

CHAPTER 355

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## STATE AND LOCAL GOVERNMENT EMPLOYEES

**355.01** MS 1957 [Renumbered 3.29 subdivision 1]

**355.01 DEFINITIONS.**

Subdivision 1. For the purposes of this chapter, as amended, the terms defined in this section have the meanings ascribed to them herein.

Subd. 2. The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Subd. 3. The term "employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except (1) service which in the absence of an agreement entered into under this chapter, as amended, would constitute "employment" as defined in the Social Security act; or (2) service which under the Social Security Act may not be included in an agreement between the state and the Secretary of Health, Education, and Welfare entered into under this chapter, as amended. Service which under the Social Security Act may be included in an agreement only upon certification by the governor in accordance with section 218(d) (3) of that act shall be included in the term "employment" if and when the governor issues, with respect to such service, a certificate to the Secretary of Health, Education, and Welfare.

Subd. 4. The term "employee" includes an officer of a state or political subdivision thereof.

Subd. 5. The term "state agency" means the commissioner of employee relations.

Subd. 6. The term "Secretary of Health, Education, and Welfare" includes any individual to whom the Secretary of Health, Education, and Welfare has delegated any functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions.

Subd. 7. [Repealed, 1967 c 687 s 24]

Subd. 8. The term "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, Statutes at Large, volume 49, page 620, officially cited as the "Social Security Act," as such act has been and may from time to time be amended (including regulations and requirements issued pursuant thereto).

Subd. 9. The term "Federal Insurance Contributions Act" means subchapters A and B of chapter 21 of the Internal Revenue Code of 1986, as amended through December 31, 1992; and the term "employee tax" means the tax imposed by section 3101 of such Code of 1986.

Subd. 10. "Political subdivision" means any political subdivision as defined in section 218(b) of the Social Security Act, and includes any instrumentality of the state, any instrumentality of one or more of its political subdivisions including the League of Minnesota Municipalities, any instrumentality of the state and one or more of its political subdivisions, and an instrumentality established under an agreement pursuant to section 471.59 wherein the instrumentality is responsible for the employment and payment of the salaries of employees of the instrumentality.

**History:** 1955 c 665 s 2; 1959 c 558 s 1,2; 1967 c 687 s 8; 1973 c 507 s 41,45; 1980 c 617 s 47; 1993 c 375 art 8 s 14

**355.02** MS 1957 [Renumbered 3.29 subd 2]

**355.02 AGREEMENTS.**

Subdivision 1. The state agency, with the approval of the governor, is hereby authorized to enter into an agreement on behalf of the state with the Secretary of Health, Education, and Welfare, consistent with the terms and provisions of this chapter, as amended, for the purpose of extending the benefits of the federal old age and survivors insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute "employ-

ment," whenever so specifically authorized by the statutory provisions of this state pertaining to any coverage group of such employees to which the agreement may become applicable under the Social Security Act. Pursuant to such specific authorization the agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and the Secretary of Health, Education, and Welfare shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that

(1) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of title II of the Social Security Act;

(2) The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, equal to the sum of taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

(3) Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services, is entered into except that an agreement or modification entered into prior to January 1, 1960, may be effective with respect to services performed after December 31, 1955, or after a later date specified in such agreement or modification;

(4) All services which constitute employment and are performed in the employ of the state or any of its political subdivisions by employees thereof, may be covered by such agreement whenever so specifically authorized by the statutory provisions of this state pertaining to any coverage group of such employees to which the agreement may become applicable under the Social Security Act.

Subd. 2. Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (1) to enter into an agreement with the Secretary of Health, Education, and Welfare whereby the benefits of the federal old age and survivors insurance system shall be extended to employees of such instrumentality, (2) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under section 355.03, subdivision 1, if they were covered by an agreement made pursuant to subdivision 1, and (3) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreements shall, to the extent practicable, be consistent with the terms and provisions of subdivision 1 and other provisions of this chapter, as amended.

*History:* 1955 c 665 s 3; 1959 c 558 s 3,4

**355.03** MS 1957 [Renumbered 3.29 subd 3]

### **355.03 EMPLOYEES, CONTRIBUTIONS.**

Subdivision 1. Every employee of the state, or any of its political subdivisions, whose services are covered by the agreement entered into under section 355.02 shall be required to pay for the period of such coverage, into the contribution fund established by section 355.04, contributions, with respect to wages, equal to the amount of the employee's tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the employee's retention in the service of the state, or any of

its political subdivisions, or the employee's entry upon such service, after the enactment of this chapter, as amended.

Subd. 2. The contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.

Subd. 3. If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

**History:** 1955 c 665 s 4; 1959 c 558 s 5; 1986 c 444

**355.04** MS 1957 [Renumbered 3.29 subd 4]

**355.04** MS 1992 [Repealed, 1994 c 632 art 3 s 65]

**355.05** MS 1957 [Renumbered 3.29 subd 5]

### **355.05 RULES.**

The state agency shall make and publish such rules, not inconsistent with the provisions of this chapter, as amended, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this chapter, as amended.

**History:** 1955 c 665 s 6; 1959 c 558 s 9; 1985 c 248 s 70

**355.06** MS 1957 [Renumbered 3.29 subd 6]

**355.06** MS 1992 [Repealed, 1994 c 632 art 3 s 65]

**355.07** MS 1957 [Renumbered 3.29 subd 7]

### **355.07 DECLARATION OF POLICY.**

In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old age and survivors insurance system embodied in the Social Security Act, it is hereby declared to be the policy of the legislature, subject to the limitations of this chapter that these steps are taken to provide protection to employees of the state and its political subdivisions on as broad a basis as may be authorized by the legislature and is permitted under the Social Security Act. It is also the policy of the legislature that the protection afforded employees in positions covered by a retirement system on the date an agreement under this chapter is made applicable to service performed in those positions, or receiving periodic benefits under the retirement system at that time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof when combined with the benefits accorded the employee by the Social Security Act. To this end the agreement referred to in section 355.02 shall not be made applicable to any service performed in any position covered by a retirement system unless a referendum is first held by secret ballot in which a majority of "eligible employees," as defined in section 218(d) (3) of the Social Security Act vote in favor thereof, or unless a retirement system is divided in two divisions or parts, one of which is composed of positions of members of the system who desire coverage and one of which is composed of positions of members of the system who do not desire coverage under section 218(d) (3) of the Social Security Act, in accordance with subsections (6) and (7) thereof. Nothing in any provision of this chapter shall authorize the extension of the insurance system established by this chapter, as amended, to service in any police officer's or firefighter's position or in any position covered by a retirement system applicable exclusively to positions in one or more law enforcement or fire fighting units, agencies or departments.

**History:** 1955 c 665 s 1; 1959 c 558 s 11; 1977 c 429 s 63; 1981 c 224 s 142

**355.08** MS 1957 [Renumbered 3.29 subd 8]

**355.08 APPLICATION OF SOCIAL SECURITY ACT.**

The provisions of the Social Security Act, and all acts amendatory thereof, shall govern relative to employees of the state and political subdivisions subject to Minnesota Statutes, chapter 355, as amended, anything in said chapter to the contrary notwithstanding.

**History:** 1959 c 558 s 12

**355.09** [Renumbered 3.29 subd 9]

**355.10** [Renumbered 3.29 subd 10]

**MUNICIPAL HOUSING AND REDEVELOPMENT AUTHORITY EMPLOYEES**

**355.11** MS 1957 [Renumbered 3.29 subd 11]

**355.11 DEFINITIONS.**

Subdivision 1. For the purposes of sections 355.11 to 355.16 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. "Enabling Act" means sections 355.01 to 355.07.

Subd. 3. The terms "Social Security Act," "state agency," "wages," "contribution fund," and "Federal Insurance Contributions Act" mean as defined in said "Enabling Act."

Subd. 4. "Employee" means any employee, other than elected officials, of municipal housing and redevelopment authorities or of any soil and water conservation district organized pursuant to chapter 103C, or any port authority organized pursuant to chapter 458, or any hospital district organized or reorganized pursuant to sections 447.31 to 447.37.

Subd. 5. "Employing unit" means any municipal housing and redevelopment authorities organized pursuant to sections 469.001 to 469.047 and any soil and water conservation district organized pursuant to chapter 103C, or any port authority organized pursuant to sections 469.048 to 469.068, or any economic development authority organized pursuant to sections 469.090 to 469.108, or any hospital district organized or reorganized pursuant to sections 447.31 to 447.37.

**History:** 1955 c 684 s 1; 1959 c 633 s 1,2; 1969 c 637 s 1; 1976 c 2 s 126; 1981 c 224 s 143-145; 1982 c 424 s 65; 1986 c 399 art 2 s 10; 1986 c 400 s 10; 1Sp1986 c 3 art 2 s 41; 1987 c 291 s 216; 1990 c 391 art 8 s 36,37

**355.12 AGREEMENTS.**

The state agency is hereby authorized to enter into an agreement with the Secretary of Health, Education, and Welfare, or to modify any such agreement previously made to obtain the benefits of the federal old age survivors insurance system in respect to services performed by employees of any employing unit.

**History:** 1955 c 684 s 2; 1959 c 633 s 3; 1979 c 332 art 1 s 82

**355.13 EMPLOYEES, CONTRIBUTIONS.**

Subdivision 1. Effective retroactively with respect to services performed after December 31, 1954, by its employees who are such on the date of the agreement or modification, each and every employing unit shall pay into the contribution fund contributions with respect to wages equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act.

Subd. 2. Effective retroactively with respect to services performed after December 31, 1954, by persons who are its employees on the date of the agreement or

modification, each and every employing unit is authorized, in consideration of the employee's retention in, or entry upon, employment after April 22, 1955, to impose upon each employee a contribution with respect to the employee's wages not exceeding the amount of the employee tax which would be imposed by the Federal Insurance Contributions Act if the employment services constituted employment within the meaning of that act, and to deduct the amount of the contribution from the employee's wages as and when paid. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of each and every employing unit in respect thereto. Failure to deduct the contribution shall not relieve the employee or the employing unit of liability therefor.

Subd. 3. Delinquent payments due under this section, with interest at the rate of six percent per annum, may be recovered by action in a court of competent jurisdiction against each and every employing unit liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such employing unit by any department or agency of the state.

*History: 1955 c 684 s 3; 1959 c 633 s 4; 1981 c 224 s 146*

### **355.14 REIMBURSEMENTS BY EMPLOYING UNITS.**

Each and every employing unit shall reimburse the state agency for its pro rata share of the cost of the administration of said agency in accordance with the rules of the state agency pertaining thereto. Such reimbursements shall be paid into the state agency revolving fund.

*History: 1955 c 684 s 4; 1959 c 633 s 5; 1985 c 248 s 70*

### **355.15 REPORTS.**

Each and every employing unit shall make such reports in such form and containing such information as the state agency may from time to time require, and comply with such provisions as the state agency or the Secretary of Health, Education and Welfare may from time to time find necessary to assure the correctness and verification of such reports.

*History: 1955 c 684 s 5; 1959 c 633 s 6*

### **355.16 COSTS DEFRAYED FROM PROCEEDS OF SPECIAL BENEFIT TAXES.**

The proceeds of the special benefit taxes authorized to be levied for redevelopment purposes under section 469.033, subdivision 6, may be used to defray all or part of the costs incurred by any housing and redevelopment authority under the provisions of sections 355.11 to 355.16.

*History: 1955 c 684 s 6; 1987 c 291 s 217*

### **355.17 MODIFICATION OF AGREEMENT, RETROACTIVE EFFECT.**

Employing units may individually determine whether they desire inclusion in the state social security agreement, and each employing unit desiring such inclusion shall so indicate by submitting a formal resolution to the state agency, including therein the desired starting date for social security coverage. The state agency may modify the agreement between the state and the Secretary of Health, Education and Welfare with respect to employees of any such employing unit, separately, so as to provide social security coverage therefor retroactive to any date subsequent to December 31, 1955.

*History: 1959 c 633 s 7; 1974 c 184 s 13; 1979 c 332 art 1 s 83*

## **CERTAIN TEACHERS EMPLOYED IN CITIES OF THE FIRST CLASS**

### **355.201 DEFINITIONS.**

Subdivision 1. For the purposes of sections 355.201 to 355.209, the terms defined in this section shall have the meaning ascribed to them.

Subd. 2. "Enabling Act" means sections 355.01 to 355.07.

Subd. 3. The terms "Social Security Act," "state agency," "employment," "wages," "contribution fund," "Federal Insurance Contributions Act," and "political subdivision" mean as defined in the Enabling Act.

Subd. 4. "Teacher" means all employees of political subdivisions who hold positions covered by the St. Paul teachers retirement fund association established under the provisions of chapter 354A.

**History:** 1977 c 429 s 38

### **355.202 REFERENDUM.**

Pursuant to the provisions of the Enabling Act, the governor shall designate an agency or an individual to supervise a referendum to be held after May 1, 1978, in accordance with the provisions of section 218 (d) (6) (C) of the Social Security Act, for teachers.

**History:** 1977 c 429 s 39

### **355.203 NOTICE OF REFERENDUM.**

The notice of referendum required by section 218 (d) of the Social Security Act which is to be given to the teachers shall contain a statement in such form as the agency or individual designated to supervise the referendum shall deem necessary and sufficient to inform the teachers of the rights which accrue to them under the Social Security Act. The statement shall also inform the teachers of the effect that coverage under the Social Security Act will have on their public retirement program.

**History:** 1977 c 429 s 40

### **355.204 DIVISION OF THE ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATION.**

In accordance with section 218 (d) (6) (C) of the Social Security Act, the state agency shall divide into two divisions or parts the St. Paul teachers retirement fund association established under the provisions of chapter 354A. One division or part of the retirement fund association shall be composed of positions of teachers who desire coverage under an agreement under section 218 (d) of the Social Security Act. The other division or part of the retirement fund association shall be composed of positions of teachers who do not desire coverage under such an agreement. Each division or part shall be deemed to be a separate retirement system for the purposes of section 218 (d) of the Social Security Act. There shall be included in the division or part composed of members desiring such coverage the positions of teachers who become members of the St. Paul teachers retirement fund association after such coverage is extended; provided, a teacher whose service in a position covered by the retirement fund association commences after the date on which such social security coverage is extended shall be deemed to become a member of the retirement fund association upon the commencement of such service for purposes of this section, notwithstanding the date of any employment contract.

**History:** 1977 c 429 s 41

### **355.205 TRANSFER OF MEMBERS.**

In accordance with section 218 (d) (6) (F) of the Social Security Act, and when the St. Paul teachers retirement fund association is divided into two divisions or parts, the position of any member of the division or part composed of positions of teachers who do not desire coverage under an agreement under section 218 (d) of the Social Security Act may be transferred to the separate retirement system composed of teachers who desire such coverage; and a modification of agreement between the state and the Secretary of Health, Education, and Welfare may so provide, but only if prior to such modification the individual occupying such position files with the state agency a written request for such transfer.

**History:** 1977 c 429 s 42

**355.206 CERTIFICATION BY GOVERNOR.**

The governor on receiving satisfactory evidence that the conditions specified in section 218 (d) (7) of the Social Security Act have been met with respect to the St. Paul teachers retirement fund association, shall so certify to the Secretary of Health, Education, and Welfare.

*History: 1977 c 429 s 43; 1986 c 444*

**355.207 AGREEMENTS WITH FEDERAL AGENCY.**

Upon the governor's certification pursuant to section 355.206, the state agency shall be authorized after June 30, 1978, to enter into an agreement with the Secretary of Health, Education, and Welfare, or modify any such agreement previously made with respect to teachers. The agreement or modification shall contain such terms and provisions authorized by the Social Security Act and the Enabling Act as the state agency finds proper.

*History: 1977 c 429 s 44; 1979 c 332 art 1 s 84*

**355.208 EMPLOYER CONTRIBUTIONS.**

Contributions required under the agreement or modification entered into pursuant to section 355.207 to be made by political subdivisions employing teachers, and payments required by section 355.49, which shall apply to political subdivisions employing teachers, shall be paid by the political subdivisions. Payments for school district or technical college employees who are paid from normal operating funds, shall be made from the appropriate fund of the district or technical college.

*History: 1977 c 429 s 45; 1Sp1985 c 12 art 11 s 14; 1Sp1986 c 1 art 9 s 25; 1987 c 258 s 12; 1989 c 246 s 2*

**355.209 EMPLOYEE CONTRIBUTIONS; DEDUCTION FROM WAGES.**

After the date the agreement or modification is entered into pursuant to section 355.207, there shall be paid as a deduction from wages an employee contribution in an amount equal to the tax that would be imposed by the Federal Insurance Contribution Act if such service constituted employment within the meaning of that act. Contributions so made shall be paid into the contribution fund in partial discharge of the liability of the political subdivision in respect thereto. Failure to deduct such contribution shall not relieve the employee or the political subdivision of liability therefor.

*History: 1977 c 429 s 46; 1Sp1985 c 12 art 11 s 15*

**355.21 DEFINITIONS.**

Subdivision 1. For the purposes of sections 355.21 to 355.27 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. "Enabling Act" means sections 355.01 to 355.07.

Subd. 3. The terms "Social Security Act," "state agency," "employment," "wages," "contribution fund," "Federal Insurance Contributions Act," "political subdivision," and "state agency," mean as defined in said "Enabling Act."

Subd. 4. "Teacher" means all employees of political subdivisions who hold positions covered by the Duluth teachers retirement fund association established pursuant to the provisions of chapter 354A.

Subd. 5. The term "part-time position" means a position which ordinarily does not require the actual performance of duty more than 90 days in each year.

*History: 1957 c 650 s 1; 1981 c 224 s 147,148*

**355.22 TEACHERS TO BE DEEMED SEPARATE UNIT.**

Pursuant to section 218(d) (6) of the Social Security Act, every teachers retirement fund association established under the provisions of chapter 354A shall be deemed to constitute a separate retirement system.

*History: 1957 c 650 s 2; 1981 c 224 s 149*



**355.23 DULUTH REFERENDUM.**

Subdivision 1. Upon the request of the governing body of the Duluth teachers retirement fund association and the board of education of independent school district No. 709 or upon the petition of at least ten percent of the active members of the association and the board of education of independent school district No. 709, the governor shall be empowered to authorize a referendum to be held at a date to be set by the governor, and to designate any agency or individual to supervise its conduct, in accordance with the requirements of section 218(d) (3) of the Social Security Act, on the question of whether service by teachers in positions covered by the Duluth teachers retirement fund association should be excluded from or included in an agreement under the Enabling Act. The notice of referendum required by section 218(d) (3) (C) of the Social Security Act to be given to teachers shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the teachers of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included in an agreement under the Enabling Act, and the statement shall contain in such form and such detail as deemed necessary the plan proposed for the integration, supplementation or combination of the teachers retirement fund association and social security. The cost of any referendum hereby authorized shall be paid by the teachers retirement fund association in reference to which the referendum is held.

Subd. 2. Upon being satisfied by the evidence that with respect to any such referendum the conditions specified in section 218(d) (3) of the Social Security Act have been met, the governor shall so certify to the Secretary of Health, Education and Welfare.

Subd. 3. Upon such certification, the state agency shall become authorized to modify the agreement with the Secretary of Health, Education and Welfare, previously made as provided in the Enabling Act, to obtain the benefits of the federal old age and survivors insurance system in respect to services performed by teachers as defined in sections 355.21 to 355.27. Such modification may take effect retroactively to January 1 of the year in which the modification of the agreement is accepted by the Secretary of Health, Education and Welfare, and apply to all such services performed after the effective date by teachers who are such on the date the modification is entered into or thereafter, excepting any service of an emergency nature, any service performed by a student, and all services in any class or classes of part-time positions, or positions the compensation for which is on a fee basis.

**History:** 1957 c 650 s 3; 1979 c 332 art 1 s 85; 1981 c 224 s 150; 1986 c 444

**355.24 RETROACTIVE PROCEDURE.**

Subdivision 1. Effective retroactively with respect to services performed after the effective date specified in the modifications of the agreement, by teachers who are such on the date the modification is entered into or thereafter, each and every political subdivision affected by the modification is hereby authorized, required and directed to pay into the contribution fund contributions with respect to wages equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by such modification constituted employment within the meaning of that act. With respect to wages for services performed after the effective date as specified in the modification, but prior to the date of such modification, the payments shall be made on account of all services performed in positions covered by such teachers retirement fund associations by the employer who is such on the date of the modification irrespective of for whom the services were performed during such prior period.

Subd. 2. Effective retroactively with respect to services performed after the effective date as specified in the modification, by teachers who are such on the date the modification is entered into or thereafter, each and every political subdivision is hereby authorized, required, and directed, in consideration of sections 355.21 to 355.27, to

impose upon each such teacher a contribution with respect to the teacher's wages, not exceeding the amount of the employee tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from the teacher's wages as and when paid. With respect to deductions from wages for services performed in positions covered by such teachers retirement fund association, the deductions shall be made by the employer who is such on the date of the modification irrespective of for whom the services were performed during such prior period. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of each and every political subdivision in respect thereto.

Subd. 3. Delinquent payments under this section, with interest at the rate of six percent per annum, may be recovered by action in a court of competent jurisdiction against each and every political subdivision liable therefor, or may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

**History:** 1957 c 650 s 4; 1986 c 444.

### 355.25 COSTS OF ADMINISTRATION.

Each and every political subdivision affected by the modification shall reimburse the state agency for its pro rata share of the cost of administration of said agency in accordance with the rules of the state agency pertaining thereto. Such reimbursement shall be paid into the state agency revolving fund.

**History:** 1957 c 650 s 5; 1985 c 248 s 70.

### 355.26 REPORTS TO STATE AGENCY.

Each and every political subdivision affected by the modification shall make such reports in such form and containing such information as the state agency may from time to time require, and comply with such provisions as the state agency or the Secretary of Health, Education and Welfare may from time to time find necessary to assure the correctness and verification of such reports.

**History:** 1957 c 650 s 6

### 355.27 REVENUES, MAY BE USED, TAX LEVY.

Each and every political subdivision is hereby authorized and directed to pay its obligations under sections 355.21 to 355.27 from moneys collected from taxes or other revenues. Each and every political subdivision may include in its tax levy the amount necessary to pay such obligations. If the taxes authorized to be levied under this section cause the total amount of taxes to exceed any limitation whatsoever upon the power of a political subdivision to levy taxes, such political subdivision may levy taxes in excess of the limitation in such amount as is necessary to meet the obligations under sections 355.21 to 355.27. The governing body of a political subdivision, for the purpose of meeting its liabilities under sections 355.21 to 355.27 in the event of a deficit, may issue its obligations payable in not more than two years, in an amount which may cause its indebtedness to exceed any limitation without an election and may levy taxes to pay therefor.

**History:** 1957 c 650 s 7.

### 355.28 DEFINITIONS.

Subdivision 1. For the purposes of sections 355.28 to 355.288 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. "Enabling Act" means sections 355.01 to 355.07.

Subd. 3. The terms "Social Security Act," "state agency," "employment," "wages," "contribution fund," "Federal Insurance Contributions Act," and "political subdivision" mean as defined in the Enabling Act.

Subd. 4. "Teacher" means all employees of political subdivisions who hold positions covered by the Minneapolis teachers retirement fund association established under the provisions of chapter 354A.

**History:** 1976 c 238 s 2

#### **355.281 REFERENDUM.**

Pursuant to the provisions of the Enabling Act the governor shall designate an agency or an individual to supervise a referendum to be held after May 1, 1978, in accordance with the provisions of section 218 (d) (6) (C) of the Social Security Act, for teachers.

**History:** 1976 c 238 s 3; 1977 c 429 s 47

#### **355.282 NOTICE OF REFERENDUM.**

The notice of referendum required by section 218 (d) of the Social Security Act which is to be given to the teachers shall contain a statement in such form as the agency or individual designated to supervise the referendum shall deem necessary and sufficient to inform the teachers of the rights which accrue to them under the Social Security Act. The statement shall also inform the teachers of the effect that coverage under the Social Security Act will have on their public retirement program.

**History:** 1976 c 238 s 4

#### **355.283 DIVISION OF MINNEAPOLIS TEACHER'S RETIREMENT FUND ASSOCIATION.**

In accordance with section 218 (d) (6) (C) of the Social Security Act, the state agency shall divide into two divisions or parts the Minneapolis teachers retirement fund association established under the provisions of chapter 354A. One division or part of the retirement fund association shall be composed of positions of teachers who desire coverage under an agreement under section 218 (d) of the Social Security Act. The other division or part of the retirement fund association shall be composed of positions of teachers who do not desire coverage under such an agreement. Each division or part shall be deemed to be a separate retirement system for the purposes of section 218 (d) of the Social Security Act. There shall be included in the division or part composed of members desiring such coverage the positions of teachers who become members of the Minneapolis teachers retirement fund association after such coverage is extended; provided, a teacher whose service in a position covered by the retirement fund association commences after the date on which such social security coverage is extended shall be deemed to become a member of the retirement fund association upon the commencement of such service for purposes of this section, notwithstanding the date of any employment contract.

**History:** 1976 c 238 s 5

#### **355.284 TRANSFER OF MEMBERS.**

In accordance with section 218 (d) (6) (F) of the Social Security Act, and when the Minneapolis teachers retirement fund association is divided into two divisions or parts, the position of any member of the division or part composed of positions of teachers who do not desire coverage under an agreement under section 218 (d) of the Social Security Act may be transferred to the separate retirement system composed of teachers who desire such coverage; and a modification of agreement between the state and the Secretary of Health, Education, and Welfare may so provide, but only if prior to such modification the individual occupying such position files with the state agency a written request for such transfer.

**History:** 1976 c 238 s 6

**355.285 CERTIFICATION BY GOVERNOR.**

The governor, on receiving satisfactory evidence that the conditions specified in section 218 (d) (7) of the Social Security Act have been met with respect to the Minneapolis teachers retirement fund association, shall so certify to the Secretary of Health, Education, and Welfare.

**History:** 1976 c 238 s 7; 1986 c 444

**355.286 AGREEMENTS WITH FEDERAL AGENCY.**

Upon the governor's certification pursuant to section 355.285, the state agency shall be authorized after June 30, 1978, to enter into an agreement with the Secretary of Health, Education, and Welfare, or modify any such agreement previously made with respect to teachers. The agreement or modification shall contain such terms and provisions authorized by the Social Security Act and the Enabling Act as the state agency finds proper.

**History:** 1976 c 238 s 8; 1977 c 429 s 48; 1979 c 332 art 1 s 86

**355.287 EMPLOYER CONTRIBUTIONS.**

Contributions required under the agreement or modification entered into pursuant to section 355.286 to be made by political subdivisions employing teachers, and payments required by section 355.49, which shall apply to political subdivisions employing teachers, shall be paid by the political subdivision. Payments for school district or technical college employees who are paid from normal operating funds, shall be made from the appropriate fund of the district or technical college.

**History:** 1976 c 238 s 9; 1Sp1985 c 12 art 11 s 16; 1Sp1986 c 1 art 9 s 26; 1987 c 258 s 12; 1989 c 246 s 2

**355.288 EMPLOYEE CONTRIBUTIONS; DEDUCTION FROM WAGES.**

After the date the agreement or modification is entered into pursuant to section 355.286, there shall be paid as a deduction from wages an employee contribution in an amount equal to the tax that would be imposed by the Federal Insurance Contributions Act if such service constituted employment within the meaning of that act. Contributions so made shall be paid into the contribution fund in partial discharge of the liability of the political subdivision in respect thereto. Failure to deduct such contribution shall not relieve the employee or the political subdivision of liability therefor.

**History:** 1976 c 238 s 10; 1Sp1985 c 12 art 11 s 17

**PUBLIC EMPLOYEES****355.29 DEFINITIONS.**

Subdivision 1. For the purposes of sections 355.29 to 355.30, the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Public employee" means any officer or employee of any political subdivision of the state who performs services in any position covered by the public employees retirement association.

Subd. 3. "Political subdivision" means any political subdivision as defined in section 218(b) of the Social Security Act, and includes any instrumentality of the state, any instrumentality of one or more of its political subdivisions including the League of Minnesota Cities; any instrumentality of the state and one or more of its political subdivisions, any governmental subdivision as defined in section 353.01, subdivision 6 and any instrumentality established under an agreement pursuant to section 471.59 wherein the instrumentality is responsible for the employment and payment of the salaries of employees of the instrumentality.

Subd. 4. "Enabling Act" means sections 355.01 to 355.07.

**History:** 1967 c 687 s 10; 1981 c 224 s 151-153

**355.291 REFERENDUM.**

Subdivision 1. Pursuant to the provisions of the Enabling Act, the governor shall designate an agency or an individual to supervise a referendum for public employees at a date to be set by the governor in accordance with the requirements of the Social Security Act.

Subd. 2. The referendum shall decide the question of whether or not the employment of public employees should be excluded from or included in an agreement or modification.

Subd. 3. In accordance with section 218(d) (6) (C) of the Social Security Act, the state agency shall divide into two divisions or parts, the public employees retirement association established by chapter 353. One division or part of such retirement system shall be composed of positions of members of such system who desire coverage under an agreement pursuant to section 218(d) of the Social Security Act. The other division or part of such retirement system shall be composed of positions of members of such system who do not desire coverage under such agreement. Each division or part shall be deemed to be a separate retirement system for the purposes of section 218(d) of the Social Security Act. There shall be included in such division or part composed of members desiring such coverage, the positions of individuals who become members of the public employees retirement association after such coverage is extended with the exception of positions that may not be included in an agreement with the Secretary of Health, Education and Welfare under section 355.295, and with the further exception that employees who did not elect such coverage shall not be deemed covered employees with respect to service credit earned prior to first becoming covered under this section.

**History:** 1967 c 687 s 11; 1971 c 374 s 1

**355.292 NOTICE OF REFERENDUM.**

The notice of referendum required by section 218(d) of the Social Security Act which is to be given to the public employees shall contain a statement in such form as the agency or individual designated to supervise the referendum shall deem necessary and sufficient to inform these public employees of the rights which accrue to them under the Social Security Act. The statement shall also inform the public employees of the effect that coverage under the Social Security Act will have on their public employee retirement program.

**History:** 1967 c 687 s 12

**355.293 CERTIFICATION BY GOVERNOR.**

The governor or an official of the state designated by the governor for the purpose, on receiving satisfactory evidence that the conditions specified in section 218(d) (7) of the Social Security Act have been met, shall so certify to the Secretary of Health, Education and Welfare.

**History:** 1967 c 687 s 13; 1986 c 444

**355.294 TRANSFER OF MEMBERS.**

In accordance with section 218(d) (6) (F) of the Social Security Act and when the public employees retirement association is so divided into two parts, as herein provided, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of members who desire such coverage, and a modification of an agreement between the state and the Secretary of Health, Education and Welfare may so provide, but only if prior to such modification or such later modification, as the case may be, the individual occupying such position files with the state agency a written request for such transfer.

**History:** 1967 c 687 s 14

**355.295 STATE-FEDERAL AGREEMENT.**

Upon such certification as provided herein the state agency shall be authorized to enter into an agreement with the Secretary of Health, Education and Welfare or modify any such agreement previously made with respect to the employment by public employees. The agreement or modification authorized hereunder shall take effect retroactively and apply to all employment performed after the last day of the fifth calendar year preceding the year in which the agreement or modification is entered into by the employees who are such on the effective date of the agreement or modification. The agreement or modification shall further include within its application, effective with the date of entry into service as public employees, all employment of such public employees on the date of and subsequent to the approval of the agreement or modification as well as those who are such on the effective date thereof.

The agreement shall not include employment of any public employee who performs service in (a) any position the compensation for which is on a fee basis, (b) any position performing services which, under the Social Security Act, may not be included in any agreement between the state and Secretary of Health, Education and Welfare, (c) any position which is an elective office of the state, and (d) any position in a public hospital for which employees are provided coverage under the old age, survivors, and disability insurance provisions of Title II of the federal Social Security Act under another provision of law. This section applies only to hospitals in existence prior to July 1, 1971.

*History: 1967 c 687 s 15; 1971 c 19 s 1; 1979 c 332 art 1 s 87*

**355.296 RETROACTIVE EMPLOYER-EMPLOYEE CONTRIBUTIONS.**

Subdivision 1. Effective retroactively with respect to employment after the date of retroactive coverage by public employees who are employed on the date of the agreement or modification and who are included within such agreement or modification, the board of trustees of the public employees retirement association shall pay out of its fund an amount for each public employee so included which is equal to the amount of employee tax which would have been imposed by the Federal Insurance Contributions Act, if such service constituted employment within the meaning of that act. This payment shall be computed from the date of retroactive coverage to the date that deductions are taken from the wages of each such public employee as provided hereafter. The amount so paid by the trustees shall be deducted from the accumulated deductions, if any, from the salary of the public employee which have been paid to the public employees retirement association. If the accumulated deductions of any public employee are not sufficient to pay for the employee's retroactive contribution, such employee shall pay the difference to the fund. To the extent that the difference is not paid by the employee, it shall constitute a liability of the employer. An employer shall be subrogated to the rights of the association in respect of any amount paid by the employer on account of its liability in behalf of the employee.

Subd. 2. Effective retroactively with respect to employment after the date of retroactive coverage by public employees who are employed on the date of the agreement or modification and who are included within such agreement or modification, the board of trustees of the public employees retirement association shall pay out of the fund an amount for each member which is equal to the amount of employer tax which would have been imposed by the Federal Insurance Contributions Act if such service constituted employment within the meaning of the act. This amount shall be computed from the date of retroactive coverage to the date deductions are taken from the wages of such public employees. If this amount exceeds the contribution made to the association by the employer in respect of the employee, the difference shall be paid by the employer to the fund of the association.

Subd. 3. The amounts herein required by this section are hereby appropriated from the public employees retirement fund and the trustees are hereby authorized to make the necessary disbursements and transfers thereof. The amounts so required shall be paid to the contribution fund provided for in the Enabling Act.

Subd. 4. Any member who elects social security coverage from and after January 1, 1969 and thereby transfers to the coordinated fund and from whose account retroactive social security employee taxes are paid by the board of trustees of the public employees retirement association, shall be required to reimburse the said association in an amount equal to the difference between employee contributions at the rate of six percent of total salary and the aggregate of three percent of said salary plus the rate of retroactive social security employee taxes paid on said salary restricted to earnings limitations imposed by the Federal Insurance Contributions Act covering public service rendered from and after said date of January 1, 1969. In the event any such member does not reimburse the association within 30 days following notification by the public employees retirement association of the amount so due, interest shall accrue thereon at the rate of six percent per annum compounded annually from the date first payable. The governmental subdivision in which any such member rendered public service from and after January 1, 1969 covering which service retroactive social security employer taxes are paid by the board of trustees of the public employees retirement association shall be required to reimburse the said association in an amount equal to the aforementioned difference, such amount to be paid from the proceeds of a tax levy made pursuant to section 353.28, or from other funds available to the employer.

*History: 1967 c 687 s 16; 1969 c 267 s 4,5; 1969 c 999 s 5; 1986 c 444*

### **355.297 CURRENT EMPLOYER-EMPLOYEE CONTRIBUTION.**

Subdivision 1. With respect to services performed after the effective date of the agreement or modification, each political subdivision shall be obligated to pay employer contributions with respect to wages earned by public employees included in the agreement or modification in an amount equal to the employer tax which would be imposed by the federal contributions act if the services covered by the agreement or modification constituted employment within the meaning of the act. This amount shall be paid directly by the political subdivision. Contributions so made shall be paid into the contribution fund provided for in the Enabling Act.

Subd. 2. With respect to services performed after the effective date of the agreement or modification, each public employee included in the agreement or modification shall pay contributions with respect to wages and the same will be deducted from the employee's wages as and when paid in an amount equal to the employee tax which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement or modification constituted employment within the meaning of that act. Contributions so made shall be paid into the contributions fund provided for in the Enabling Act in partial discharge of the liability of the state and each political subdivision in respect thereto. Failure to deduct such contribution shall not relieve the political subdivision from liability therefor.

*History: 1967 c 687 s 17; 1986 c 444*

### **355.298 ADMINISTRATIVE COST OF STATE AGENCY.**

Each political subdivision employing public employees included in the agreement or modification shall reimburse the state agency for its pro rata share of the cost of administration of said agency in accordance with the rules of the state agency. Such reimbursements shall be paid into the state agency revolving fund.

*History: 1967 c 687 s 18; 1985 c 248 s 70*

### **355.299 OBLIGATIONS OF POLITICAL SUBDIVISIONS.**

Each political subdivision is hereby authorized and directed to pay its obligations under sections 355.29 to 355.30 from money collected from taxes or other revenues. Each political subdivision authorized to levy taxes may include in its tax levy the amount necessary to pay such obligations. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation whatsoever under the power of the political subdivision to levy taxes, such political subdivision, if it is other than a school district, may levy taxes in excess of the limitation in such amount

as is necessary to meet its obligation under sections 355.29 to 355.30. The expenditures authorized to be made shall not be included in computing the cost of government as defined in any home rule charter or charter of any city affected thereby. The governing body of a municipality for the purposes of meeting its obligations hereunder, in the event of deficit, may issue its obligations payable in not more than two years in an amount which may cause its indebtedness to exceed any statutory or charter limitation without an election and may levy taxes and pay therefor in a manner provided in section 475.61 and acts amendatory thereto.

**History:** 1967 c 687 s 19; Ex1971 c 31 art 20 s 12

### **355.30 DELINQUENT PAYMENTS.**

Delinquent payments under sections 355.29 to 355.30 shall bear interest at the rate of six percent per annum, compounded annually from the date upon which they were first payable, and may be recovered by action in a court of competent jurisdiction against each and every political subdivision or employee liable therefor or, if a political subdivision is liable, may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state. An action for the recovery of delinquent payments shall not be subject to any statutory provision which would otherwise limit the time within which such an action may be commenced.

**History:** 1967 c 687 s 20; 1969 c 267 s 6; 1977 c 347 s 55

**355.301** [Repealed, 1975 c 368 s 51].

### **MINNEAPOLIS MUNICIPAL EMPLOYEES RETIREMENT**

**355.302** [Repealed, 1981 c 224 s 276]

**355.303** [Repealed, 1981 c 224 s 276]

**355.304** [Repealed, 1981 c 224 s 276]

**355.305** [Repealed, 1981 c 224 s 276]

**355.306** [Repealed, 1981 c 224 s 276]

**355.307** [Repealed, 1981 c 224 s 276]

**355.308** [Repealed, 1981 c 224 s 276]

**355.309** [Repealed, 1981 c 224 s 276]

**355.31** [Repealed, 1977 c 403 s 13]

### **355.311 SECOND SOCIAL SECURITY REFERENDUM.**

Subdivision 1. **Election of social security coverage.** Any member of the basic program of the Minneapolis employees retirement fund established under the provisions of chapter 422A shall be entitled to elect social security coverage retroactive to July 1, 1978 in a second social security referendum. Any member who so elects shall become a member of the coordinated program of the public employees retirement association and sufficient assets shall be transferred by the board of trustees of the Minneapolis employees retirement fund to the coordinated program of the public employees retirement association pursuant to Minnesota Statutes 1980, section 353.023.

Subd. 2. **Payment of retroactive social security employee and employer taxes.** Effective retroactively with respect to any employment after the date of retroactive coverage by municipal employees who are employed on the date of the agreement or modification of the agreement with the Secretary of Health, Education and Welfare, the executive secretary of the Minneapolis employees retirement fund shall cause to be paid out of the fund an amount for each municipal employee as defined pursuant to



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Minnesota Statutes 1978, section 355.302, subdivision 4, retroactively included, equal to the employee and employer taxes which would have been imposed by the Federal Insurance Contributions Act if the service by the employee constituted employment within the meaning of that act. This payment shall be computed from the date of retroactive coverage to the date that deductions are first taken from the wages of each municipal employee pursuant to Minnesota Statutes 1978, Section 355.309. Amounts paid to meet the required employee contribution shall first be deducted from the accumulated deductions of the municipal employee and then from the remaining assets of the fund.

**Subd. 3. Appropriation.** The amounts required by this section are hereby appropriated from the Minneapolis employees retirement fund and the executive secretary of the fund is authorized to make any necessary disbursements and transfers. The amounts so required shall be paid to the contribution fund provided for in the Enabling Act.

**Subd. 4. Balances due after payment of retroactive social security employee and employer taxes.** Any municipal employee as defined pursuant to Minnesota Statutes 1978, section 355.302, subdivision 4, who elects social security coverage from and after January 1, 1979, and thereby transfers from the basic program of the Minneapolis employees fund to the coordinated program of the public employees retirement association and from whose account retroactive social security employee taxes are paid by the board of the Minneapolis employees fund shall be required to reimburse the Minneapolis employees retirement fund in an amount equal to the difference between employee contributions at the rate of eight percent of the employee's total salary for the period of retroactive social security coverage and the aggregate of six percent of the employee's total salary for the period of retroactive social security coverage plus the rate of retroactive social security employee taxes paid on the salary of the municipal employee restricted to the earnings limitations imposed by the Federal Insurance Contributions Act covering service as a municipal employee rendered from and after July 1, 1978. In the event that a municipal employee does not reimburse the Minneapolis employees retirement fund within 30 days following notification by the executive secretary of the amount of reimbursement which is due, interest at the rate of six percent per annum compounded annually from the date the amount was first payable following notification until the date payment is made shall accrue. The city or the public corporation which employs a municipal employee electing social security coverage from and after January 1, 1979, for service on which retroactive social security employer taxes are paid from the Minneapolis employees retirement fund shall reimburse the Minneapolis employees retirement fund in an amount equal to the reimbursement amount payable by the municipal employee. The employer reimbursement may be paid from the proceeds of a tax levy made for this purpose or from any other funds available to the employer.

**History:** 1979 c 293 s 4; 1979 c 303 art 6 s 7; 1980 c 607 art 16 s 17 subd 2; 1981 c 224 s 154-156; 1981 c 298 s 11; 1987 c 384 art 2 s 83

355.32 [Repealed, 1977 c 403 s 13]

355.33 [Repealed, 1977 c 403 s 13]

355.34 [Repealed, 1977 c 403 s 13]

355.35 [Repealed, 1977 c 403 s 13]

355.36 [Repealed, 1977 c 403 s 13]

355.37 [Repealed, 1977 c 403 s 13]

355.38 [Repealed, 1977 c 403 s 13]

355.39 [Repealed, 1977 c 403 s 13]

**355.391 DEFINITIONS.**

Subdivision 1. **Terms.** Unless the context indicates otherwise, for the purposes of this section and section 355.392, the terms defined in this section shall have the meanings given to them.

Subd. 2. **Enabling Act.** "Enabling Act" means sections 355.01 to 355.07.

Subd. 3. **Judge.** "Judge" means any person who is a judge within the meaning of section 490.121, subdivision 3.

Subd. 4. **Employing unit.** "Employing unit" means the state.

**History:** 1981 c 224 s 157; 1996 c 305 art 1 s 92

**355.392 SOCIAL SECURITY COVERAGE FOR JUDGES.**

Subdivision 1. **Social security coverage.** In accordance with section 218(d)(6)(C) of the Social Security Act, the judges retirement fund is divided into two parts:

(a) the first part is composed of judges in office on and after December 31, 1973, who elected not to have coverage under an agreement pursuant to section 218(d) of the Social Security Act in the referendum authorized pursuant to Laws 1973, chapter 744, sections 7 and 8;

(b) the second part is composed of judges in office on and after December 31, 1973, who elected to have coverage under an agreement pursuant to section 218(d) of the Social Security Act in the referendum authorized pursuant to Laws 1973, chapter 744, sections 7 and 8 and of judges first entering office after December 31, 1973, whose service constitutes "employment" as defined in the Social Security Act.

Subd. 2. **Employer contributions.** For services by judges referred to in subdivision 1, clause (b), the state court administrator shall pay an employer contribution on wages equal the employer tax rate imposed by the Federal Insurance Contributions Act.

Subd. 3. **Employee contributions.** For services by judges referred to in subdivision 1, clause (b), the judge shall pay an employee contribution on wages equal to the employee tax rate imposed by the Federal Insurance Contributions Act. The contribution must be made by payroll deduction.

Subd. 4. **Delinquent contributions.** Any delinquent contribution shall be payable with interest at the rate of six percent per annum.

Subd. 5. **Administrative expenses.** Every employing unit shall reimburse the state agency for its pro rata share of the cost of the administration of the agency in accordance with rules which the state agency prescribes. Reimbursements of administrative expenses shall be paid to the state agency revolving fund.

Subd. 6. **Reports.** Every employing unit shall make whatever reports in whatever form and containing whatever information which the state agency may from time to time require, and shall comply with whatever provisions which the state agency or the secretary of the federal Department of Health and Human Services may find from time to time necessary to assure the correctness of the reports.

**History:** 1981 c 224 s 158; 1991 c 345 art 1 s 87,88; 1996 c 305 art 1 s 93,94

**355.393 SECOND SOCIAL SECURITY COVERAGE ELECTION.**

A member of the basic program of the judges retirement plan governed by sections 490.121 to 490.133 is entitled to elect social security coverage in a second social security referendum held for that purpose by the department of employee relations. The social security coverage is effective on the first of the month next following the referendum.

**History:** 1992 c 492 s 1

**REFERENDA RELATING TO SOCIAL SECURITY COVERAGE****355.41 DEFINITIONS.**

Subdivision 1. Unless the context indicates otherwise, the terms used in this section have the meanings ascribed to them by sections 355.01 to 355.07, and the meanings ascribed to them in this section.

Subd. 2. The term "state employee" means any employee of the state or a political subdivision who performs services in any position covered by the Minnesota state retirement system governed pursuant to chapter 352, relating to the state employees retirement association, excepting any position the compensation for which is on a fee basis.

Subd. 3. The term "public employee" includes all employees of the state and its political subdivisions as defined in section 2, subdivision 7 of the Enabling Act, who hold positions which are covered by the public employees retirement association governed pursuant to chapter 353, excepting any position performing service which under the Social Security Act may not be included in an agreement between the state and Secretary of Health, Education and Welfare entered into pursuant to sections 355.41 to 355.55.

Subd. 4. The term "educational employee" means any employee of the state and its political subdivisions who performs services in any position covered by the teachers retirement fund governed pursuant to chapter 354.

Subd. 5. The term "employee" includes an officer of the state or political subdivision thereof.

Subd. 6. The term "political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision.

Subd. 7. The term "Enabling Act" means sections 355.01 to 355.07.

**History:** *Ex1957 c 18 s 1; Ex1959 c 50 s 37; 1981 c 224 s 159-162*

### 355.42 REFERENDUM.

Pursuant to the provisions of sections 355.01 to 355.07, the governor shall designate an agency to supervise a referendum for each of the following groups:

(a) The public employees retirement association shall be deemed a single retirement system with respect to the political subdivisions and the state having positions covered thereby.

(b) The state employees retirement association shall be deemed a single retirement system except as provided in paragraph (c).

(c) The employees of the University of Minnesota covered by the state employees retirement association shall be deemed a single retirement system.

(d) The teachers retirement fund shall be deemed a single retirement system with respect to the state departments, institutions, and political subdivisions having positions covered thereby except as provided in paragraph (e).

(e) The educational employees of the state universities covered by the teachers retirement fund.

**History:** *1957 c 576 s 2; Ex1957 c 18 s 2; 1975 c 321 s 2*

### 355.43 NOTICE OF REFERENDUM.

The notice of referendum required by section 218(d) (3) (c) of the Social Security Act which is to be given to the employees shall contain a statement, in such form as the agency designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which accrue to them under the Social Security Act. The statement shall also inform the employees of the effect that coverage under the Social Security Act will have on their state retirement program.

**History:** *Ex1957 c 18 s 3*

**355.44 CERTIFICATION BY GOVERNOR.**

If the governor receives satisfactory evidence that the conditions specified in section 218(d) (3) of the Social Security Act have been met and the outcome of the referendum indicates that the majority of the employees desire to be covered by the Social Security Act, the governor shall so certify to the Secretary of Health, Education and Welfare.

**History:** *Ex1957 c 18 s 4*

**355.45 STATE AGENCY TO MAKE AGREEMENT WITH SECRETARY OF HEALTH, EDUCATION AND WELFARE.**

Upon such certification the state agency shall be authorized to enter into an agreement with the Secretary of Health, Education and Welfare, or modify any such agreement previously made with respect to employment by state employees, public employees, and educational employees. The agreement or modifications shall take effect retroactively and apply to all such employment performed after December 31, 1955, by the employees who are such on that date, and shall include within its application effective with the date of entry into state, public or educational service, all employment by such employees on the date of and subsequent to the approval of the agreement or modification as well as those who are such on the approval date thereof.

**History:** *Ex1957 c 18 s 5; 1979 c 332 art 1 s 89*

**355.46 SOCIAL SECURITY CONTRIBUTIONS.**

Subdivision 1. [Repealed, 1Sp1985 c 12 art 11 s 22]

Subd. 2. [Repealed, 1Sp1985 c 12 art 11 s 22]

Subd. 3. **Social security contributions.** The employer taxes due with respect to employment by educational employees who have made their selection pursuant to section 218(d)(6)(C) of the Social Security Act, shall be paid in the following manner:

(a) Contributions required to be made for current service by political subdivisions employing educational employees and payments required by section 355.49 shall be paid by the political subdivision. Payments for school district or technical institute employees who are paid from normal operating funds, shall be made from the appropriate fund of the district or technical institute. The state shall make payments for services rendered prior to July 1, 1986.

(b) Contributions required to be made with respect to educational employees of state departments and institutions and payments required by section 355.49 shall be paid by the departments and institutions in accordance with the provisions of sections 355.49 and 355.50.

Subd. 4. [Repealed, 1971 c 535 s 6]

Subd. 5. [Repealed, 1Sp1985 c 12 art 11 s 22]

**History:** *Ex1957 c 18 s 6; Ex1959 c 50 s 40; 1971 c 40 s 35; 1971 c 535 s 5; 1973 c 492 s 14; 1980 c 614 s 144; 1981 c 224 s 163; 1Sp1985 c.12 art 11 s 18,20; 1986 c 444; 1Sp1986 c 1 art 9 s 27; 1989 c 293 s 80*

**355.47** [Repealed, 1Sp1985 c 12 art 11 s 22]

**355.48 EMPLOYEE CONTRIBUTIONS, DEDUCTION FROM WAGES.**

After the date the agreement or modification is entered into, there shall be paid as a deduction from wages an employee contribution in an amount equal to the tax that would be imposed by the Federal Insurance Contributions Act if such service constitutes employment within the meaning of that act. Contributions so made shall be paid into the contribution fund in partial discharge of the liability of the state and each political subdivision in respect thereto. Failure to deduct such contribution shall not relieve the employee or the state or the political subdivision of liability therefor.

**History:** *Ex1957 c 18 s 8*

**355.49 REIMBURSEMENT OF ADMINISTRATIVE COSTS OF STATE AGENCY.**

Each department or agency of state and each political subdivision employing members of the association shall reimburse the state agency for its pro rata share of the cost of administration of said agency in accordance with rules of the state agency, except as provided in section 355.46. Such reimbursements shall be paid into the state agency's revolving fund.

**History:** *Ex1957 c 18 s 9; Ex1959 c 50 s 42; 1985 c 248 s 70*

**355.50 STATE EMPLOYEES, APPROPRIATION.**

With respect to state employees, each department and agency shall pay the amounts required by sections 355.41 to 355.60 from such accounts and funds from which each department or agency receives its revenue, including appropriations from the general fund and from any other fund, now or hereafter existing, for the payment of salaries and in the same proportion as it pays therefrom the amounts of such salaries. Such payments shall be charged as an administrative cost by such units of state government.

If the federal government increases the required contributions for social security, and as a result of the increase there are insufficient moneys in any such accounts or fund or source of revenue to make the payments to the contribution fund required by sections 355.41 to 355.60 by such departments or agencies, there is hereby appropriated to such department or agency from any moneys in the state treasury not otherwise appropriated such moneys as are required to meet such deficiencies. The amount of each payment made pursuant to these provisions shall be certified by the commissioner of employee relations to the commissioner of finance at such times as the commissioner of finance shall require. The amount certified as necessary to meet a deficiency caused by an increase in federal contribution requirements shall be reported to the senate committee on finance and the house committee on ways and means before the commissioner of finance transfers any money to meet the deficiency.

For those employees of the state or its instrumentalities who as eligible members in the state employees retirement association are employed by 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 and the Minnesota-Wisconsin-Minneapolis-St. Paul survival plan project, these units of government shall also pay into the contribution fund contributions with respect to wages equal to the sum of taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by such agreement or modification constituted employment within the meaning of that act.

**History:** *Ex1957 c 18 s 10; Ex1959 c 50 s 44; 1969 c 399 s 1; 1973 c 492 s 14; 1973 c 507 s 45; 1980 c 614 s 145; 1980 c 617 s 47; 1993 c 4 s 32*

**355.51 DELINQUENT PAYMENTS, COLLECTION.**

Delinquent payments under sections 355.41 to 355.60 with interest at the rate of six percent per annum may be recovered by action in a court of competent jurisdiction against each and every political subdivision liable therefor or may, at the request of the state agency, be deducted from any other money payable to such political subdivision by any department or agency of the state.

**History:** *Ex1957 c 18 s 11; Ex1959 c 50 s 38*

**355.52 OBLIGATIONS OF POLITICAL SUBDIVISION, PAYMENT.**

Each and every political subdivision is hereby authorized and directed to pay its obligations under sections 355.41 to 355.60 for moneys collected from taxes or other revenues. Each and every political subdivision authorized to levy taxes may include in its tax levy the amount necessary to pay such obligations. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation

whatsoever upon the power of a political subdivision, as defined in section 355.41, to levy taxes, such political subdivision may levy taxes in excess of the limitation in such amounts as is necessary to meet its obligations under sections 355.41 to 355.60. The expenditures authorized to be made under sections 355.41 to 355.60 shall not be included in computing the cost of government as defined in any home rule charter of any city affected thereby. The governing body of a municipality, for the purpose of meeting its liabilities under sections 355.41 to 355.60 in the event of a deficit, may issue its obligations payable in not more than two years, in an amount which may cause its indebtedness to exceed any statutory or charter limitations, without an election, and may levy taxes to pay therefor in the manner provided in section 475.61.

**History:** *Ex1957 c 18 s 12; Ex1959 c 50 s 39*

**355.53** [Repealed, 1981 c 224 s 276]

**355.54 AMENDMENT OF FEDERAL SOCIAL SECURITY ACT, EFFECT.**

If the federal Social Security Act or any rule or regulation made thereunder is amended prior to any agreement or modification provided in sections 355.41 to 355.55, and such amendment permits retroactive coverage of governmental employees at some date after December 31, 1955, with the allowance of fully insured status with 18 months of service as a governmental employee, the retroactive coverage shall begin on such date notwithstanding any provision in sections 355.41 to 355.55 to the contrary. In the event of such amendment, the agreements and contributions provided herein shall be retroactive to such date.

**History:** *Ex1957 c 18 s 14*

**355.55 RESTORATION TO MEMBERSHIP IN RETIREMENT ASSOCIATION FUND.**

Provided that all persons whose membership in a retirement fund or association is terminated July 1, 1957 by reason of state legislative action shall be restored as of July 1, 1957 to membership in the association or fund prior to any modification of the agreement between the state and the Secretary of Health, Education, and Welfare in the event that they are not before such date brought within the coverage of the federal Social Security Act pursuant to authorizing federal legislation. Such restoration to membership shall be conditioned upon payment by affected members of required contributions to the fund accruing subsequent to July 1, 1957 to the date of restoration; such payment to be made at the time and in the manner as the board shall determine.

**History:** *Ex1957 c 18 s 15*

**355.56 DIVISION OF TEACHERS RETIREMENT ASSOCIATION.**

In accordance with section 218(d) (6) (C) of the Social Security Act, the state agency shall divide into two divisions or parts, the teachers retirement association established by chapter 354. One division or part of such retirement system shall be composed of positions of members of such system who desire coverage under an agreement under section 218(d) of the Social Security Act. The other division or part of such retirement system shall be composed of positions of members of such system who do not desire coverage under such an agreement. Each division or part shall be deemed to be a separate retirement system for the purposes of section 218(d) of the Social Security Act. There shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of the teachers retirement association, after such coverage is extended.

**History:** *Ex1959 c 50 s 32; 1979 c 50 s 48*

**355.57 TRANSFER OF MEMBERS.**

In accordance with section 218(d) (6) (F) of the Social Security Act, and when such a retirement system is so divided into two parts, as hereinbefore provided, the position of any member of the division or part composed of positions of members who

do not desire coverage may be transferred to the separate retirement system composed of members who desire such coverage; and a modification of agreement between the state and the Secretary of Health, Education, and Welfare may so provide, but only if prior to such modification or such later modification, as the case may be, the individual occupying such position files with the state agency a written request for such transfer.

**History:** *Ex1959 c 50 s 33*

### **355.58 PERSONS IN POSITIONS COVERED BY RETIREMENT SYSTEM.**

Any individual who is in a position covered by a retirement system referred to in section 355.56 and who is not a member of such system but is eligible to become a member thereof shall, for the purposes of Extra Session Laws 1959, chapter 50, be regarded as a member of such system and any such individual shall be treated, after the division of the retirement system, the same as individuals in positions referred to in section 355.57.

**History:** *Ex1959 c 50 s 34*

### **355.59 CERTIFICATION BY GOVERNOR.**

The governor, on receiving satisfactory evidence that the conditions specified in section 218(d) (7) of the Social Security Act have been met with respect to the teachers retirement association, shall so certify to the Secretary of Health, Education, and Welfare.

**History:** *Ex1959 c 50 s 35; 1986 c 444*

### **355.60 AGREEMENTS WITH FEDERAL AGENCY.**

Upon such certification the state agency shall be authorized to enter into an agreement with the Secretary of Health, Education, and Welfare, or modify any such agreement previously made with respect to employment by educational employees. The agreement or modification shall contain such terms and provisions authorized by the Social Security Act and the Enabling Act as the state agency finds proper.

**History:** *Ex1959 c 50 s 36; 1979 c 332 art 1 s 90*

### **355.61 SOCIAL SECURITY COVERAGE FOR CERTAIN FACULTY MEMBERS EMPLOYED BY THE BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES.**

Plan participants and persons electing participation under section 354B.21 remain members of the teachers retirement association for purposes of social security coverage only, and remain covered by the applicable agreement entered into under section 355.02, but are not members of the teachers retirement association for any other purpose while employed in covered employment.

**History:** *1989 c 319 art 18 s 10; 1995 c 141 art 4 s 6; 1995 c 212 art 4 s 64*

## **LEGISLATORS AND CONSTITUTIONAL OFFICERS**

### **355.621 LEGISLATORS AND CONSTITUTIONAL OFFICERS; SOCIAL SECURITY COVERAGE REFERENDUM.**

Subdivision 1. **Definitions generally.** For the purposes of sections 355.621 to 355.628, each of the terms defined in this section has the indicated meaning.

Subd. 2. **Enabling Act.** "Enabling Act" means sections 355.01 to 355.07.

Subd. 3. **Legislator.** "Legislator" means a member of the legislature duly elected and sworn into office.

Subd. 4. **Constitutional officer.** "Constitutional officer" means the governor, the lieutenant governor, the attorney general, the secretary of state, the state auditor, and the state treasurer duly elected and sworn into office.

Subd. 5. **Additional terms.** The terms "social security act," "state agency," "employment," "wages," "contribution fund," "Federal Insurance Contributions Act," and "political subdivision" each have the meaning ascribed in the Enabling Act.

**History:** 1997 c 233 art 2 s 7

### 355.622 REFERENDUM.

Under the Enabling Act, the governor shall designate an agency or individual to supervise a referendum to be held after July 1, 1998, in accordance with provisions of section 218(d)(6)(c) of the Social Security Act, for legislators and for constitutional officers.

**History:** 1997 c 233 art 2 s 8

### 355.623 NOTICE OF REFERENDUM.

The notice of referendum required by section 218(d) of the Social Security Act that is to be provided to legislators and to constitutional officers must contain a statement of the rights which accrue under the Social Security Act. The statement must be in the form that the agency or individual designated to supervise the referendum deems necessary and sufficient to inform legislators and constitutional officers of their Social Security Act rights. The statement must also inform the legislators and constitutional officers of the effect that social security coverage will have on their future public retirement coverage.

**History:** 1997 c 233 art 2 s 9

### 355.624 DIVISION OF THE LEGISLATORS RETIREMENT PLAN AND THE ELECTIVE STATE OFFICERS RETIREMENT PLAN.

(a) In accord with section 218(d)(6)(c) of the Social Security Act, the state agency shall divide the legislators retirement plan into two parts or divisions and shall divide the elective state officers retirement plan into two parts or divisions.

(b) One division or part of the legislators retirement plan must be composed of legislators who desire coverage under an agreement under section 218(d) of the Social Security Act, and those legislators must have their future public pension plan coverage under chapter 352D. Also included in this division or part are legislators who are elected after July 1, 1997. The other division or part of the legislators retirement plan must be composed of legislators who do not desire coverage under an agreement under section 218(d) of the Social Security Act, and those legislators must have their future public pension plan coverage under chapter 3A.

(c) One division or part of the elective state officers retirement plan must be composed of constitutional officers who desire coverage under an agreement under section 218(d) of the Social Security Act, and those constitutional officers must have their future public pension plan coverage under chapter 352D. Also included in this division or part are constitutional officers who are elected after July 1, 1997. The other division or part of the elective state officers retirement plan must be composed of constitutional officers who do not desire coverage under an agreement under section 218(d) of the Social Security Act, and those constitutional officers must have their future public pension plan coverage under chapter 352C.

**History:** 1997 c 233 art 2 s 10

### 355.625 TRANSFER OF MEMBERS.

In accord with section 218(d)(6)(f) of the Social Security Act and when the legislators retirement plan or the elective state officers retirement plan, whichever applies, is divided into two parts or divisions, a legislator or constitutional officer who does not desire coverage under an agreement under section 218(d) of the Social Security Act may be transferred to the other part or division if the agreement with the



federal Department of Health and Human Services so provides and if the legislator or constitutional officer files with the state agency a written request for the transfer.

**History:** 1997 c 233 art 2 s 11

### 355.626 CERTIFICATION BY GOVERNOR.

If the governor receives satisfactory evidence that the conditions specified in section 218(d)(7) of the Social Security Act have been met with respect to the legislators retirement plan or the elective state officers retirement plan, whichever applies, the governor shall so certify to the secretary of the federal Department of Health and Human Services.

**History:** 1997 c 233 art 2 s 12

### 355.627 AGREEMENTS WITH FEDERAL AGENCY.

Upon the governor's certification under section 355.626, the state agency, with the approval of the governor, is authorized after June 30, 1998, to enter into or modify an agreement with the secretary of the federal Department of Health and Human Services with respect to legislators or constitutional officers, whichever applies.

**History:** 1997 c 233 art 2 s 13

### 355.628 SOCIAL SECURITY CONTRIBUTIONS.

Subdivision 1. **Employer contributions.** Employer contributions required under the agreement or modification under section 355.627 and payments required by section 355.49 must be paid by the senate, the house of representatives, or the relevant constitutional office, whichever applies.

Subd. 2. **Employee contributions; deduction from wages.** (a) After the date on which the agreement or modification under section 355.627 is executed, there must be paid as a deduction from wages an employee contribution by legislators or constitutional officers in an amount equal to the tax that would be imposed by the Federal Insurance Contributions Act if the service constituted employment within the meaning of the act.

(b) Contributions made under this subdivision must be paid into the contribution fund in partial discharge of the employer liability for social security coverage.

(c) A failure to deduct employee contributions does not relieve the legislator or constitutional officer or the senate, the house of representatives, or the relevant constitutional office of the liability to make the contribution.

**History:** 1997 c 233 art 2 s 14

## PUBLIC HOSPITAL EMPLOYEES

### 355.71 DEFINITIONS.

Subdivision 1. For the purposes of sections 355.71 to 355.81, the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Hospital employee" means any officer or employee of a public hospital who performs services in any position covered by the public employees retirement association.

Subd. 3. "Public hospital" means any hospital owned or operated by, or which is an integral part of, any political subdivision, or political subdivisions.

Subd. 4. "Political subdivision" means any political subdivision as defined in section 218 of the Social Security Act, and includes any city, county, town, hospital district, or other body, politic and corporate.

Subd. 5. "State agency" means the commissioner of employee relations.

Subd. 6. "Enabling Act" means sections 355.01 to 355.07 and acts amendatory thereof.

**History:** 1963 c 793 s 1; 1973 c 35 s 61; 1973 c 123 art 5 s 7; 1973 c 507 s 45; 1980 c 617 s 47; 1981 c 224 s 164

**355.72 SEPARATE SYSTEM FOR HOSPITAL EMPLOYEES.**

In accordance with section 218(d) (6) (A) or 218(d) (6) (B) of the Social Security Act, the hospital employees of each public hospital which was in existence prior to July 1, 1971 are deemed to be covered by a separate retirement system for the employees of that hospital, notwithstanding the provisions of section 355.42, clause (a).

*History:* 1963 c 793 s 2; 1971 c 19 s 2; 1981 c 224 s 165

**355.73 REFERENDUM.**

Subdivision 1. Pursuant to the provisions of the Enabling Act, the governor shall designate an agency or an individual to supervise a referendum in accordance with the provisions of section 218(d) (6) (C) of the Social Security Act for the employees of such public hospital after a petition is received as provided in subdivision 2 or 3.

Subd. 2. At least 35 percent of the employees of any public hospital may petition the governor to conduct a referendum pursuant to section 218(d) (6) (C) of the Social Security Act to be held on the date to be set by the governor in accordance with the requirements of said act.

Subd. 3. The governing body of any public hospital may petition the governor to conduct a referendum pursuant to section 218(d) (6) (C) of the Social Security Act to be held at a date to be set by the governor in accordance with the requirements of said act.

Subd. 4. No more than one referendum shall be held in each 12 month period for the hospital employees of any one public hospital.

Subd. 5. [Repealed, 1981 c 224 s 276]

Subd. 6. [Repealed, 1981 c 224 s 276]

Subd. 7. [Repealed, 1981 c 224 s 276]

Subd. 8. Any hospital employee excluded from retirement coverage by the public employees retirement association pursuant to Minnesota Statutes 1980, section 355.73, subdivision 5, shall continue to be excluded from that retirement coverage so long as the person remains employed as a hospital employee.

*History:* 1963 c 793 s 3; 1967 c 687 s 22; 1971 c 19 s 3; 1981 c 224 s 166; 1986 c 444

**355.74 NOTICE OF REFERENDUM.**

Subdivision 1. The notice of referendum required by section 218(d) of the Social Security Act which is to be given to the hospital employees shall contain a statement in such form as the agency or individual designated to supervise the referendum shall deem necessary and sufficient to inform the hospital employees of the rights which accrue to them under the Social Security Act. The statement shall also inform the hospital employees of the effect that coverage under the Social Security Act will have on their public retirement program.

Subd. 2. In accordance with section 218(d) (6) (C) of the Social Security Act, the state agency shall divide into two divisions or parts each deemed retirement system consisting of employees of hospitals as herein provided whose employees are covered by the public employees retirement association established by Minnesota Statutes 1961, chapter 353, and acts amendatory thereof. One division or part of such deemed retirement system shall be composed of positions of members of such system who desire coverage under an agreement pursuant to sections 355.73 and 355.76. The other division or part of such retirement system shall be composed of positions of members of such system who do not desire coverage under such agreement. Each division or part shall be deemed to be a separate retirement system for the purposes of section 218(d) of the Social Security Act. There shall be included in such division or part composed of members desiring such coverage, the positions of individuals who become employees of any public hospital in which a referendum was conducted after such coverage is extended, with the exception of positions of individuals which under the Social Security Act may not be included in an agreement between the state and Secretary of Health,

Education, and Welfare, and with the further exception that employees who did not elect such coverage shall not be deemed covered employees with respect to service credit earned prior to first becoming covered under this section.

Subd. 3. In accordance with section 218(d) (6) (F) of the Social Security Act, as amended, and in case such a deemed retirement system is so divided into two parts, as hereinbefore provided, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of members who desire such coverage; and a modification of agreement between the state and the Secretary of Health, Education, and Welfare may so provide, but only if prior to such modification or such later modification, as the case may be, the individual occupying such position files with the state agency a written request for such transfer.

**History:** 1963 c 793 s 4; 1971 c 374 s 2

### **355.75 CERTIFICATION BY GOVERNOR.**

The governor, on receiving satisfactory evidence that the conditions specified in section 218(d) (7) of the Social Security Act have been met shall so certify to the Secretary of Health, Education, and Welfare.

**History:** 1963 c 793 s 5; 1986 c 444

### **355.76 STATE-FEDERAL AGREEMENT.**

Upon such certification the state agency shall be authorized to enter into an agreement with the Secretary of Health, Education, and Welfare or modify any such agreement previously made with respect to the employment by state employees, public employees, and educational employees. The agreement or modification authorized hereunder shall take effect retroactively and apply to all employment performed after December 31 of the year prior to the date of the agreement or modification, by the employees who are such on that date and shall include within its application, effective with the date of entry into service as a hospital employee, all employment by such hospital employees on the date of and subsequent to the approval of the agreement or modification as well as those who are such on the approval date thereof. The agreement under sections 355.71 to 355.81 shall not apply to services in positions the compensation for which is on a fee basis.

**History:** 1963 c 793 s 6; 1973 c 35 s 62; 1979 c 332 art 1 s 91

### **355.77 RETROACTIVE EMPLOYER-EMPLOYEE CONTRIBUTIONS.**

Subdivision 1. Effective retroactively with respect to employment after the date of retroactive coverage by hospital employees who are employed on the date of the agreement or modification and who are included within such agreement or modification, the board of trustees of the public employees retirement association shall pay out of its fund an amount for each hospital employee so included which is equal to the amount of employee tax which would have been imposed by the Federal Insurance Contributions Act, if such service constituted employment within the meaning of that act. This payment shall be computed from the date of retroactive coverage to the date that deductions are taken from the wages of each such hospital employee as provided in section 355.78. The amount so paid by the trustees shall be deducted from the accumulated deductions of each such member of the public employees retirement association. If the accumulated deductions of any member are not sufficient to pay for the member's retroactive contribution, such member shall pay the difference to the fund. To the extent that the difference is not paid by the employee, it shall constitute a liability of the employer. An employer shall be subrogated to the rights of the association in respect of any amount paid by the employer on account of its liability in behalf of the employee.

Subd. 2. Effective retroactively with respect to employment after the date of retroactive coverage by hospital employees who are employed on the date of the agreement or modification and who are included within such agreement or modifica-

tion, the board of trustees of the public employees retirement association shall pay out of the fund an amount for each member which is equal to the amount of employer tax which would have been imposed by the Federal Insurance Contributions Act if such service constituted employment within the meaning of that act. This amount shall be computed from the date of retroactive coverage to the date deductions are taken from wages as provided in section 355.78. If this amount exceeds the contribution made to the association by the employer in respect of the employee, the difference shall be paid by the employer to the fund of the association.

Subd. 3. The amounts herein required by this section are hereby appropriated from the public employees retirement fund and the trustees are hereby authorized to make the necessary disbursements and transfers therefor. The amounts so required shall be paid to the contribution fund provided for in the Enabling Act.

Subd. 4. Any member who is employed by a public hospital and who elects social security coverage from and after January 1, 1969 and thereby transfers to the coordinated fund and from whose account retroactive social security employee taxes are paid by the board of trustees of the public employees retirement association, shall be required to reimburse the said association in an amount equal to the difference between employee contributions at the rate of six percent of total salary and the aggregate of three percent of said salary plus the rate of retroactive social security employee taxes paid on said salary restricted to earnings limitations imposed by the Federal Insurance Contributions Act covering public service rendered from and after said date of January 1, 1969. In the event any such member does not reimburse the association within 30 days following notification by the public employees retirement association of the amount so due, interest shall accrue thereon at the rate of six percent per annum compounded annually from the date first payable. The governmental subdivision operating the public hospital in which any such member rendered public service from and after January 1, 1969 covering which service retroactive social security employer taxes are paid by the board of trustees of the public employees retirement association shall be required to reimburse the said association in an amount equal to the aforementioned difference, such amount to be paid from the proceeds of a tax levy made pursuant to section 353.28, or from other funds available to the employer.

*History: 1963 c 793 s 7; 1969 c 267 s 7,8; 1969 c 999 s 6; 1986 c 444*

### **355.78 CURRENT EMPLOYER-EMPLOYEE CONTRIBUTIONS.**

Subdivision 1. With respect to services performed after the date of execution of the agreement or modification, each public hospital shall be obligated to pay employer contributions with respect to wages earned by hospital employees included in the agreement or modification in an amount equal to the employer taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement or modification constituted employment within the meaning of the act. This amount shall be paid by the public hospital directly if it is a political subdivision with the powers under law to raise revenue by taxes or it shall be paid by the political subdivision operating the public hospital if such hospital does not have the power under law to raise revenue by taxes. Contributions so made shall be paid into the contribution fund provided for in the Enabling Act.

Subd. 2. With respect to services performed after the date of execution of the agreement or modification, each hospital employee included in the agreement or modification shall pay contributions with respect to wages and the same shall be deducted from the employee's wages as and when paid in an amount equal to the employee tax which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement or modification constituted employment within the meaning of that act. Contributions so made shall be paid into the contribution fund provided for in the Enabling Act in partial discharge of the liability of the state and each political subdivision in respect thereto. Failure to deduct such contribution shall

not relieve the hospital employee, or the state or the political subdivision, from liability therefor.

**History:** 1963 c 793 s 8; 1986 c 444

### 355.79 ADMINISTRATIVE COSTS OF STATE AGENCY.

Each political subdivision employing hospital employees included in the agreement or modification or employing hospital employees who participated in a referendum shall reimburse the state agency for its pro rata share of the cost of administration of said agency in accordance with rules of the state agency. Such reimbursements shall be paid into the state agency's revolving fund.

**History:** 1963 c 793 s 9; 1985 c 248 s 70

### 355.80 OBLIGATIONS OF POLITICAL SUBDIVISION.

Each political subdivision is hereby authorized and directed to pay its obligations under sections 355.71 to 355.81 from moneys collected from taxes or other revenue. Each political subdivision authorized to levy taxes may include in its tax levy the amount necessary to pay such obligations. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation whatsoever upon the power of the political subdivision to levy taxes, such political subdivision may levy taxes in excess of the limitation in such amounts as is necessary to meet its obligation under sections 355.71 to 355.81. The expenditures authorized to be made shall not be included in computing the cost of government as defined in any home rule charter or charter of any city affected thereby. The governing body of a municipality, for the purposes of meeting its obligations hereunder in the event of a deficit, may issue its obligations payable in not more than two years, in an amount which may cause its indebtedness to exceed any statutory or charter limitations without an election and may levy taxes to pay therefor in the manner provided in section 475.61, and acts amendatory thereto.

**History:** 1963 c 793 s 10; 1976 c.2 s 127; 1976 c 239 s 108

### 355.81 DELINQUENT PAYMENTS.

Delinquent payments under sections 355.71 to 355.81 shall bear interest at the rate of six percent per annum, compounded annually from the date upon which they were first payable, and may be recovered by action in a court of competent jurisdiction against each and every political subdivision or employee liable therefor or, if a political subdivision is liable, may at the request of the state agency be deducted from any other moneys payable to such political subdivision by any department or agency of the state. An action for the recovery of delinquent payments shall not be subject to any statutory provision which would otherwise limit the time within which such an action may be commenced.

**History:** 1963 c 793 s 11; 1969 c 267 s 9

**355.82** [Repealed, 1971 c 295 s 3]

**355.83** [Repealed, 1971 c 295 s 3]

**355.84** [Repealed, 1971 c 295 s 3]

**355.85** [Repealed, 1971 c 295 s 3].

**355.86** [Repealed, 1971 c 295 s 3]

**355.87** [Repealed, 1971 c 295 s 3]

**355.88** [Repealed, 1971 c 295 s 3]

**355.89** [Repealed, 1971 c 295 s 3]

## MEDICARE COVERAGE REFERENDUM

**355.90 OPTIONAL MEDICARE COVERAGE FOR CERTAIN PRE-1986 PUBLIC EMPLOYEES.**

Subdivision 1. **Definitions.** (a) Notwithstanding any provision of section 355.01 to the contrary, the terms used in this section are defined in this subdivision.

(b) "Employee" means an active member or participant of a public employee pension plan listed in section 356.30, subdivision 3, clauses (5), (6), (7), (9), (10), (11), and (12), who is not covered by a previous agreement under section 355.02 for that employment and who meets the requirements of United States Code, title 42, section 418(v)(2).

(c) "Employment" means service performed for compensation by an employee in the employ of the state or of a political subdivision that constitutes Medicare qualified government employment under the provisions of United States Code, title 42, section 410(p).

(d) "Political subdivision" means a public employer under section 355.01, subdivision 10.

(e) "Social Security Act" means the act cited in section 355.01, subdivision 8.

(f) "State agency" means the commissioner of employee relations or the commissioner's designee.

(g) "Wages" means compensation specified in section 355.01, subdivision 2.

Subd. 2. **Optional Medicare coverage agreement.** The state agency, with the approval of the governor, may modify its agreement on behalf of the state and its political subdivisions with the Secretary of Health and Human Services to extend the provisions of United States Code, title 42, sections 426, 426-1, and 1395c, to current employees of the state and its political subdivisions who do not have that coverage through coverage by the federal old age, survivors, and disability insurance program for that employment under any previous agreement or modification of the agreement.

Subd. 3. **Referendum.** A referendum on the question of extending the provisions of United States Code, title 42, sections 426, 426-1, and 1395c, must be held for each public employee pension plan listed in section 356.30, subdivision 3, except clauses (5) and (6), that has current members or participants who do not have coverage by the federal old age, survivors, and disability insurance program for the employment giving rise to that pension plan membership. The state agency shall supervise the referendum in accordance with United States Code, title 42, section 418, on the date or dates set by the governor for each pension plan. The notice of the referendum provided to each employee must contain a statement sufficient to inform the person of the rights available to the person as an employee in Medicare qualified government employment and the employee contribution rates applicable to the program. The referendum must permit each employee the opportunity to select or reject Medicare coverage. The governor shall certify to the Secretary of Health and Human Services that the conditions specified in United States Code, title 42, section 418(d)(7) have been met. Coverage is effective for members or participants of the plan who select it on the first of the month after the certification.

Subd. 4. **Employee and employer contributions.** (a) Beginning on the first of the month after the certification by the governor, the employer of each member or participant selecting coverage under the referendum shall deduct from the wages of the employee an amount equal to the tax that would be imposed under United States Code, title 26, section 3101(b), if the services of the employee for which wages were paid constituted employment as defined in United States Code, title 26, section 3121.

(b) In addition to the deduction specified in paragraph (a), the employer of each member or participant covered by the referendum shall also pay an amount equal to the tax that would be imposed under United States Code, title 26, section 3111(b), on the same wage base specified in paragraph (a).

(c) The amounts under paragraphs (a) and (b) shall be paid by the employer to the Secretary of the Treasury in the manner required by the secretary.

**History:** 1988 c 709 art 6 s 1; 1989 c 319 art 5 s 2,3