

## CHAPTER 356

## RETIREMENT SYSTEMS, GENERALLY

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**356.215 ACTUARIAL VALUATIONS AND EXPERIENCE STUDIES.**

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

Subd. 4g. **Amortization contributions.** (a) In addition to the exhibit indicating the level normal cost, the actuarial valuation must contain an exhibit indicating the additional annual contribution sufficient to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354, 354A, and 490, the additional contribution must be calculated on a level percentage of covered payroll basis by the established date for full funding in effect when the valuation is prepared. The level percent additional contribution must be calculated assuming annual payroll growth of 6.5 percent. For all other funds, the additional annual contribution must be calculated on a level annual dollar amount basis.

(b) For any fund other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, if there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding for the first actuarial valuation made after June 1, 1989, and each successive actuarial valuation is the first actuarial valuation date occurring after June 1, 2020.

(c) For any fund or plan other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, if there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund must be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the unfunded actuarial accrued liability amount determined under item (i) by the established date for full funding in effect before the change must be calculated using the interest assumption specified in subdivision 4d in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund must be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the difference between the unfunded actuarial accrued liability amount calculated under item (i) and the unfunded actuarial accrued liability amount calculated under item (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective must be calculated using the applicable interest assumption specified in subdivision 4d in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution under item (iv) must be added to the level annual dollar amortization contribution or level percentage calculated under item (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in item (iii) is amortized by the total level annual dollar or level percentage amortization contribution computed under item (v) must be calculated using the interest assumption specified in subdivision 4d in effect after any applicable change, rounded to the nearest integral number of years, but not to exceed 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and not to be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined under item (vi) must be added to the date as of which the actuarial valuation was prepared and the date obtained is the new established date for full funding.

(d) For the Minneapolis employees retirement fund, the established date for full funding is June 30, 2020.

(e) For the public employees retirement association police and fire fund, an excess of valuation assets over actuarial accrued liability will be amortized in the same manner over the same period as an unfunded actuarial accrued liability but will serve to reduce the required contribution instead of increasing it.

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

Subd. 4j. **Administrative expenses.** The actuarial valuation must indicate the administrative expenses of the fund, expressed both in dollars and as a percentage of covered payroll. Administrative expenses are costs incurred by the retirement plans excluding investment expenses. Investment expenses include all expenses incurred for the retention of professional external investment managers and professional investment consultants, custodian bank fees, investment transaction costs, and the costs incurred by the retirement plans to manage investment portfolios or assets internally. Investment expenses must be deducted from investment return in the actuarial valuation, and not included in administrative expenses when calculating the allowance for expenses.

*[For text of subds 4k to 7, see M.S.1992]*

**History:** 1993 c 336 art 4 s 1; 1993 c 352 s 7

### **356.218 INVESTMENT PERFORMANCE REPORT.**

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

Subd. 2. **Covered public pension plans.** The provisions of this section apply to any Minnesota public pension plan, including a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.775, that has assets with a book value of at least \$500,000 as of the end of the preceding plan year. A volunteer firefighters' relief association governed by sections 69.771 to 69.775, that has assets with a book value of at least \$500,000 but less than or equal to \$2,000,000 as of the end of the preceding plan year, shall use the formula identified in subdivision 3, paragraph (b), clause (1), or the formula described in subdivision 3, paragraph (b), clause (2), as the relief associa-

tion elects. Other covered public pension plans shall utilize the formula identified in subdivision 3, paragraph (b), clause (1).

**Subd. 3. Contents of the investment performance report.** (a) The investment performance report required by this section must contain the time-weighted total rate of return results for each quarter and annually for each significant asset class or type of investment and for the portfolio as a whole.

(b) The time-weighted rate of return results must be computed using market values and the applicable procedure, as follows:

(1) by the formula or formulas prescribed by the state board of investment under section 11A.04, clause (11); or

(2) by dividing the total investment gain or loss for the quarter by average assets for the quarter, if:

(i) the total investment gain or loss for the quarter is computed by subtracting the beginning market value for the quarter and the net contributions for the quarter from the ending market value for the quarter;

(ii) the measure of average assets to be used is the beginning market value for the quarter plus one-half the net contributions for the quarter; and

(iii) the resulting quarterly returns for each significant asset class and for the portfolio as a whole must be used to create annual time-weighted returns according to the same procedures for developing annual time-weighted returns from quarterly returns, as used in the formula specified by the state board of investment under section 11A.04, clause (11).

(c) The person performing the calculations shall certify conformance to the applicable procedure.

(d) The investment performance report may also include any additional investment performance or investment related information that the chief administrative officer considers necessary to provide an adequate summary of the performance of the portfolio. The additional information must be clearly indicated as a supplement to the information required by this subdivision.

(e) The executive director of the legislative commission on pensions and retirement shall prescribe the forms on which the report must be submitted and may prescribe other directions for submitting the report.

**History:** 1993 c 244 art 2 s 2,3

### **356.24 SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.**

**Subdivision 1. Restriction; exceptions.** (a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits, to the individual retirement account plan established by sections 354B.01 to 354B.05;

(3) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;

(4) for employees other than personnel employed by the state university board or the community college board and covered by section 354B.07, subdivision 1, to:

(i) the state of Minnesota deferred compensation plan under section 352.96; or

(ii) payment of the applicable portion of the premium on a tax sheltered annuity contract qualified under section 403(b) of the federal Internal Revenue Code, purchased from a qualified insurance company; if provided for in a personnel policy or in

the collective bargaining agreement of the public employer with the exclusive representative of public employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee; or

(5) for personnel employed by the state university board or the community college board and covered by sections 352D.02, subdivision 1a, and 354B.07, subdivision 1, to the supplemental retirement plan under sections 354B.07 to 354B.09, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year for each employee.

(b) A qualified insurance company is a company that:

(1) meets the definition in section 60A.02, subdivision 4;

(2) is licensed to engage in life insurance or annuity business in the state;

(3) is determined by the commissioner of commerce to have a rating within the top two rating categories by a recognized national rating agency or organization that regularly rates insurance companies; and

(4) is determined by the state board of investment to be among the ten applicant insurance companies with competitive options and investment returns on annuity products. The state board of investment determination must be made on or before January 1, 1993, and must be reviewed periodically. The state board of investment may retain actuarial services to assist it in this determination and in its periodic review. The state board of investment may annually establish a budget for its costs in any determination and periodic review processes. The state board of investment may charge a proportional share of all costs related to the periodic review to those companies currently under contract and may charge a proportional share of all costs related to soliciting and evaluating bids in a determination process to each company selected by the state board of investment. All contracts must be approved before execution by the state board of investment. The state board of investment shall establish policies and procedures under section 11A.04, clause (2), to carry out this paragraph.

(c) A personnel policy for unrepresented employees or a collective bargaining agreement may establish limits on the number of vendors under paragraph (b), clause (4), that it will utilize and conditions under which the vendors may contact employees both during working hours and after working hours.

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

**History:** 1993 c 192 s 90; 1993 c 239 art 3 s 1; 1993 c 300 s 12

### **356.302 DISABILITY BENEFIT WITH COMBINED SERVICE.**

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

**Subd. 4. Public safety plan eligibility requirements.** A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

(1) has become occupationally disabled;

(2) has credit for allowable service in any combination of public safety employee retirement plans totaling at least one year if the disability is duty-related or totaling at least three years if the disability is not duty-related;

(3) has credit for at least six months of allowable service with the current public safety employee retirement plan before the commencement of the disability; and

(4) is not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.

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

**Subd. 6. Combined service disability benefit computation.** (a) The combined service disability benefit from each covered retirement plan must be based on the allowable service in each retirement plan, except as specified in paragraphs (b) to (f).

(b) The disability benefit must be governed by the law in effect for each covered retirement plan on the date of the commencement of the member's most recent qualifying disability as a member of a covered retirement plan.

(c) All plans must base the disability benefit on the same average salary to the extent practicable.

(d) If the method of the covered retirement plan used to compute a disability benefit varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a disability benefit does not vary based on the length of allowable service credit, the portion of the specified benefit amount from the plan must bear the same proportion to the total specified benefit amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the disability benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service disability benefit, with any period of duplicated service credit handled under section 356.30, subdivision 1, clause (3), items (i) and (j).

(g) If a person is entitled to a minimum benefit payable from one of the public pension plans named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

(h) A partially employed recipient of a disability benefit must have any current income plus disability payment from all plans listed in subdivision 7 added together, and then compared to their final salary rate as a public employee. If current income plus disability payments exceed the final salary, then disability benefit payments from all the plans will be reduced on a prorated basis relative to the years of service in each fund so that earnings plus benefit payments do not exceed their final salary rate.

*[For text of subd 7, see M.S.1992]*

**History:** 1993 c 307 art 2 s 18; art 4 s 51

### **356.453 PURCHASE OF PRIOR SERVICE.**

A person who is excluded from pension coverage under the provisions of Laws 1978, chapter 720, but who subsequently becomes employed in unsubsidized public employment with public pension plan or fund coverage, whether with the same public employer which provided the subsidized employment or another public employer, is entitled to purchase service credit for that period of prior subsidized public employment, other than a period of prior subsidized public employment for which a repayment of a refund under section 356.452 is made, with the public pension plan or fund which, except for the exclusion provided for by Laws 1978, chapter 720, would have provided pension coverage for the subsidized employment. Payment must include all employee and employer contributions at the rates and on the salary in effect when the subsidized employment was rendered plus interest at the rate of 8.5 percent per annum

compounded annually from the year purchased to the date payment is made; provided, however, that the employer for the unsubsidized employment, the employer for the subsidized employment, or the applicable federal Comprehensive Employment and Training Act prime sponsor from funds provided under the federal Comprehensive Employment and Training Act, as funds permit, may pay the employer contribution and the employer additional contribution, if any, plus interest at the specified rate. The public employer which provided the subsidized employment shall provide whatever documentation of periods of subsidized public employment and the salary received that the pension plan or fund shall require. Payment must be made in one lump sum by the date of retirement and no service credit with respect to the payment may be granted until payment is received by the pension plan or fund.

**History:** 1993 c 307 art 4 s 52

**NOTE:** The amendment to this section by Laws 1993, chapter 307, article 4, section 52, is effective May 1, 1994. See Laws 1993, chapter 307, article 4, section 55.

### 356.61 LIMITATION ON PUBLIC EMPLOYEE RETIREMENT ANNUITIES.

Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements or retirement plan contracts to the contrary, no person who has pension or retirement coverage by a public pension plan is entitled to receive a monthly retirement annuity or disability benefit which, at the time of commencement of the retirement annuity or disability benefit, exceeds 1/12 of the amount of the annual benefit permitted by the terms of section 415 of the Internal Revenue Code with respect to a participant in a plan qualified under section 401(a) of the Internal Revenue Code, as amended through December 31, 1982.

The benefit limitation is to be determined on the date the benefit is initially payable or on the date the employee terminated employment, if earlier. The benefit limitation on any date is the benefit limitation for the limitation year in which the date occurs. The limitations apply only to the annual benefit which is derived from employer contributions. Mandatory and voluntary employee contributions, if any, are treated as a separate defined contribution plan maintained by the employer which is subject to the limitations placed on annual additions to defined contribution plans.

The maximum annual benefit for any limitation year is the lesser of (1) or (2) below:

(1) A dollar limitation of \$90,000, adjusted as of January 1 of each calendar year to the dollar limitation as determined for that year by the commissioner of Internal Revenue. The amount determined for any year will apply to limitation years ending with or within that calendar year.

(2) A compensation limitation of 100 percent of the average of compensation paid or made available to the participant by the employer during those three consecutive calendar years of employment, or actual number of consecutive calendar years of employment if employed less than three consecutive years, which give the highest average. Compensation means any compensation which is includable in the employee's gross income.

A benefit is deemed not to exceed the maximum benefit limitation if:

(1) the retirement benefits payable under the plan and under any other defined benefit plans of the employer do not exceed the \$10,000 limit set in section 415(b)(4) of the Internal Revenue Code for the plan year, or for any prior plan year, and

(2) the employer has not at any time maintained a defined contribution plan in which the employee participated.

A public pension plan is any Minnesota public pension plan or fund which provides pension or retirement coverage for public employees other than volunteer firefighters, including any plan or fund enumerated in sections 356.20, subdivision 2, or 356.30, subdivision 3, any local police or firefighter's relief association to which section 69.77 applies, or any retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained or supported by any governmental

subdivision or public body whose revenues are derived from taxation, fees, assessments or from other public sources.

The figure for the monthly retirement annuity or disability benefit to be used for the calculation of this limitation must not include any reduction or adjustment required for retirement prior to the normal retirement age or required for the election of an optional annuity.

If the figure for the monthly retirement annuity or disability benefit exceeds the limit contained in this section, the annuity or benefit payable must be reduced appropriately.

The managing board of each public pension plan from which a retirement annuity or disability benefit is payable shall, at the time that the retirement annuity or disability benefit commences, contact all other public pension plans to determine whether or not the recipient of the retirement annuity or disability benefit is also receiving or is entitled to receive a retirement annuity or disability benefit from any other public pension plan. If a person is entitled to receive or is receiving a retirement annuity or disability benefit from more than one public pension plan, all retirement annuities or disability benefits from all public pension plans must be totaled in determining whether or not the limitation applies. A reduction in the amount of the retirement annuity or disability benefit required under this section is made by the public pension plan which provided retirement coverage for the most recent period of service.

**History:** 1993 c 307 art 4 s 53

**356.85** [Repealed, 1993 c 280 s 1]