

CHAPTER 352D

STATE UNCLASSIFIED EMPLOYEES RETIREMENT
PROGRAM

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352D.015 DEFINITIONS.

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

Subd. 4. "General fund" means the state employees retirement fund except the moneys for the unclassified program.

[For text of subds 5 to 9, see M.S.1992]

History: 1993 c 307 art 1 s 34

352D.02 COVERAGE.

Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (b), if they are in the unclassified service of the state and are eligible for coverage under the general state employees retirement plan under chapter 352, are participants in the unclassified program under this chapter unless the employee gives notice to the executive director of the Minnesota state retirement system within one year following the commencement of employment in the unclassified service that the employee desires coverage under the general state employees retirement plan. For the purposes of this chapter, an employee who does not file notice with the executive director is deemed to have exercised the option to participate in the unclassified plan.

(b) Enumerated employees are:

(1) an employee in the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, or an employee of the state board of investment;

(2) the head of a department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed to the position, or an employee enumerated in section 15A.081, subdivision 1 or 15A.083, subdivision 4;

(3) a permanent, full-time unclassified employee of the legislature or a commission or agency of the legislature or a temporary legislative employee having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota state retirement system;

(4) a person other than an employee of the state board of technical colleges who is employed in a position established under section 43A.08, subdivision 1, clause (3), or subdivision 1a, or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level;

(5) the chair, chief administrator, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan waste control commission as designated by the commission; the chair, executive director, and not to exceed three positions at the division director or assistant to the chair level of the regional transit board; a chief administrator who is an employee of the metropolitan transit commission; and the chair, executive director, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan council as designated by the council; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations may be made without approval of the board of directors of the Minnesota state retirement system;

(6) the executive director, associate executive director, and not to exceed nine positions of the higher education coordinating board in the unclassified service, as designated by the higher education coordinating board before January 1, 1992, or subsequently redesignated with the approval of the board of directors of the Minnesota state retirement system, unless the person has elected coverage by the individual retirement account plan under chapter 354B;

(7) the clerk of the appellate courts appointed under article VI, section 2, of the Constitution of the state of Minnesota;

(8) the chief executive officers of correctional facilities operated by the department of corrections and of hospitals and nursing homes operated by the department of human services;

(9) an employee whose principal employment is at the state ceremonial house;

(10) an employee of the Minnesota educational computing corporation;

(11) an employee of the world trade center board;

(12) an employee of the state lottery board who is covered by the managerial plan established under section 43A.18, subdivision 3;

(13) an employee of the state board of technical colleges employed in a position established under section 43A.08, subdivision 1, clause (3), or 1a, unless the person has elected coverage by the individual retirement account plan under chapter 354B; and

(14) an employee of the higher education board in a position established under section 136E.04, subdivision 2, unless the person has elected coverage by the individual retirement account plan under chapter 354B.

Subd. 1a. State higher education personnel. Unless the person has elected coverage by the retirement program governed by this chapter, the chancellor, university presidents, and unclassified managerial employees in the state university system, the higher education board, the higher education coordinating board, and the technical college system chancellor's office shall participate in the individual retirement account plan under chapter 354B, if they are eligible for coverage under the state employees retirement fund, or the teachers retirement association, or would have been eligible for coverage under those funds but for this subdivision, subject to the provisions of subdivision 5. These employees also shall have social security coverage under the agreement between the state and the secretary of health and human services. Acting, temporary, or interim employees who would otherwise be covered by this section shall retain coverage by the general state employees retirement plan of the Minnesota state retirement system, teachers retirement association, or other Minnesota public employee retirement plan governed by section 356.30, whichever applies, during the pendency of the acting, temporary, or interim appointment and shall be covered by the unclassified plan governed by this chapter or the individual retirement account plan provided in section 354B.02, subdivision 3a, only if their appointment becomes permanent.

[For text of subs 1c to 2, see M.S.1992]

Subd. 3. An election to not participate is irrevocable during any period of covered employment. An employee credited with employee shares in the unclassified program, after acquiring credit for ten years of allowable service but prior to termination of covered employment, may, notwithstanding other provisions of this subdivision, elect to terminate participation in the unclassified plan and be covered by the regular plan by filing such election with the executive director. The executive director shall thereupon redeem the employee's total shares and shall credit to the employee's account in the regular plan the amount of contributions that would have been so credited had the employee been covered by the regular plan during the employee's entire covered employment. The balance of money so redeemed and not credited to the employee's account shall be transferred to the state contribution reserve of the state employees retirement fund, except that (1) the employee contribution paid to the unclassified plan must be compared to (2) the employee contributions that would have been paid to the general plan for the comparable period, if the individual had been covered by that plan.

If clause (1) is greater than clause (2), the difference must be refunded to the employee as provided in section 352.22. If clause (2) is greater than clause (1), the difference must be paid by the employee within six months of electing general plan coverage or before the effective date of the annuity, whichever is sooner.

[For text of subds 4 and 5, see M.S.1992]

Subd. 6. The provisions of section 352.04, subdivision 8, apply to this section.

History: 1993 c 239 art 1 s 1,2; 1993 c 307 art 3 s 6,7

352D.04 INVESTMENT OPTIONS.

Subdivision 1. (a) An employee exercising an option to participate in the retirement program provided by this chapter may elect to purchase shares in one or a combination of 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 in section 11A.17. The employee may elect to participate in one or more of the investment accounts in the fund by specifying, on a form provided by the executive director, the percentage of the employee's contributions provided in subdivision 2 to be used to purchase shares in each of the accounts.

(b) A participant may indicate in writing on forms provided by the Minnesota state retirement system a choice of options for subsequent purchases of shares. Until a different written indication is made by the participant, the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares must be purchased for a participant. A change in choice of investment option is effective no later than the first pay date first occurring after 30 days following the receipt of the request for a change.

(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 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 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 withdrawal under section 352D.05 or for benefit payments under sections 352D.06 to 352D.075.

(d) A participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased in accounts other than the fixed interest account. Changes in investment options for the participant's shares must be effected as soon as cash flow to an account practically permits, but not later than six months after the requested change.

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

History: 1993 c 307 art 1 s 35

352D.05 WITHDRAWAL OPTIONS.

Subdivision 1. No withdrawal of shares shall be permitted prior to termination of covered employment.

Subd. 3. After termination of covered employment or at any time thereafter, a participant is entitled, upon application, to withdraw the cash value of the participant's total shares or leave such shares on deposit with the supplemental retirement fund. Shares not withdrawn remain on deposit with the supplemental retirement fund until the former participant becomes at least 55 years old, and applies for an annuity under section 352D.06, subdivision 1.

Subd. 4. A participant in the unclassified program may repay regular refunds taken

pursuant to section 352.22, as provided in section 352.23. A participant in the unclassified program or an employee covered by the general plan who has withdrawn the value of the total shares may repay the refund taken and thereupon restore the service credit, rights and benefits forfeited by paying into the fund the amount refunded plus interest at an annual rate of 8.5 percent compounded annually from the date that the refund was taken until the date that the refund is repaid. If the participant had withdrawn only the employee shares as permitted under prior laws, repayment shall be pro rata. Payment shall be made in a lump sum.

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

History: 1993 c 307 art 1 s 36,37; art 2 s 17

352D.09 ADMINISTRATION.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. If the beneficiary, surviving spouse or estate has not made application for benefits within ten years after the date of death of a participant the value of the shares shall be appropriated to the regular fund and provisions of section 352.12, subdivision 12 shall govern. If a former participant fails to make a claim for benefits within five years after termination of covered service or by age 70, whichever is later, the value of the shares shall be appropriated to the general employees retirement fund and the provisions of section 352.22, subdivision 8, shall apply.

Subd. 5a. If a former participant who contributed less than \$100 in employee contributions cannot be contacted by the system for five or more years, the value of the shares shall be appropriated to the general employees retirement fund, but upon subsequent contact by the former employee the account shall be reinstated to the amount that would have been payable had the money been left in the unclassified plan.

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

Subd. 8. **Administrative charge deductions.** Any administrative charges deducted under subdivision 7 that were in excess of the administrative expenses between July 1, 1973, and June 30, 1992, together with any investment gains or losses based on fiscal year balances, must be recovered from the state employees retirement plan and held in the unclassified plan to pay future administrative expenses. Any deductions to pay administrative expenses under section 11A.17, subdivision 10a, on contributions and investment returns attributable to contributions made before July 1, 1992, must be credited back to the participants in the unclassified plan.

History: 1993 c 307 art 1 s 38-40