

CHAPTER 353

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

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353.01 DEFINITIONS.

[For text of subds 1 to 2a, see M.S.1996]

Subd. 2b. Excluded employees. The following public employees shall not participate as members of the association with retirement coverage by the public employees retirement plan or the public employees police and fire retirement plan:

- (1) elected public officers, or persons appointed to fill a vacancy in an elective office, who do not elect to participate in the association by filing an application for membership;
- (2) election officers;
- (3) patient and inmate personnel who perform services in charitable, penal, or correctional institutions of a governmental subdivision;
- (4) employees who are hired for a temporary position under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision, but not those employees who are hired for an unlimited period but are serving a probationary period. If the period of employment extends beyond six consecutive months and the employee earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee under section 353.27, subdivision 4.

Membership eligibility of an employee who resigns or is dismissed from a temporary position and within 30 days accepts another temporary position in the same governmental subdivision is determined on the total length of employment rather than on each separate position. Membership eligibility of an employee who holds concurrent temporary and non-temporary positions in one governmental subdivision is determined by the length of employment and salary of each separate position;

(5) employees whose actual salary from one governmental subdivision does not exceed \$425 per month, or whose annual salary from one governmental subdivision does not exceed a stipulation prepared in advance, in writing, that the salary must not exceed \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration;

(6) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

(7) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees retirement association, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public em-

employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

(8) persons 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 through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(9) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are part-time employees as defined by a governmental subdivision;

(10) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals;

(11) students who are serving in an internship or residency program sponsored by an accredited educational institution;

(12) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(13) foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens are eligible for membership from the date of the extension;

(14) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

(15) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(16) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter; and

(17) pipefitters and associated trades personnel employed by independent school district No. 625, St. Paul, with coverage by the pipefitters local 455 pension plan under a collective bargaining agreement who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12.

[For text of subs 3 to 36, see M.S.1996]

Subd. 37. Normal retirement age. "Normal retirement age" means age 65 for a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989. For a person who first becomes a public employee after June 30, 1989, "normal retirement age" means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended, but not to exceed age 66.

History: 1997 c 233 art 1 s 37; 1997 c 241 art 2 s 1

353.03 BOARD OF TRUSTEES.

Subdivision 1. Management; composition; election. The management of the public employees retirement fund is vested in an 11-member board of trustees consisting of ten members and the state auditor who may designate a deputy auditor with expertise in pension matters as the auditor's representative on the board. The governor shall appoint five trustees to four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who is a retired annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association, including recipients of retirement annuities and disability and survivor benefits, shall elect five trustees, one of whom must be a member of the police and fire fund and one of whom must be a former member who met the definition of public employee under section 353.01, subdivisions 2 and 2a, for at least five years prior to terminating membership or a member who receives a disability benefit, for terms of four years. Except as provided in this subdivision, trustees elected by the membership of the association must be public employees and members of the association. For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement. A candidate who:

(1) receives contributions or makes expenditures in excess of \$100; or

(2) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100 for the purpose of bringing about the candidate's election, shall file a report with the campaign finance and public disclosure board disclosing the source and amount of all contributions to the candidate's campaign. The campaign finance and public disclosure board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate shall file a report within 30 days from the day that the results of the election are announced. The campaign finance and public disclosure board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position is void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund is January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes must be so designed and the ballots counted in a manner that ensures that each vote is secret.

The secretary of state shall supervise the elections. The board of trustees and the executive director shall undertake their activities consistent with chapter 356A.

[For text of subds 1a to 3, see M.S.1996]

Subd. 3a. Executive director. (a) Appointment. The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.0815.

(b) Duties. The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall

act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate, with the approval of the board, up to two persons who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;
- (6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16B. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. 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. Copies of professional management survey reports shall 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 same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;
- (7) with the approval of the board provide in-service training for the employees of the association;
- (8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;
- (9) determine the amount of the annuities and disability benefits of members covered by the association 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;
- (10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;
- (11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;
- (12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner;
- (13) reduce all or part of the accrued interest payable under section 353.27, subdivisions 12, 12a, and 12b, or 353.28, subdivision 5, upon receipt of proof by the association of an unreasonable processing delay or other extenuating circumstances of the employing unit. The executive director shall prescribe and submit for approval by the board the conditions under which such interest may be reduced; and
- (14) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

[For text of subds 4 and 5, see M.S.1996]

History: 1997 c 202 art 2 s 63; 2Sp1997 c 3 s 18

353.15 NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS.

Subdivision 1. Exemption; exceptions. No money, annuity, or benefit provided for in this chapter is assignable or subject to any state estate tax, or to execution, levy, attachment, garnishment, or legal process, except as provided in subdivision 2 or section 518.58, 518.581, or 518.6111.

[For text of subds 2 and 3, see M.S.1996]

History: 1997 c 203 art 6 s 92

353.27 PUBLIC EMPLOYEES RETIREMENT FUND.

[For text of subd 1, see M.S.1996]

Subd. 2. Employee contribution. The employee contribution shall be an amount (a) for a "basic member" equal to 8.75 percent of total salary; and (b) for a "coordinated member" equal to 4.75 percent of total salary. These contributions must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution must be based on the total salary received from all sources.

[For text of subd 3, see M.S.1996]

Subd. 3a. Additional employer contribution. (a) An additional employer contribution must be made equal to (1) 2.68 percent of the total salary of each "basic member"; and (2) .43 percent of the total salary of each "coordinated member." These contributions must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

(b) This subdivision is repealed once the actuarial value of the assets of the plan equal or exceed the actuarial accrued liability of the plan as determined by the actuary retained by the legislative commission on pensions and retirement under section 356.215. The repeal is effective on the first day of the first full pay period occurring after March 31 of the calendar year following the issuance of the actuarial valuation upon which the repeal is based.

[For text of subds 4 to 13, see M.S.1996]

History: 1997 c 233 art 1 s 38,39

353.29 RETIREMENT ANNUITY UPON TERMINATION OF MEMBERSHIP.

[For text of subds 1 and 2, see M.S.1996]

Subd. 3. Retirement annuity formula. (a) This paragraph, in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c, applies to any member who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (b), in conjunction with section 353.30, subdivision 5, produces a higher annuity amount, in which case paragraph (b) will apply. The average salary as defined in subdivision 2, multiplied by the percent specified in section 356.19, subdivision 3, for each year of allowable service for the first ten years and thereafter by the percent specified in section 356.19, subdivision 4, per year of allowable service and completed months less than a full year for the "basic member," and the percent specified in section 356.19, subdivision 1, for each year of allowable service for the first ten years and thereafter by the percent specified in section 356.19, subdivision 2, per year of allowable service and completed months less than a full year for the "coordinated member," shall determine the amount of the "normal" retirement annuity.

(b) This paragraph applies to a member who has become at least 55 years old and first became a public employee after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with section 353.30, subdivision 5, is higher than it is when calculated under paragraph (a), in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c. The average salary, as defined in subdivision 2, multiplied by the percent specified in section 356.19, subdivision 4, for each year of allowable service and completed months less than a full year for a basic member and the percent specified in section 356.19, subdivision 2, per year of allowable service and completed months less than a full year for a coordinated member, shall determine the amount of the normal retirement annuity.

[For text of subs 4 to 8, see M.S.1996]

History: 1997 c 233 art 1 s 40

353.64 MEMBERSHIP; QUALIFICATIONS; POLICE OFFICER, FIREFIGHTER.

[For text of subd 1, see M.S.1996]

Subd. 2. Before a governing body may declare a position to be that of a police officer, the duties of the person so employed must, as a minimum, include employment as an officer of a designated police department or sheriff's office or person in charge of a designated police department or sheriff's office whose primary job it is to enforce the law, who is licensed by the Minnesota board of peace officer standards and training under sections 626.84 to 626.863, who is engaged in the hazards of protecting the safety and property of others, and who has the power to arrest by warrant. A police officer who is periodically assigned to employment duties not within the scope of this subdivision may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a police officer, is adopted by the governing body of the department, and is promptly submitted to the executive director.

[For text of subs 3 to 9, see M.S.1996]

Subd. 10. **Pension coverage for Hennepin county paramedics and emergency medical technicians.** An employee of Hennepin county who is:

(1) certified as a paramedic or emergency medical technician by the state under section 144E.16, subdivision 4;

(2) employed full time as a paramedic or emergency medical technician by Hennepin county on or after the effective date specified in Laws 1994, chapter 499, section 2; and

(3) not eligible after the effective date under Laws 1994, chapter 499, section 2, for coverage under the agreement signed between the state and the secretary of the federal Department of Health and Human Services making the provisions of the federal Old Age, Survivors, and Disability Insurance Act applicable to paramedics and emergency medical technicians because the person's position is excluded after that date from application under United States Code, title 42, sections 418(d)(5)(A) and 418(d)(8)(D), and section 355.07;

is a member of the public employees police and fire fund under sections 353.63 to 353.68.

Hennepin county shall deduct the employee contribution from the salary of each full-time Hennepin county paramedic and emergency medical technician as required by section 353.65, subdivision 2, shall make the employer contribution for each full-time Hennepin county paramedic and emergency medical technician as required by section 353.65, subdivision 3, and shall meet the employer recording and reporting requirements in section 353.65, subdivision 4.

History: 1997 c 7 art 1 s 129; 1997 c 199 s 14

353.651 RETIREMENT ANNUITY UPON SEPARATION FROM PUBLIC SERVICE.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. Retirement annuity formula. The average salary as defined in subdivision 2, multiplied by the percent specified in section 356.19, subdivision 6, per year of allowable service determines the amount of the normal retirement annuity. If the member has earned allowable service for performing services other than those of a police officer or firefighter, the annuity representing such service is computed under sections 353.29 and 353.30.

[For text of subd 4, see M.S.1996]

History: 1997 c 233 art 1 s 41

353.656 DISABILITY BENEFITS.

Subdivision 1. In line of duty; computation of benefits. A member of the police and fire fund who becomes disabled and physically unfit to perform duties as a police officer or firefighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which has or is expected to render the member physically or mentally unable to perform duties as a police officer or firefighter for a period of at least one year, shall receive disability benefits during the period of such disability. The benefits must be in an amount equal to 60 percent of the "average salary" under subdivision 3, plus an additional percent specified in section 356.19, subdivision 6, of said average salary for each year of service in excess of 20 years. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit must be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

[For text of subs 1a to 6a, see M.S.1996]

History: 1997 c 233 art 1 s 42

353.71 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM; DEFERRED ANNUITY; AUGMENTATION.

[For text of subd 1, see M.S.1996]

Subd. 2. Deferred annuity computation; augmentation. (a) The deferred annuity, if any, accruing under subdivision 1, or sections 353.34, subdivision 3, and 353.68, subdivision 4, must be computed in the manner provided in said sections, on the basis of allowable service prior to termination of public service and augmented as provided herein. The required reserves applicable to a deferred annuity, or to an annuity for which a former member was eligible but had not applied, or to any deferred segment of an annuity shall be determined as of the date the annuity begins to accrue and shall be augmented from the first day of the month following the month in which the former member ceased to be a public employee, or July 1, 1971, 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 at the rate of three percent thereafter until January 1 of the year following the year in which the former member attains age 55. From that date to the effective date of retirement, the rate is five percent per annum compounded annually. If a person has more than one period of uninterrupted service, the required reserves related to each period shall be augmented by interest pursuant to this subdivision. The sum of the augmented required reserves so determined shall be the present value of the annuity. Uninterrupted service for the purpose of this subdivision shall mean periods of covered employment during which the employee has not been separated from public service for more than two years. If a person repays a refund, the service restored thereby shall be considered as continuous with the next period of service for which the employee has credit with this association. The formula percentages used for each period of uninterrupted service shall be those as would be applicable to a new employee. This section shall not reduce the annuity otherwise payable under this chapter. This subdivision shall apply to deferred annuitants of record on July 1, 1971, and to employees who thereafter become deferred annuitants; it shall also apply from July 1, 1971, to former members who make application for an annuity after July 1, 1973.

(b) The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former member who terminated service before July 1, 1997, which is not first

payable until after June 30, 1997, must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 4d, from five percent to six percent under a calculation procedure and tables adopted by the board and approved by the actuary retained by the legislative commission on pensions and retirement.

[For text of subds 4 and 5, see M.S.1996]

History: 1997 c 233 art 1 s 43