

CHAPTER 352

MINNESOTA STATE RETIREMENT SYSTEM

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352.01 DEFINITIONS.

[For text of subs 1 and 2, see M.S.2000]

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

- (1) employees of the Minnesota historical society;
 - (2) employees of the state horticultural society;
 - (3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;
 - (4) employees of the Minnesota crop improvement association;
 - (5) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;
 - (6) employees of the Minnesota state colleges and universities employed under the university or college activities program;
 - (7) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8);
 - (8) employees of the armory building commission;
 - (9) employees of the legislature appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;
 - (10) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;
 - (11) employees of the Minnesota safety council;
 - (12) any employees on authorized leave of absence from the transit operating division of the former metropolitan transit commission who are employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division;
 - (13) employees of the metropolitan council, metropolitan parks and open space commission, metropolitan sports facilities commission, metropolitan mosquito control commission, or metropolitan radio board unless excluded or covered by another public pension fund or plan under section 473.415, subdivision 3;
 - (14) judges of the tax court;
 - (15) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization; and
 - (16) seasonal help in the classified service employed by the department of revenue.
- (b) Employees specified in paragraph (a), clause (15), are included employees under paragraph (a) if employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer

assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

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

(1) students employed by the University of Minnesota, or the state colleges and universities, unless approved for coverage by the board of regents or the board of trustees of the Minnesota state colleges and universities, as the case may be;

(2) employees who are eligible for membership in the state teachers retirement association, except employees of the department of children, families, and learning who have chosen or may choose to be covered by the general state employees retirement plan of the Minnesota state retirement system instead of the teachers retirement association;

(3) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;

(4) officers and enlisted personnel in the national guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(5) election officers;

(6) persons who are engaged in public work for the state but who are employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(7) officers and employees of the senate, or of the house of representatives, or of a legislative committee or commission who are temporarily employed;

(8) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the department of labor and industry;

(9) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;

(10) persons who are employed for professional services where the service is incidental to their regular professional duties and whose compensation is paid on a per diem basis;

(11) employees of the Sibley House Association;

(12) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited from serving more than three years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;

(13) state troopers;

(14) temporary employees of the Minnesota state fair who are employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons who are employed at any time by the state fair administration for special events held on the fairgrounds;

(15) emergency employees who are in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

(16) persons who are described in section 352B.01, subdivision 2, clauses (2) to (6);

(17) temporary employees in the classified service, and temporary employees in the unclassified service who are appointed for a definite period of not more than six months and who are employed less than six months in any one-year period;

(18) trainee employees, except those listed in subdivision 2a, clause (10);

(19) persons whose compensation is paid on a fee basis;

(20) state employees who are employed by the board of trustees of the Minnesota state colleges and universities in unclassified positions enumerated in section 43A.08, subdivision 1, clause (9);

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

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

(23) chaplains and nuns who are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1986, as amended through December 31, 1992;

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

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

(26) temporary employees who are employed for limited periods under any state or federal program for training or rehabilitation, including persons who are employed for limited periods from areas of economic distress, but not including skilled and supervisory personnel and persons having civil service status covered by the system;

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

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

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

(30) members of trades who are employed by the successor to the metropolitan waste control commission, who have trade union pension plan coverage under a collective bargaining agreement, and who are first employed after June 1, 1977;

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

(32) off-duty peace officers while employed by the metropolitan council;

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

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

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

(36) persons who are employed by the board of trustees of the Minnesota state colleges and universities and who elect to remain members of the public employees retirement association or the Minneapolis employees retirement fund, whichever applies, under section 136C.75.

[For text of subds 3 to 5, see M.S.2000]

Subd. 11. Allowable service. "Allowable service" means:

(1) Service by an employee for which on or before July 1, 1957, the employee was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239.

(2) Service by an employee for which on or before July 1, 1961, the employee chose to obtain credit for service by making payments to the fund under Minnesota Statutes 1961, section 352.24.

(3) Except as provided in clauses (8) and (9), service by an employee after July 1, 1957, for any calendar month in which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041.

(4) Except as provided in clauses (8) and (9), service by an employee after July 1, 1957, for any calendar month for which payments in lieu of salary deductions are made, deposited, and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, section 352.021, subdivision 4.

For purposes of clauses (3) and (4), except as provided in clauses (8) and (9), any salary paid for a fractional part of any calendar month, including the month of separation from state service, is deemed the compensation for the entire calendar month.

(5) The period of absence from their duties by employees who are temporarily disabled because of injuries incurred in the performance of duties and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund.

(6) Service covered by a refund repaid as provided in section 352.23 or 352D.05, subdivision 4, except service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system.

(7) Service before July 1, 1978, by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division, which was credited by the metropolitan transit commission-transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous, or allowable service as defined in the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977.

(8) Service after July 1, 1983, by an employee who is employed on a part-time basis for less than 50 percent of full time, for which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited, and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based on the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year. For periods of part-time service that is duplicated service credit, section 356.30, subdivision 1, clauses (i) and (j), govern.

Allowable service determined and credited on a fractional basis shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis must not be used in determining the length of service required for eligibility for benefits.

(9) Any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtained credit by payment to the fund in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee wants allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause must include interest at an annual rate of 8.5 percent compounded annually from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence.

(10) A period purchased under section 356.555.

[For text of subds 12 to 26, see M.S.2000]

History: *1Sp2001 c 10 art 3 s 4,5; art 6 s 1; art 8 s 1*

NOTE: The amendment to subdivision 11 by Laws 2001, First Special Session chapter 10, article 6, section 1, expires May 16, 2003. Laws 2001, First Special Session chapter 10, article 6, section 21.

352.113 PERMANENT DISABILITY BENEFITS.

[For text of subds 1 to 3, see M.S.2000]

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

Subd. 6. **Regular medical or psychological examinations.** At least once each year during the first five years following the allowance of a disability benefit to any employee, and at least once in every three-year period thereafter, the director may require any disabled employee to undergo a medical or psychological examination. The examination must be made at the place of residence of the employee, or at any place mutually agreed upon, by a physician or physicians designated by the medical adviser and engaged by the director. If any examination indicates to the medical adviser that

the employee is no longer permanently and totally disabled, or is engaged in or can engage in a gainful occupation, payments of the disability benefit by the fund must be discontinued. The payments shall discontinue as soon as the employee is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after the medical adviser finds that the employee is no longer permanently and totally disabled.

[For text of subds 7 to 12, see M.S.2000]

History: *1Sp2001 c 10 art 3 s 6,7*

352.116 ANNUITIES UPON RETIREMENT.

[For text of subds 1 to 3b, see M.S.2000]

Subd. 3c. **Effective date of bounce-back annuity.** In the event of the death of the designated optional annuity beneficiary before the retired employee or disabilitant, the restoration of the normal single life annuity under subdivision 3a or 3b will take effect as of the first of the month following the date of death of the designated optional annuity beneficiary or on the first of the month following one year before the date on which a certified copy of the death record of the designated optional annuity beneficiary is received in the office of the Minnesota state retirement system, whichever date is later.

[For text of subd 4, see M.S.2000]

History: *1Sp2001 c 9 art 15 s 32*

352.22 REFUND OR DEFERRED ANNUITIES.

[For text of subds 1 to 5, see M.S.2000]

Subd. 8. **Refund specifically limited.** If a former employee covered by the system does not apply for refund within five years after the last deduction was taken from salary for the retirement fund, and does not have enough service to qualify for a deferred annuity, accumulated contributions must be credited to and become a part of the retirement fund. If the former employee returns to state service and becomes a state employee covered by the system, the amount credited to the retirement fund, if more than \$25, must be restored to the individual account. If the amount credited to the fund is over \$25 and the former employee applies for refund or an annuity under section 352.72; the amount must be restored to the former employee's individual account and a refund made or an annuity paid, whichever applies.

[For text of subd 10, see M.S.2000]

History: *1Sp2001 c 10 art 3 s 8*

352.87 STATE FIRE MARSHAL DIVISION EMPLOYEES.

[For text of subds 1 to 3, see M.S.2000]

Subd. 4. **Non-job-related disability benefits.** An eligible member described in subdivision 1 who becomes disabled and physically or mentally unfit to perform the duties of the position because of sickness or injury while not engaged in covered employment is entitled to a disability benefit amount equivalent to an annuity computed under subdivision 3 assuming the member has 15 years of service qualifying under this section and waiving the minimum age requirement. If the eligible member becomes disabled under this subdivision with more than 15 years of service covered under this section, the eligible member is entitled to a disability benefit amount equivalent to an annuity computed under subdivision 3 based on all years of service credited under this section and waiving the minimum age requirement.

Subd. 5. **Job-related disability benefits.** An eligible member defined in subdivision 1 who becomes disabled and physically or mentally unfit to perform the duties of the

position because of sickness or injury while engaged in covered employment is entitled to a disability benefit amount equivalent to an annuity computed under subdivision 3 assuming the member has 20 years of service qualifying under this section and waiving the minimum age requirement. An eligible member who becomes disabled under this subdivision with more than 20 years of service credited under this section is entitled to a disability benefit amount equivalent to an annuity computed under subdivision 3 based on all years of service credited under this section and waiving the age requirement.

[For text of subs 6 to 8, see M.S.2000]

History: *1Sp2001 c 10 art 3 s 9,10*

352.95 DISABILITY BENEFITS.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. Medical or psychological evidence. (a) An applicant shall provide medical or psychological evidence to support an application for disability benefits. The director shall have the employee examined by at least one additional licensed physician or psychologist designated by the medical adviser. The physicians shall make written reports to the director concerning the employee's disability, including medical opinions as to whether the employee is disabled within the meaning of this section. The director shall also obtain written certification from the employer stating whether the employee is on sick leave of absence because of a disability that will prevent further service to the employer, and as a consequence the employee is not entitled to compensation from the employer.

(b) If on considering the physicians' reports and any other evidence supplied by the employee or others, the medical adviser finds the employee disabled within the meaning of this section, the advisor shall make appropriate recommendation to the director in writing, together with the date from which the employee has been disabled. The director shall then determine the propriety of authorizing payment of a disability benefit as provided in this section.

(c) Unless payment of a disability benefit has terminated because the employee is no longer disabled, or because the employee has reached age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the employee's lifetime. While disability benefits are paid, the director has the right at reasonable times to require the disabled employee to submit proof of the continuance of the disability claimed. If any examination indicates to the medical adviser that the employee is no longer disabled, the disability payment must be discontinued upon reinstatement to state service or within 60 days of the finding, whichever is sooner.

Subd. 5. Retirement status at normal retirement age. The disability benefit paid to a disabled correctional employee under this section shall terminate at the end of the month in which the employee reaches age 65, or the five-year anniversary of the effective date of the disability benefit, whichever is later. If the disabled correctional employee is still disabled when the employee reaches age 65, or the five-year anniversary of the effective date of the disability benefit, whichever is later, the employee shall be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, either elect to receive a normal retirement annuity computed in the manner provided in section 352.93 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made within 90 days before attaining age 65 or reaching the five-year

anniversary of the effective date of the disability benefit, whichever is later. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee reaches age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

[For text of subd 6, see M.S.2000]

Subd. 7. Resumption of employment. If the disabled employee resumes gainful work, the disability benefit must be continued in an amount which when added to current earnings and workers' compensation benefits does not exceed the salary rate of the disabled employee at the date of disability as adjusted by the same percentage increase in United States average wages used by social security in calculating average indexed monthly earnings for the same period.

History: *1Sp2001 c 10 art 3 s 11-13*

352.98 POSTRETIREMENT HEALTH CARE SAVINGS PLAN.

Subdivision 1. Plan created. The Minnesota state retirement system shall establish a plan or plans, known as postretirement health care savings plans, through which public employers and employees may save to cover postretirement health care costs. The Minnesota state retirement system shall make available one or more trusts, including a governmental trust or governmental trusts, authorized under the Internal Revenue Code to be eligible for tax-preferred or tax-free treatment through which employers and employees can save to cover postretirement health care costs.

Subd. 2. Contracting authorized. The Minnesota state retirement system is authorized to administer the plan and to contract with public and private entities to provide investment services, recordkeeping, benefit payments, and other functions necessary for the administration of the plan. If allowed by the Minnesota state board of investment, the Minnesota state board of investment supplemental investment funds may be offered as investment options under the postretirement savings plan or plans.

Subd. 3. Contributions. (a) Contributions to the plan shall be determined through a personnel policy or in a collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit. The Minnesota state retirement system may offer different types of trusts permitted under the Internal Revenue Code to best meet the needs of different employee units.

(b) Contributions to the plan by or on behalf of the employee shall be held in trust for reimbursement of employee and dependent health-related expenses following retirement from public employment. The Minnesota state retirement system shall maintain a separate account of the contributions made by or on behalf of each participant and the earnings thereon. The Minnesota state retirement system shall make available a limited range of investment options, and each employee may direct the investment of the accumulations in the employee's account among the investment options made available by the Minnesota state retirement system. At the request of a participating employer and employee group, the Minnesota state retirement system may determine how the assets of the affected employer and employee group should be invested.

(c) This section does not obligate a public employer to meet and negotiate in good faith with the exclusive bargaining representative of any public employee group regarding an employer contribution to a postretirement health care savings plan authorized by this section and section 356.24, subdivision 1, clause (7). It is not the intent of the legislature to authorize the state to incur new funding obligations for the costs of retiree health care or the costs of administering retiree health care plans or accounts.

Subd. 4. Reimbursement for health-related expenses. Following termination of public service, the Minnesota state retirement system shall reimburse employees at least quarterly for submitted health-related expenses, until the employee exhausts the accumulation in the employee's account. If an employee dies prior to exhausting the employee's account balance, the employee's spouse or dependents shall be eligible to

be reimbursed for health care expenses from the account until the account balance is exhausted. If an account balance remains after the death of a participant and all of the participant's legal dependents, the remainder of the account shall be paid to the employee's beneficiaries or, if none, to the employee's estate.

Subd. 5. **Fees.** The Minnesota state retirement plan is authorized to charge uniform fees to participants to cover the ongoing cost of operating the plan. Any fees not needed shall revert to participant accounts or be used to reduce plan fees the following year. The Minnesota state retirement system is authorized to charge participating employers a fee, not to exceed one-sixth of the Federal Insurance Contribution Act savings realized by the employer as a result of participating in the plan, until the initial costs of establishing the plan or plans authorized by this section are recovered, or \$75,000, whichever is less.

Subd. 6. **Advisory committee.** (a) The Minnesota state retirement system shall establish a participant advisory committee for the plan, made up of one representative appointed by each employee unit participating in the plan. Each participating unit shall be responsible for the expenses of its own representative.

(b) The advisory committee shall meet at least twice per year and shall be consulted on plan offerings and vendor selection. By October 1 of each year, the Minnesota state retirement system shall give the advisory committee a statement of fees collected and the use of the fees.

Subd. 7. **Contracting with private entities.** Nothing in this section shall prohibit employers from contracting with private entities to provide for postretirement health care reimbursement plans.

History: *1Sp2001 c 10 art 7 s 1*