payment received by the survivor during the lifetime of the survivor. If a retired employee had not selected an optional annuity, or a survivor annuity is not payable under the option, and a spouse survives, the spouse is entitled only to the annuity for the calendar month in which the retired employee died. If an optional annuity is payable after the death of the retired employee, the survivor is entitled to the annuity for the calendar month in which the retired employee died.

*[For text of subds 9 to 12, see M.S.1992]*

**History:** 1993 c 307 art 1 s 11

### **352.12 REFUND AFTER DEATH.**

**Subdivision 1. Death before termination of service.** If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest at the rate of six percent per annum compounded annually. Interest must be computed to the first day of the month in which the refund is processed and based on fiscal year balances. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of repayment. If the repayment was made in installments, interest must be paid only from the date installment payments began. The designated beneficiary, surviving spouse, or representative of the estate of an employee who had received a disability benefit is not entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death, unless death occurred before any payment could be negotiated.

**Subd. 2. Surviving spouse benefit.** (a) If an employee or former employee has credit for at least three years allowable service and dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest under subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death.

(b) If the employee was under age 55 and has credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the employee and surviving spouse on the date of death. The annuity is payable using the full early retirement reduction under section 352.116, subdivision 1, paragraph (a), to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

(c) If the employee was under age 55 and has credit for at least three years of allowable service credit on the date of death but did not yet qualify for retirement, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the employee and surviving spouse at the time of death. The annuity is payable using the full early retirement reduction under section 352.116, subdivision 1 or 1a,



to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

The surviving spouse eligible for surviving spouse benefits under paragraph (a) may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) may apply for the annuity at any time after the employee's death. The annuity must be computed under sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1, 1a, and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable under this subdivision. The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse, or upon expiration of a term certain benefit payment to a surviving spouse under subdivision 2a. An amount equal to the excess, if any, of the accumulated contributions credited to the account of the deceased employee in excess of the total of the benefits paid and payable to the surviving spouse must be paid to the deceased employee's last designated beneficiary or, if none, as specified under subdivision 1.

Any employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

**Subd. 2a. Surviving spouse coverage term certain.** In lieu of the 100 percent optional annuity under subdivision 2, or refund under subdivision 1, the surviving spouse of a deceased employee may elect to receive survivor coverage in a term certain of five, ten, 15, or 20 years, but monthly payments must not exceed 75 percent of the average high-five monthly salary of the deceased employee. The monthly term certain annuity must be actuarially equivalent to the 100 percent optional annuity under subdivision 2.

If a survivor elects a term certain annuity and dies before the expiration of the specified term certain period, the commuted value of the remaining annuity payments must be paid in a lump sum to the survivor's estate.

**Subd. 2b. Dependent child survivor coverage.** If there is no surviving spouse eligible for benefits under subdivision 2, a dependent child or children as defined in section 352.01, subdivision 26, is eligible for monthly payments. Payments to a dependent child must be paid from the date of the employee's death to the date the dependent child attains age 20 if the child is under age 15. If the child is 15 years or older on the date of death, payment must be made for five years. The payment to a dependent child is an amount actuarially equivalent to the value of a 100 percent optional annuity under subdivision 2 using the age of the employee and age of the dependent child at the date of death in lieu of the age of the surviving spouse. If there is more than one dependent child, each dependent child shall receive a proportionate share of the actuarial value of the employee's account.

**Subd. 3. Refund of \$3,000 or less.** If a state employee or former state employee dies without having designated a beneficiary, or if the beneficiary should die before applying for refund of the sum to the credit of the deceased employee or former employee, and there is no surviving spouse, and the amount of the refund does not exceed \$3,000 exclusive of interest, the director may refund the amount to the deceased or former employee's next of kin. The amount may be refunded 90 days after the date of death of the employee or former employee in the absence of probate proceedings, and upon proper application. The next of kin must be determined by the director with the concurrence of the board, to be entitled to the refund consistent with the laws of descent. A determination and payment without notice are conclusive and final and are a bar against claims of all other persons.

**Subd. 4. Refund to minor beneficiary.** If an employee or former employee dies having named as a beneficiary a person who is a minor at the time of the application for refund, and the amount of the refund does not exceed \$3,000, exclusive of interest, the director in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of the minor beneficiary, for the benefit of the

child. Any annuity, retirement allowance, or disability benefit accrued at the time of death of a disabled or retired employee, payable to a minor beneficiary, may similarly be paid. Payment is a bar to recovery by any other person or persons.

Subd. 5. [Repealed, 1993 c 307 art 7 s 1]

*[For text of subd 6, see M.S.1992]*

Subd. 7. **Absence of optional or reversionary annuity.** Upon the death of a retired employee who selected neither an optional annuity or a reversionary annuity, a refund must be paid in an amount equal to the excess, if any, of the accumulated contributions to the credit of the retired employee immediately before retirement in excess of the sum of (1) all annuities, retirement allowances, and disability benefits that had been received and had accrued in the lifetime of the decedent, and (2) the annuity, retirement allowance, or disability benefit if not negotiated, payable to the surviving spouse under section 352.115, subdivision 8, or 352.113, subdivision 4, for the calendar month in which the retired employee died. The refund must be paid to the named beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate.

*[For text of subds 8 and 9, see M.S.1992]*

Subd. 10. **Death of beneficiary before refund.** If the last designated beneficiary or beneficiaries and the surviving spouse of a (1) deceased employee, (2) former employee, or (3) retired employee, dies before receiving a refund of the sum to the credit of the deceased employee, former employee, or retired employee at the time of death, the refund must be made to the estate of the deceased employee or as provided in subdivision 3 if the amount of the refund does not exceed \$3,000 exclusive of interest.

*[For text of subds 11 and 12, see M.S.1992]*

Subd. 13. **Refund, beneficiary.** If upon death a former employee has in possession a commissioner of finance's warrant which does not exceed \$1,000 covering a refund of accumulated contributions in the retirement fund, in the absence of probate proceedings the commissioner of finance's warrant may be returned for cancellation, and then upon application made by the last designated beneficiary of the deceased former employee, refund of the accumulated contributions must be paid to the last designated beneficiary. Payments made under this subdivision are a bar to recovery by any other person or persons.

**History:** 1993 c 307 art 1 s 12-17; art 6 s 1; 1993 c 336 art 6 s 2-4

### 352.15 EXEMPTION FROM PROCESS AND TAXATION.

*[For text of subd 1, see M.S.1992]*

Subd. 1a. **Automatic deposits.** The executive director may pay an annuity, benefit, or refund to a banking institution, qualified under chapter 48, that is trustee for a person eligible to receive the annuity, benefit, or refund. Upon the request of a retired, disabled, or former employee, the executive director may mail the annuity, benefit, or refund check to a banking institution, savings association, or credit union for deposit to the employee's account or joint account. The board of directors may prescribe the conditions under which payments will be made.

*[For text of subd 2, see M.S.1992]*

Subd. 3. **Deducting health insurance premiums.** The board may direct, at its discretion, the deduction of a retiree's health insurance premiums and transfer of the amounts to a health insurance carrier covering state employees. The insurance carrier must certify that the retired employee has signed an authorization for the deduction and provide a computer readable roster of covered retirees and amounts. The health

insurance carrier must refund deductions withheld from a retiree's check in error directly to the retiree. The board shall require the insurance carrier to reimburse the fund for the administrative expense of withholding the premium amounts. The insurance carrier shall assume liability for any failure of the system to properly withhold the premium amounts.

**Subd. 4. Direct transfer of refunds.** Direct transfer of account refunds may be made to individual retirement savings accounts or qualified retirement plans upon application for transfer by a former employee, on forms acceptable to the executive director.

**History:** 1993 c 307 art 1 s 18; art 3 s 3,4

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

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

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

*[For text of subds 2a to 8, see M.S.1992]*

**Subd. 9.** [Repealed, 1993 c 307 art 7 s 1]

*[For text of subd 10, see M.S.1992]*

**History:** 1993 c 307 art 2 s 3,4

### **352.23 TERMINATION OF RIGHTS.**

When any employee accepts a refund as provided in section 352.22, all existing service credits and all rights and benefits to which the employee was entitled before accepting the refund terminate. They must not again be restored until the former employee acquires at least six months of allowable service credit after taking the last refund. In that event, the employee may repay all refunds previously taken from the retirement fund. Repayment of refunds entitles the employee only to credit for service covered by (1) salary deductions; (2) payments made in lieu of salary deductions; (3) payments made to obtain credit for service as permitted by laws in effect when payment was made; and (4) allowable service once credited while receiving temporary workers' compensation as provided in section 352.01, subdivision 11, clause (5). Payments under this section for repayment of refunds are to be paid with interest at an annual rate of 8.5 percent compounded annually. They may be paid in a lump sum or by payroll deduction in the manner provided in section 352.04. Payment may be made in a lump sum up to six months after termination from service.

**History:** 1993 c 307 art 2 s 5

**352.73** [Repealed, 1993 c 307 art 7 s 1]

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

*[For text of subds 1 to 3, see M.S.1992]*

**Subd. 4. Election of coverage.** To be covered by section 352.85, any employee of the department of military affairs, described in subdivision 1, must file a notice with

the executive director of the system on a form prescribed by the executive director stating whether or not the employee elects to be covered. Notice must be filed within 90 days of employment. Elections are irrevocable during any period of covered employment.

*[For text of subd 5, see M.S.1992]*

**History:** 1993 c 307 art 1 s 19

### 352.93 RETIREMENT ANNUITY.

*[For text of subds 1 and 2, see M.S.1992]*

Subd. 2a. **Early retirement.** Any covered correctional employee, or former employee if service ended after June 30, 1989, who becomes at least 50 years old and who has at least three years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

*[For text of subds 3 and 4, see M.S.1992]*

**History:** 1993 c 307 art 1 s 20

### 352.94 AUGMENTATION FOR EMPLOYEES WITH GENERAL AND CORRECTIONAL SERVICE.

An employee who becomes covered by the correctional plan after serving as a general plan covered employee, or becomes covered by the general plan after serving as a correctional plan covered employee, is covered under section 352.72, subdivision 2.

**History:** 1993 c 307 art 1 s 21

### 352.95 DISABILITY BENEFITS.

Subdivision 1. **Job-related disability.** A covered correctional employee who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that makes the employee physically or mentally unable to perform the duties, is entitled to a disability benefit based on covered correctional service only. The benefit amount must equal 50 percent of the average salary defined in section 352.93, plus an additional 2-1/2 percent for each year of covered correctional service in excess of 20 years, prorated for completed months.

*[For text of subd 1a, see M.S.1992]*

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

Subd. 3. **Applying for benefits; accrual.** No application for disability benefits shall be made until after the last day physically on the job. The disability benefit shall begin to accrue the day following the last day for which the employee is paid sick leave or annual leave but not earlier than 180 days before the date the application is filed.

*[For text of subd 4, see M.S.1992]*

Subd. 5. **Retirement status at normal retirement age.** The disability benefit paid to a disabled correctional employee under this section shall terminate at the end of the

month in which the employee reaches age 62. If the disabled correctional employee is still disabled when the employee reaches age 62, the employee shall be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, either elect to receive a normal retirement annuity computed in the manner provided in section 352.115 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made within 90 days before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The reduction for retirement before normal retirement age as provided in section 352.116, subdivision 1 or 1a, does not apply. The savings clause provision of section 352.93, subdivision 3, applies. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee reaches age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

*[For text of subds 6 and 7, see M.S.1992]*

**History:** 1993 c 307 art 1 s 22; art 2 s 6-8

### **352.951 APPLICABILITY OF GENERAL LAW.**

Except as otherwise provided, this chapter applies to covered correctional employees, military affairs personnel covered under section 352.85, and transportation department pilots covered under section 352.86.

**History:** 1993 c 307 art 1 s 23

### **352.96 DEFERRED COMPENSATION.**

*[For text of subds 1 to 2, see M.S.1992]*

**Subd. 3. Executive director to administer section.** This section must be administered by the executive director of the system with the advice and consent of the board of directors under subdivision 4. Fiduciary activities of the deferred compensation plan must be undertaken in a manner consistent with chapter 356A. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (2) and (3). The state board of investment may retain consulting services to assist it in soliciting and evaluating bids and in the periodic review of companies offering options under subdivision 2, clause (3). The periodic review must occur at least every two years. The state board of investment may annually establish a budget for its costs in the soliciting, evaluating, and periodic review processes. The state board of investment may charge a proportional share of all costs related to the periodic review to each company currently under contract and may charge a proportional share of all costs related to soliciting and evaluating bids to each company selected by the state board. All contracts must be approved before execution by the state board of investment. Contracts must provide that all options in subdivision 2 must: be presented in an unbiased manner and in a manner that conforms to rules adopted by the executive director, be reported on a periodic basis to all employees participating in the deferred compensation program, and not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of money invested by state employees under this section. All costs or fees in relation to the options provided under subdivision 2, clause (3), must be paid by the underwriting companies ultimately selected by the state board of investment.

**Subd. 4. Executive director to establish rules.** The executive director of the system with the advice and consent of the board of directors shall establish rules and procedures to carry out this section including allocation of administrative costs against the

assets accumulated under this section. Funds to pay these costs are appropriated from the fund or account in which the assets accumulated under this section are placed. The rules established by the executive director must conform to federal and state tax laws, regulations, and rulings, and are not subject to the administrative procedure act. Except for the marketing rules, rules relating to the options provided under subdivision 2, clauses (2) and (3), must be approved by the state board of investment. A state employee must not make payments under a plan until the plan or applicable component of the plan has been approved for tax-deferred status by the Internal Revenue Service.

*[For text of subds 5 and 6, see M.S.1992]*

**History:** 1993 c 192 s 87; 1993 c 300 s 11; 1993 c 307 art 2 s 9,10